

Appeal No. VA12/4/002

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Mark Dwyer

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2211697, Shop at Lot No. 1F/Unit 4, ALDI Retail Centre, Finglas North C, Finglas North, County Borough of Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Thomas Collins - PC, FIPAV, NAEA, MCEL, CFO

Member

Rory Hanniffy - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17TH DAY OF APRIL, 2013

By Notice of Appeal received the 8th day of November, 2012, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €15 on the above described relevant property.

"On the basis that the NAV as assessed is excessive and inequitable for this property at this location."

"The property is over-assessed relative to comparable property already in the list. Greater allowance must be made for the subject's location and relative value."

1. The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Holbrook House, Holles Street, Dublin 2 on the 21st day of February, 2013.
2. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd. Mr. Anthony Mulvey, BSc (Hons) (Surveying), Diploma in Finance and Accounting, a valuer at the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.
3. In accordance with the rules of the Tribunal, each witness forwarded to the Tribunal and exchanged a précis of evidence and submission they proposed to adduce at the oral hearing. It was mutually agreed that this appeal – in respect of Unit 4 in the Aldi Retail Centre, St. Margaret's Road, Finglas, Dublin 11 – will serve as a test case for appeals in respect of two other units in the same development, namely **VA12/4/003 – Panda Kitchen Chinese Takeaway** (Unit 3) and **VA12/4/004. – Polksmak** (Unit 5/6). From the evidence so tendered and additional evidence received at the oral hearing, the following facts relevant and material to Unit 4 have been agreed or are so found.
4. Unit 4 is one of eight retail outlets in a single storey parade in what is known as the Aldi Retail Centre at St. Margaret's Road, Finglas.
5. The Aldi Retail Centre is located just off the west side of St. Margaret's Road close to its junction with North Road approximately mid-way between Finglas Village Centre and the recently built Charlestown Shopping Centre. The immediate surrounding area is mainly commercial in nature but there are a number of large residential estates in the vicinity. Finglas is a long established major suburb of Dublin City with a large population which is well served by a number of retail outlets in the village centre and its immediate environs – the largest being the Charlestown Centre. The Aldi Retail Centre is located about 1 km north of the village centre and a similar distance from the Charlestown Centre.

The Aldi Retail Centre is a self-contained development accessed off St. Margaret's Road with an Aldi supermarket on one side of a car park and the retail parade on the other. In total 149 off-street car parking spaces are provided. The parade was designed to include eight retail units but Units 5 and 6 have been amalgamated so that there are seven shops,

two of which are vacant. The occupiers include a bookmakers (Unit 1), a sandwich bar (Unit 2), a Chinese takeaway (Unit 3), a butchers (Unit 4) and a specialised food store (Unit 5/6).

6. It is agreed that the area of the property concerned, measured on a net internal area, is as follows:

Unit 4 - VA12/4/002 - 123.12 sq. metres

Tenure

7. Unit 4 is occupied under the terms and conditions of an FRI lease agreed in October 2010 at an initial yearly rent of €25,200.

Rating History

8. Arising out of a request for a revision of valuation pursuant to Section 27 of the Valuation Act, 2001, the valuation of Unit 4 was assessed at an RV of €115. No change was made on foot of an appeal to the Commissioner and it is against the decision of the Commissioner to affirm the valuation of €115 that the appeal to this Tribunal lies.

The Appellant's Evidence

9. Mr. Halpin having taken the oath adopted his written précis which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence Mr. Halpin put forward his opinion of the valuation of the property concerned as set out below.

Valuation

Estimated NAV – 1988 Basis:

Zoned

Shop Zone A	49.41 sq. metres @ €136.70 per sq. metre	=	€ 6,754
Shop Zone B	49.41 sq. metres @ €68.35 per sq. metre	=	€ 3,377
Shop Zone C	24.30 sq. metres @ €34.17 per sq. metre	=	<u>€ 830</u>
	Total	=	€10,961

@ 0.5% [*sic*] = €9.05

Say RV €69

OR

Overall

Shop 123.12 sq. metres @ €82.02 per sq. metre = €10,098

@ 0.63% = €63.61

Say RV €64

[As a further check: Current Rent Passing = €25,200 (FRI NER)

Backdated to November 1988 (per IPD Retail rental index – See appendix VII) = €10,228

@ 0.63% = RV €64.63]

10. In support of his valuation Mr. Halpin introduced six comparisons, details of which are contained in Appendix 1 attached to this judgment.

Mr. Halpin said that in arriving at his opinion of net annual value he had regard to the assessments of a number of shops in the Finglas area as they represented the tone of the list. Mr. Halpin said the Aldi Retail Centre occupied a “moderate” location, benefitted little from passing trade and was disadvantaged by being situated close to the Charlestown Shopping Centre which is the largest shopping centre in the Finglas area. Furthermore, he said, the Aldi Retail Centre could not compete with the range of shopping facilities available in the Finglas Village Centre and this fact should be reflected in the valuation of the units at the Aldi Centre. Mr. Halpin stated that Finglas, in fact, suffers from an oversupply of shopping outlets.

11. Mr. Halpin said the Tribunal should attach little weight to the respondent’s comparison number 1 – i.e. Unit 2 in the same parade as the property concerned and which was valued in 2009. Mr. Halpin said that in his opinion the Revision Officer at that time may have been over-influenced by prevailing rental levels and market conditions and had over-estimated the value of the Aldi Retail Centre as a retailing location. In this regard, he said that when it came to valuing a new shopping development it was incumbent on the Revision Officer to carry out an overall examination of the tone of the list so as to ensure that the values of units in the new scheme were slotted in at the appropriate level. In his opinion, Mr. Halpin said, the units in the Aldi Retail Centre had been over-valued in 2009 and this was obvious from the comparisons introduced by him. Mr. Halpin drew the

Tribunal's attention to the determinations and findings in **VA01/1/101 – Rayro Stores Ltd.** and **VA04/2/049 – Tridelta Development Ltd.**

12. Under examination Mr. Halpin agreed that the Aldi Retail Centre was located close to the Finglas exit off the M50, that there were several residential estates in close proximity to it and that those estates could provide a strong customer base. He also agreed that, while there was a number of vacant units in Finglas village, this was to an extent caused by plans for further redevelopment schemes.

The Respondent's Evidence

13. Mr. Mulvey having taken the oath adopted his written précis which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence Mr. Mulvey put forward his valuation of the property concerned as follows:

Retail

Zone A	49.41 sq. metres @ €227.63 per sq. metre	=	€1,247.20
Zone B	49.41 sq. metres @ €113.81 per sq. metre	=	€ 5,623.35
Zone C	24.30 sq. metres @ €56.90 per sq. metre	=	<u>€ 1,382.67</u>
Net Annual Value say		=	€8,253.22
Rateable Valuation @ 0.63%	= €15		

In support of his valuation Mr. Mulvey introduced three comparisons, details of which are contained in Appendix 2 attached to this judgment.

14. Mr. Mulvey said the Aldi Retail Centre was located convenient to Finglas village, was within easy reach of several residential estates in the area and benefited from being beside an established industrial location. The unit shops in the development supplemented and complemented the range of services and merchandise available in the Aldi supermarket.
15. Mr. Mulvey said that in arriving at his valuation of the property concerned he considered his comparison number 1 to be the most relevant in as much as it was located in the same parade and when valued in 2009 its assessment had not been challenged either at representation or appeal stages. Comparison number 2 was also very relevant in that it was situated on St. Margaret's Road close to the Aldi Retail Centre and enjoyed a higher

profile than the property concerned. Comparison number 3 was also helpful in that it was a common comparison and was of a size similar to that of the property concerned.

Mr. Mulvey said he considered the location and the car parking facilities at the Aldi Retail Centre to be better than those of any of his other comparisons and thus justified a higher Zone A rate per sq. metre than that used by the Tribunal when valuing the Centra (comparison number 3) premises at Zone A €190.46 per sq. metre.

16. Under cross-examination Mr. Mulvey did not agree that the use of comparison property number 2 as a “Pizza Express” warranted a premium over and above the Zone A rate per sq. metre applied to retail units. Mr. Mulvey pointed out that his comparison number 1 was in similar use to comparison number 2 and the difference in Zone A rates applied represented the locational difference between the two.

Findings

The Tribunal has carefully considered all the submissions made and evidence adduced and finds as follows:

1. The valuation of the property concerned was made following a request pursuant to Section 27 of the Valuation Act, 2001.
2. The statutory basis for valuing a relevant property for the purpose of a revision is set down in Section 49(1) of the Act which states:
“If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.”
3. The onus of proving a valuation currently on the valuation list to be incorrect lies with the appellant.
4. Of all the comparisons introduced the Tribunal attaches most weight to those put forward by Mr. Mulvey. Some of the comparisons put forward by Mr. Halpin, such as comparison

numbers 2 and 6, are of little assistance by virtue of their location, use or other factors. Comparison number 5 is a common comparison and hence is relevant. Mr. Halpin's comparison numbers 3 and 4 are of some limited help in that they give an overall picture of the tone of the list for retail property outside of Finglas Village Centre.

5. Mr. Halpin in his evidence put forward a valuation based on the actual rent of the property concerned agreed in October 2010 and adjusted it to reflect November 1988 levels using the IPD Retail Rental Growth Index. While such exercises may be of some academic interest they provide little help when assessing the value of a relevant property in accordance with Section 49(1) where the value of the property concerned "*shall be made by reference to the values, as appearing on the valuation list . . . of other properties comparable to that property*".
6. Having carefully considered all the comparisons, particularly those located outside the environs of Finglas village which provide an overall picture of the tone of the list, the Tribunal has come to the conclusion that the Zone A rate of €227.63 per sq. metre used when valuing Units 1 and 2 in the parade at the Aldi Retail Centre at revision in 2009 was slightly on the high side and that a Zone A rate of €110 per sq. metre would be more appropriate having regard to the nature of the Aldi development and its location without the village centre.

Determination

Having regard to the foregoing, the Tribunal determines the value of the property concerned pursuant to Section 49(1) of the Valuation Act, 2001 to be as follows:

Retail Zone A 49.41 sq. metres @ €110.00 per sq. metre	=	€10,376.10
Retail Zone B 49.41 sq. metres @ €105.00 per sq. metre	=	€ 5,188.05
Retail Zone C 24.30 sq. metres @ €52.50 per sq. metre	=	<u>€ 1,275.75</u>
Net Annual Value	=	€16,839.90
Say		€16,800.00
RV @ 0.63% = say		€106

Note1: In accordance with the agreement between the parties, Units 3 and 5/6 are to be valued on the basis of a Zone A rate of €110 per sq. metre.

Note 2: In light of the above determination the Tribunal requests that the Commissioner exercises his powers under Section 40 in relation to Units 1, 2, 7 and 8 in the interests of fairness and equity between ratepayers.

And the Tribunal so determines.