

Appeal No. VA13/1/002

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

O'Brien's Wine Off-Licence

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 5003289, Retail (Shops) at Block 60, The Park, Carrickmines, County Dublin

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Tony Taaffe - Solicitor

Member

Fiona Gallagher - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF MAY, 2013

By Notice of Appeal received on the 8th day of January, 2013 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €230,000 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are as follows:

"On the basis that the NAV as assessed is excessive & inequitable & not in keeping with comparable property already on the list."

"This unit is removed from the balance of the retail warehouse park & is not comparable with those units. Additionally, it suffers from the unfinished nature of the development here with much of the office park vacant."

1. This appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Holbrook House, Holles Street, Dublin 2 on the 7th day of March, 2013.
2. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd. Ms. Triona McPartlan, Bsc (Hons) Estate Management, 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 party forwarded to the Tribunal and exchanged a précis of the evidence they proposed to adduce at the hearing. From the evidence so tendered and other additional testimony received at the hearing, the following facts, material and relevant to the property, were agreed or are so found.

The Property Concerned

4. The property concerned is located within what is called Block 60 at The Park, Carrickmines development, a recently constructed two storey mixed-use building. The subject property is a ground floor retail unit occupied as an off-licence with accommodation overhead which is currently vacant and designed for restaurant or office use. It is agreed that the area of the property for rating valuation purposes is 490 sq. metres. It is also agreed that the premises are well constructed and provide attractive retail space.
5. The Park, Carrickmines development which is located just west of Junction 15 on the M50 is a large mixed-use scheme of development designed to provide a retail warehouse complex, several office buildings, hotel, supermarket and other retail outlets. At the relevant valuation date the retail warehouse complex was completed and occupied by a number of well known national and international retailers. At the same time a number of the office buildings were completed but not all were occupied. It was agreed that a substantial portion – some 70% of the proposed development scheme – remains to be completed.

Access to The Park, Carrickmines is off Glenamuck Road and Block 60 is on the left side of the main entrance road to the development and which leads to the retail warehouse complex at the rear.

Tenure

6. The subject property is occupied under a 20 year FRI lease from July 2011 subject to an initial yearly rent of €121,720. At the commencement of the lease the tenant was granted a rent free period of one year. The rent is also subject to review at five yearly intervals.

Rating History

7. The net annual value of the property concerned was initially assessed at €273,000 and a valuation certificate to this effect was issued on 30th April, 2012. On foot of an appeal to the Commissioner of Valuation, the valuation was reduced to €230,000 and the appellant was advised accordingly on 12th December, 2012. The appellant, being dissatisfied with the outcome of the appeal, lodged a further appeal to the Valuation Tribunal.

The Appellant's Evidence

8. Mr. Halpin having taken the oath adopted as his evidence-in-chief the précis which he had previously submitted to the Tribunal. In his evidence Mr. Halpin referred to the unfinished state of The Park development which adversely affected the financial viability of the subject property as a retail outlet. In addition, its location, as a stand-alone premises, with restricted profile and visibility meant that it benefited little from what he described as “foot fall” in the retail warehouse section of the development. Mr. Halpin said that in arriving at his estimate of net annual value he had regard to these inherent disadvantages and also to the assessments of other retail premises in various locations in the Dún Laoghaire-Rathdown rating authority area which, he said, represented the tone of the list.

9. Valuation

Retail Space	490 sq. metres @ €220 per sq. metre	= €107,800
Add for Off-Licence		= €10,000
Net Annual Value say	€117,800	

Mr. Halpin also produced an alternative valuation based upon the rent of the property as follows:

Net Effective Rent	€97,376 (Agreed April 2011)
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(Allowing for rent free period)

Backdated to September 2005 by IPD Retail Index = €128,200

Backdated to September 2005 by Lisney's Retail Index = €131,100

Average = €129,650

i.e. €265 per sq. metre

In support of his opinion of net annual value Mr. Halpin introduced a total of 9 comparisons – 3 of which he distinguished as being “non-comparables” as they were retail warehouses in The Park, Carrickmines development. Mr. Halpin said he considered his comparison no. 1 – i.e. O'Brien's Off-Licence premises at the Beacon South Quarter development as being the most relevant. This property, he said, was similar to the subject property in many respects in that it is located in a large mixed-use development which has stalled due to the current economic climate. However, in this case the O'Brien's unit was located in a part of the development for retail purposes anchored by a Dunnes Stores supermarket. Details of Mr. Halpin's comparisons are contained in Appendix 1 attached to this judgment.

10. Under cross-examination Mr. Halpin agreed that the Beacon South Quarter development contained a large number of uncompleted apartment blocks and was in effect a ghost estate and that the Valuation Tribunal had taken this into account in arriving at its determination. Mr. Halpin also agreed that the entire development at Carrickmines was known as The Park and that the retail warehouse section was part of the overall scheme. He also agreed that there was a good tenant mix and it provided generous car parking facilities for its customers, most of whom are car-borne and passed the property concerned which was visible from the main access roads. However, Mr. Halpin said that the subject property had a poor profile and as a consequence might not be spotted on the way to the retail warehouse.
11. When questioned about his comparisons, Mr. Halpin said that they gave an overview of the tone of the list for retail premises which he considered occupied better trading locations than the property concerned. In his view it would be incorrect not to have regard to this evidence.

Respondent's Evidence

12. Ms. McPartlan having taken the oath adopted her précis which had previously been received by the Tribunal, as her evidence-in-chief. In her evidence Ms. McPartlan put forward the following valuation:

Retail	490 sq. metres @ €400 per sq. metre	=	€196,000
Add for off-licence		=	€10,000
Net Annual Value = €206,000			

It is to be noted that Ms. McPartlan's opinion of net annual value is below the figure on the Valuation List, i.e. €230,000.

13. In support of her opinion of net annual value, she introduced 3 comparisons, details of which are contained in Appendix 2 attached to this judgment.
14. Under cross-examination, Ms. McPartlan agreed that, in general classification terms, the use of the property was retail and not retail warehouse. However, Ms. McPartlan said that in a location like The Park, which was not a retail location as such, it was reasonable to have regard to the assessments of retail warehouses in the same development scheme which were of a similar size. Of her three comparisons, Ms. McPartlan said her comparison no. 1 (Costa Coffee) was the one most similar in terms of finish and fit-out to the property concerned and in this regard the finish and fit-out was higher than that in the retail warehouse. She agreed that the Costa Coffee unit was much smaller than the subject property but pointed out that the retail space in this unit was valued at €650 per sq. metre as compared to €400 per sq. metre for the property concerned. Ms. McPartlan agreed that the Costa Coffee unit was located adjacent to the retail warehouse whilst the subject property was not and that this was a fact to be taken into account when arriving at an estimate of its net annual value.
15. Mr. Halpin in response to a question from the Tribunal agreed that if a retail unit of a size similar to the property located beside the Costa Coffee were to be valued it would in all probability be valued at about €400 per sq. metre. Nonetheless, Mr. Halpin said his decision to value the O'Brien unit was fair having regard to its location, which was some distance away from the retail warehouse complex, and its lack of profile.

Findings

The Tribunal has carefully considered the evidence adduced and submissions made by the two expert witnesses and finds as follows:

1. The valuation of the property concerned was made following a request to carry out a revision pursuant to Section 28 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 Tribunal accepts that within the overall plan for The Park, Carrickmines development, Block 60 was designed to provide a convenience store and two other similar retail units at ground floor level with a restaurant overhead and that there was also provision for a supermarket elsewhere in the scheme. In the Tribunal’s opinion the Beacon South Quarter development is somewhat different in that it provided for a *“neighbourhood shopping precinct at two levels”*. Under no circumstances could the proposed retail element in The Park, Carrickmines scheme be described as a neighbourhood shopping precinct.
4. The Tribunal accepts that the property concerned is located some distance from the retail warehouse complex but does not accept Mr. Halpin’s assertion that it derives no benefit from customers visiting the complex. Neither does it accept Mr. Halpin’s contention that it suffers from a lack of profile to the extent that he makes out. Every visitor to the retail warehouse complex or indeed to any other building in the development drives past Block 60 when travelling along the main entrance road off Glenamuck Road close to Junction 15 on the M50.

5. Of all the comparisons introduced, the Tribunal attaches most weight to the Costa Coffee unit which adjoins the retail warehouse complex. This building, which is much smaller than the property concerned, is finished to a similar standard which is better than that to be found in retail warehouses. The Tribunal acknowledges that the Costa Coffee premises derives a benefit from its proximity to the retail warehouse which the property concerned does not and that this is a factor to have regard to.

6. The Tribunal accepts Ms. McPartlan's contention that in the absence of any retail units of a similar size and location to the property concerned within the vicinity it is fair and reasonable to have regard to the assessments of retail warehouses close by and in the same scheme of development. The Tribunal shares to some degree Ms. McPartlan's comment that the location of the subject property is not a retail location in the accepted sense of the word. The subject property by virtue of its location is a "destination" outlet not dissimilar to a retail warehouse.

Determination

Having regard to the foregoing the Tribunal determines the net annual value of the subject property to be as set out below:

Retailing Area	490 sq. metres @ €360 per sq. metre	=	€176,400
Add for Off-Licence		=	€10,000
Net Annual Value	=		€186,400

And the Tribunal so determines.