

Appeal No. VA96/5/014

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Power Supermarkets Ltd. t/a Quinnsworth

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Supermarket at Map Reference 7A, Carlow, Hanover Road, U.D. Carlow, Co. Carlow
Quantum

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Rita Tynan - Solicitor

Member

Michael Coghlan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF OCTOBER, 1998

By Notice of Appeal dated the 9th October 1996 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,100 on the above described hereditament.

The grounds of appeal as set out in the said Notice of Appeal are that "the valuation is excessive and inequitable, having regard to the provisions of the Valuation Acts", and on other grounds also.

The appeal proceeded by way of an oral hearing which took place on 9th July 1997 in the Tribunal Offices in Dublin. The appellant was represented by Mr. Thomas Davenport ARICS, ASCS, Chartered Surveyor of Lisney, Surveyors and Estate Agents, Dublin and the Respondent was represented by Mr. Tom Cuddihy, B.Agr.Sci. a District Valuer in the Valuation Office.

Having taken the oath both valuers adopted as evidence in chief their respective written submissions which previously had been exchanged and received by the Tribunal. From the evidence so tendered the following facts, in respect of which there was virtually no dispute, emerged as being material to this appeal.

The Property

The property comprises a mainly single storey supermarket premises which has recently been extended to provide additional retail space to the front and a two-storey office section to the rear.

Internally the property has been provided to trade as Quinnsworth, Lifestyle and Pennys Department Store with ancillary, office and stock room facilities on the ground floor, canteen and w.c. facilities overhead.

Location

The property fronts onto the River Burren and is situated on the southside of Kennedy Avenue.

The property forms part of the shopping centre. Access, to the property is via a bridge over the River Burren which fronts onto Kennedy Avenue. Additional access is available from a by-pass road which runs at the rear of the property.

Adjoining the premises are seven lock-up units, each of which are separately valued and which are not part of this appeal.

The car-park is shared in common with all the adjoining occupiers.

Tenure

It is understood that the premises are held freehold.

Accommodation

The area of this hereditament has been agreed as follows:

| | Sq.M. | Sq.Ft. |
|---|--------------|---------------|
| Ground Floor | | |
| Retail area | 3,061 | 32,948 |
| Offices | 116 | 1,254 |
| Stock Room | 385 | 4,149 |
| First Floor | | |
| Canteen/w.c. | 105 | 1,134 |
| <i>Total Net Lettable Floor Area</i> | 3,667 | 39,485 |

Valuation History

- Initial assessment - 1980 Annual Revision - R.V. £870 (supermarket and car-park).
- August 1995 revision - R.V.£870 increased to £1,150 (supermarket and car-park).
- August 1995 Appeal - R.V. £1,150 reduced to £1,100 (supermarket).

In the August 1995 revision, the Commissioner of Valuation had placed an assessment of R.V. £50 in respect of the car-park element of the above entity. On appeal, the R.V. of £50, was deleted to take account of the fact that the car-park was shared by a number of other occupiers and Quinnsnorth had no exclusive occupation of the car-park. No reduction was granted in the level of assessment in respect of the buildings.

The Issue Between Parties

There is no issue on the question of rateability in this case. Therefore the only question for our consideration is quantum.

Hereunder is set out the calculations advanced respectively on behalf of the appellant and the respondent.

APPELLANT'S SUBMISSION

At the hearing Mr. Davenport amended his rates p.s.f. from those set out in his written submission and consequently his valuation as follows:

| | Sq.ft. | £ p.s.f. | Total £ |
|--------------------------|---------------|-----------------|----------------|
| Ground floor retail | 32,948 | 5.00 | 164,740 |
| Ground floor offices | 1,254 | 3.00 | 3,762 |
| Ground floor stockroom | 4,149 | 3.00 | 12,447 |
| First floor canteen/w.c. | 1,134 | 3.00 | <u>3,402</u> |
| Total Net Annual Value | | | £180,949 |

Reducing factor to translate N.A.V. to R.V. = 0.5%

Estimate of R.V. = £180,949 x 0.5% = R.V. £905

RESPONDENT'S SUBMISSION

| | Sq.ft. | £ p.s.f. | Total £ |
|-------------|---------------|-----------------|----------------|
| Retail area | 32,948 | 6.00 | 197,688 |
| Offices | 1,030 | 5.00 | 5,150 |
| Offices | 224 | 5.00 | 1,120 |
| Stores | 4,149 | 3.00 | 12,447 |
| Canteen | 1,134 | 4.00 | <u>4,536</u> |

£220,941

Est. N.A.V. = £220,000 x 0.5% = £1,100

Mr. Davenport in support of his suggested valuation advanced that in arriving at the N.A.V. and also the R.V. he had regard to Section 11 of the Valuation Ireland Act 1852 (specifying the requirement to make an estimate of N.A.V.) and to Section 5 of the Valuation Act 1986 which provides for the reduction of such N.A.V. so as to ensure that the valuation arrived at bears the same relationship to the valuations of other properties as the net annual value of the property bears to the net annual value of other properties whose valuations have been revised within a recent period. There was no agreement regarding N.A.V.

Mr. Davenport based his estimate of N.A.V., in the absence of passing rent, on comparative evidence as referred to in Appendix No. 1 attached hereto and on the following valuation considerations:

A. Building

The subject premises is nearly 20 years old and is somewhat outdated in terms of design and construction in comparison with today's modern retail requirements. There is also the repairing liability associated with a building of this age.

B. Location

"Retail pitch is everything in respect of rental value". The main retail area is Tullow Street, Potato Market area and Carlow Shopping Centre. The subject premises is somewhat removed from the main retail pitch. A major new shopping centre recently opened in Carlow on the site of the former Hanover engineering works. This shopping centre is located on the Northern side of Kennedy Road at its intersection with the Potato Market immediately to the rear of Tullow Street. This property has the benefit of being included within a designated area. Mr. Davenport stated that in his opinion the age, location and the fact that the premises was not designated should be reflected in the valuation.

He further stated that since his submission to the Tribunal, judgment has issued in respect of Superquinn, Carlow and introduced this as his main comparison. In the Superquinn, Carlow decision VA96/5/012 the Tribunal determined the following:

| | Sq.ft. | £ p.s.f. | | |
|-------------|---------------|-----------------|---|----------------------|
| Retail area | 27,516 | 6.00 | = | £165,096 |
| Strongroom | 4,206 | 3.00 | = | £ 12,618 |
| Stores | 2,901 | 1.00 | = | £ 2,901 |
| Office | 4,635 | 3.50 | = | <u>£ 16,222.50</u> |
| | | <i>Total</i> | | £196,837.50 |
| | | | | @ £984.18 |
| | | | | Say R.V. £984 |

He stated that there are now two premises in Carlow valued at £6.00 p.s.f. and that by way of comparison Superquinn is a newer premises, it is in a better location, it has the benefit of designation and in his opinion there should be an allowance in arriving at the valuation of the Quinnsworth premises. He submitted that as the Tribunal determined a difference of £1 p.s.f. in the Superquinn case, he considered that the same relativity should apply in the subject hereditament. He further stated that he now revised his estimate of N.A.V. as set out above at page 4;

Mr. Davenport went on to state that designation must be taken into account in assessing what rent the hypothetical tenant would pay for the subject premises. He would make some form of discount on the basis that the main competitor is in a designated area and

that designation has had the affect of depressing rental values outside the designated area. After the ten year designated period had expired the situation is of course uncertain. The Chairman asked Mr. Davenport to clarify if it was his view that the Tribunal should take designation into account or that the Tribunal should simply treat the market conditions as they are including designation. Mr. Davenport replied that the hypothetical tenant would be influenced by the fact that there was a competitor in the shopping centre which was in a designated area. Mr. Davenport also referred to Mr. Cuddihy's comparisons in Clonmel, i.e. Superquinn and Crazy Prices. He stated that Superquinn is in a designated area and Crazy Prices is in a non-designated area and that there was a difference p.s.f applied to these two premises. He also made a reference to his own comparisons in Wexford and the difference p.s.f. between designated and non-designated premises, in that location.

Mr. Cuddihy presented his comparative evidence as referred to in Appendix No. 2 attached.

In reply to a question from the Chairman, he replied that he was involved in the Superquinn, Carlow case and that he had assessed the valuation there at £7.00 p.s.f. In the matter of the subject hereditament his estimate is £6.00 p.s.f. and that on the face of it there was a differential of £1.00 p.s.f.

He stated that in his view the Tribunal in the Superquinn, Carlow case rejected his argument that there should be a difference concerning designation and non-designation and basically it was his opinion that the determination in the Superquinn case shows that the Carlow shopping centre was not necessarily a better location than that of Quinnsworth, the subject hereditament which lies outside the designated area. It was his view that effectively the determination stated that there is no difference between designation and non-designation because designation is tax driven.

He put forward the argument that Quinnsworth the subject hereditament is in a better location and a more established trading area than the Superquinn location which had to be

designated to attract occupiers. He then referred to Mr. Davenport's comparison No. 1 Dunnes Stores, Redmond Road, Wexford and stated that although the area is designated there are still vacant shops nearby.

In reply to a question from the Chairman, he replied that both the subject hereditament and Superquinn, Carlow appeared to be equi-distance from Tullow Street and the Potato Market. He further stated that because of the establishment of the Carlow shopping centre and the designation therein, that the junction at the end of Potato Market and Kennedy Avenue has now become the main focal point and if anything, designation of the Carlow shopping centre, has enhanced the value of Quinnsworth. He stated that one of his main points was that Quinnsworth, the subject hereditament, and Superquinn are both similarly affected regarding the main shopping area.

He further advanced that an important factor from a supermarket point of view is catchment area and that the population of Carlow and its environs is 14,000 which is in effect 7,000 between the main two supermarkets. He further stated that it was his belief that supermarkets are all basically shell buildings as opposed to retail which would have personalised fittings.

Determination

It is noted that both valuers have agreed that the best comparison to the subject hereditament is Superquinn in Carlow shopping centre and the Tribunal notes that the Tribunal in the Superquinn case did not accept Mr. Cuddihy's view in relation to designation.

It can be seen that the principal difference between the parties relates to the rate p.s.f. in the retail area and also to the question of whether or not, in assessing the N.A.V. and the R.V., all market conditions including designation should be taken into account coupled with comparative evidence and the age and condition of the subject hereditament as advanced by Mr. Davenport. It is noted that Mr. Cuddihy did not view designation or non-designation as having an affect in respect of N.A.V. Mr. Cuddihy had applied a

discount of £1 between his assessment on the Superquinn premises and on the subject. However he accepted, following that judgment, that the Tribunal did not accept that designation would necessarily affect supermarkets as anchor tenants in a shopping centre in the same way as perhaps other retail units.

The Tribunal holds the view that the most relevant comparison is in fact Superquinn in the Carlow shopping centre which is located nearby and that both Superquinn and the subject hereditament are equi distance from the main retail pitch in Carlow.

The Tribunal also notes that the catchment area is very important.

It should be stated that the Tribunal is not making any binding decision in terms of establishing a precedent of general application as to the price affect upwards or downwards of the fact that a main or relevant comparison is in a designated area and it should again be noted that the figure hereafter determined is not in any way to be taken indicating as to how any future Tribunal should deal with a question of designation. It is an important question which in a future case, may again have to be revisited when the fact of designation is of such a central issue, that it individually and in its own right has to be determined to find what the appropriate R.V. should be.

As previously stated it is both agreed and accepted that Superquinn is, by far the best comparison. In the Tribunal's decision on that property it was decided that "designation" did not confirm a benefit thereon. By reason of its proximity of other comparable features it seems to us, that it cannot be said that designation in itself subjects the Quinnsworth premises to a disadvantage. That being the case we are satisfied that in the particular circumstances of this case designation does not materially affect the establishment of the required N.A.V.

In the light of the above considerations the Tribunal therefore affirms the valuation of the Commissioner of Valuation and determines that the R.V. of the subject premises is £1,100.

