

Appeal No. VA02/4/067

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

A.I.B.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Automatic Bank at Map Reference Unit 5F/3B, Diswellstown, Castleknock
Knockmaroon, Castleknock County Dublin
Quantum - method of valuation: indexation to 1988 OR comparisons

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Michael F. Lyng - Valuer

Member

Brian Larkin - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF MARCH, 2003

By Notice of Appeal dated the 14th November 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €25.39 on the relevant property above described.

The Grounds of Appeal as set out in the said Notice of Appeal are that:
"The valuation is excessive, inequitable and bad in law and not in line with comparables."

This appeal proceeded by way of an oral hearing held in the offices of the Tribunal in Dublin on Monday 27 January 2003. At the hearing the appellant was represented by Ms Sheelagh O Buachalla BA., ASCS., a Director of GVA Donal O Buachalla. The respondent was represented by Mr Noel Rooney Dip. Env. Econ., a valuer Grade 1 in the Valuation Office. The parties in advance of the hearing had exchanged their précis of evidence and submitted same to this Tribunal. At the oral hearing the valuers adopted their précis as their evidence in chief given under oath.

The property

The property the subject of this appeal comprises an ATM facility at Carpenterstown Shopping Centre, which is a neighbourhood centre close to Castleknock and Blanchardstown. There are four retail units in the shopping centre including Spar Supermarket, a medical centre and the Carpenter Licensed premises together with off street car parking facilities. The property which is located between the Supermarket and the premises occupied by Xtravision has an agreed area of 4.9 m² and is held for a term of nine years and nine months from 24th January 2001 at an annual rent of €5,078.95 (IR £4,000). There is no rent review clause but there is a break option in favour of the tenant at the end of year five.

Valuation History

At the 2001/4 revision the rateable valuation of the subject property was assessed at €33.01. At First Appeal to the Commissioner of Valuation the valuation was reduced to €25.39 and it is against this decision that the appeal to this Tribunal lies.

Appellant's Evidence

Ms O Buachalla contended for a rateable valuation of €15.50 calculated as set out below:

€5,078.95 adjusted to 1988 (using Jones Lang La Salle retail index)

$$\frac{\mathbf{€5,078.95 \times 387}}{\mathbf{799}} = \mathbf{€2,460}$$

Net annual value = €2,460 x .63% = rateable valuation €15.50.

In support of her valuation Ms O Buachalla introduced eight comparisons details, which are set out in tabular form at Appendix I attached to this judgement.

Ms O Buachalla contended in evidence that in arriving at her opinion of net annual value she had taken the actual rent being paid under the lease and adjusted it by reference to the Jones Lang LaSalle index. In her opinion this method of valuation has been accepted by the Valuation Office on a number of occasions and the comparative method was used only when there was no direct evidence of rental value. Under cross examination Ms O Buachalla agreed that on some occasions the rent payable on a lease did not necessarily represent open market rental value. Business landlords of shopping centres would consider the presence of an ATM facility to be advantageous and hence may not seek the full rental value. She agreed that the Littlepace Shopping Centre was comparable in terms of size and nature to the Carpenterstown Shopping Centre but enjoyed a better profile and access.

Respondent's Evidence

Mr Rooney contended for a rateable valuation of €25.39 calculated as set out below.

Net annual value €4,030.15 @ .63% = rateable valuation €25.39.

In support of his valuation Mr. Rooney introduced four comparisons details of which are set out in Appendix 2 attached to this judgement.

Mr Rooney said that in arriving at his opinion of net annual value he had regard to the assessment of other ATM facilities occupying similar locations to that occupied by the subject property. He submitted that the rent sought by landlords for an ATM facility was not always the open market value in the true sense of the word but that shopping centres were occasionally prepared to accept a nominal rent only as they considered the presence of an ATM to be an added attraction to users of the shopping centres. In the circumstances he felt the most appropriate method of arriving at the net annual value in this instance was to have regard to the assessments of ATM's in locations similar to Carpentertown Shopping Centre. In his opinion the facility at Littlepace Shopping Centre was the best comparison notwithstanding the fact that the rent paid under the lease was higher than that paid for the subject property.

Findings:-

1. The matter at issue in this appeal is clearcut. Ms O Buachalla on behalf of the appellant arrived at her opinion of net annual value by adjusting the rent paid under the lease to 1988 levels by reference to the Jones Lang LaSalle retail index. Mr Rooney on the other hand arrived at his opinion of net annual value

by comparison with the assessment of other ATM facilities in locations similar to that occupied by the subject.

2. In the circumstances of this appeal the Tribunal prefers the valuation method adopted by Mr Rooney, as it is more in accord with the basis of valuation as set down by statute. Accordingly therefore the Tribunal affirms the valuation of €25.39.

Draft

The Valuation Act 2001 came into effect on 2nd May 2002. Section 43 of the Act provides that until such time as the valuation under Section 19 of the Act is carried out, the existing valuation lists are continued in force, as shall the valuation of each property appearing thereon subject to any amendments thereof made in accordance with the Act.

Section 57 of the Act contains transitional provisions in relation to an application for revision made in accordance with Section 3 of the Valuation Act 1988 in respect of which a determination had not been made and or issued before the 2nd May 2002. Under these transitional provisions a property in respect of which an application was made Section 3 of the Act of 1988 shall be deemed to be a property in relation to which the Commissioner has made an appointment of an officer of the Commissioner under Section 28. Similarly an appeal to the Commissioner in accordance with Section 19 or 31 of the Act of 1852 and an appeal to this Tribunal in accordance with Section 3 (5) of Act 1988 shall be deemed to be appeals under Section 30(1) or Section 34 of the Act 2001 as the case may be.

Section 49(b) provides that a property appearing on an existing valuation list which is subject to or deemed to be subject to revision in accordance with Section 28 of the Act of 2001 shall have its annual value determined by reference to net annual values as determined on under the repealed enactments i.e., Section 11 of the Act 1852 as amended by Section 5 of Valuation Act 1986 as at 1st November 1988.