

Appeal No. VA02/5/026

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

Duffy Group Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Reference: Unit 4, Townland: Murphystown, ED: Glencullen, RD:
Rathmichael, County Dublin

B E F O R E

Tim Cotter - Valuer

Deputy Chairperson

Joseph Murray - Barrister

Member

Patrick Riney - FSCS FRICS MIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF MAY, 2003

By Notice of Appeal dated the 27th November 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €254 on the above described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are

"That the valuation is excessive, inequitable and bad in law".

The Appeal proceeded by way of oral hearing that took place at the Valuation Tribunal office, Ormond House, Ormond Quay Upper, Dublin 7, on the 30 April 2003.

The Appellant was represented by Mr. Joseph Bardon, FSCS, FRICS, and the Respondent by Mr. John Kirwan B.Agr. Sc., Valuation Diploma, MIAVI. of the Valuation Office. In accordance with the rules of the Tribunal the valuers had prior to the commencement of the hearing exchanged their précis of evidence and submitted same to this Tribunal. At the oral hearing both valuers having taken the oath adopted their précis as being their evidence in chief.

The Property

The subject property is situated in the Sandyford Hall estate, opposite the roundabout junction with the Murphystown Road, about 1 km south of Sandyford village and 10 kms south of Dublin city. Sandyford Hall is a newly developed housing estate with an excess of 3000 houses. The subject property is a retail unit trading as a local convenience store, within a new two-storey development of six retail units. There is commercial and residential accommodation overhead. The property is used as a mini market with off licence. The building is constructed with concrete floors, brick and pebble dashed concrete block walls, pvc double glazed windows and tiled roof. Internally there are tiled floors, smooth plastered walls and acoustic tiled ceilings.

Accommodation agreed, comprises the net lettable floor areas as follows:

Retail	272.1 sq. m.
Store	44.7 sq. m.
Total	(316.8 sq. m.)

There is a 25 year lease with 5 years reviews from 1st July 1999 at a current rent, of €76,184.28 per annum.

Valuation History

The subject property was revised during the course of the 2001/2 revision at a valuation of €290.77. A first appeal was lodged with the Commissioner of Valuation on the 5th June 2001 and the rateable valuation was reduced to €254. It is against this determination of the Commissioner of Valuation that the present appeal to the Valuation Tribunal was lodged on the 27th November 2002.

Appellant's case.

- The subject property is almost 3.5 times the size of the standard units in the centre and allowance should be made for quantum.
- In common with other neighbourhood centres, there is little or no passing trade. The respondent agreed that the neighbourhood unit is unlikely to attract trade from outside the immediate vicinity. Units depend on local custom from the housing estate.
- Revising valuer only had regard to the passing rents in assessing the RV of the subject property. This was evident from the revising valuer's report.
- A number of appeals were lodged at the same time as this appeal and dealt with by a different appeal valuer on behalf of the Commissioner of Valuation, (Mr. Sweeney). There were agreements on RV between other agents and Mr. Sweeney, although no evidence of these agreements was presented. At no stage did Mr. Bardon discuss the subject property with Mr. Sweeney. Instead Mr. Kirwan was appointed to deal with the Appellant's case and by this time the situation was a '*fait accompli*'. Mr. Kirwan was only prepared to offer a valuation based on the levels of the other agreements. Mr. Bardon had no opportunity to make submissions to the appeal valuer before the levels were set in the other cases. This the Appellant felt was unfair. No evidence was produced to show how these agreements were arrived at.

- ‘Tone of the list’. The Appellant was not satisfied that in the other appeals, regard was had to the ‘tone of the list’, but only to the passing rents. If the ‘tone’ was considered, it was too narrow as it did not take account of other neighbouring centres, such as the Leopardstown Valley or the Park Centre.
- Levels set on other shops in the centre were too high and comparisons should be used from outside the immediate area.
- Appellants Comparisons. These relate to similar convenience store units within the two nearest neighbourhood centres located in the same rating authority area.

Spar units 6 & 7 in Park Centre Cabinteely

Units revised in 1990, following appeal RV agreed at (£140) €185.38

Overall. 392.3 sq.m. @ €75.19 per sq.m. = NAV €29,497.

x 0.63 % = €185.83. Say €185.

Spar unit 5. Leopardstown Valley Centre.

Centre runs parallel to main road so that its profile is superior to that of Sandyford Hall. 6 units were revised in 1995/3 revision and no appeal was lodged against the rateable valuation of RV €126.97

Devalues as follows:

Shop 185.3 sq.m. x €95.69 per sq. m. = €17,731

Shop 32.5 sq.m. x €54.68 per sq.m. = € 1,777

Shop 11.6 sq.m. x €54.68 per sq.m. = € 634

NAV €20,142 x 0.63% = RV €126.97 Say €126

Other comparisons of smaller pharmacy units were given in the same neighbourhood centres.

Appellants Estimate of Value

Net lettable area 316.8 sq.m. @ €109.36(£8) = NAV €34,645

Rateable Valuation @ .63% = €218.26. Say €218.

Respondent's case

- General level of €185 per sq. m agreed between the Valuation Office and consultants for small standard units of 91 sq.m. in the centre.
- Quantum allowance was given in that the general level of €185 per sq. m, was reduced to €137 per sq.m.
- Allowances made in each case to keep the RV in the same proportion to the passing rents as is the case with units 2, 3 and 5, where the ratio of rent to RV is 1.89 : 1 The same ratio is applied to the subject property.
- Hinterland of good housing is well capable of supporting the centre.
- Ratio different in unit 1 and in the opinion of Mr. Kirwan, the passing rent of that unit is a bit on the high side.

Respondent's Valuation

Shop	272.09 sq.m.	@	€137/sq.m.	=	€37,276.33
Stove, Canteen etc.	44.72sq.m.	@	€68.5sq.m.	=	€ 3,063.32
NAV	€40,339.65	x	0.63%	=	€ 254.139
Say					€254

Findings and Determination

The Tribunal has considered all the evidence and arguments presented by both valuers in this appeal and has come to the following findings:

- The comparisons adduced by the Appellant were very relevant.
- The subject property is almost three times the size of the standard units.
- The centre in which the subject property is located is some 10 kms from Dublin city and not so accessible to passing trade.
- The respondent relied on the tone of the list in the Sandy Hall estate. The Tribunal consider that supporting comparisons from the neighbourhood centres used in the assessment by the Commissioner of Valuation of the Centre at the revision stage, would have been of considerable assistance to it.

Accordingly the Tribunal determines the rateable valuation to be €230 calculated as follows:

Shop. 272.09 sq.m. @ €125 per sq.m. = €34,011.25

Store, canteen etc. 44.72 sq. m @ €68.5 per sq.m. = €3,063.32

NAV €37,074.57 @ 0.63%

RV = €233.56

Say €230.