

Appeal No. VA04/3/004

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

Arramount Furniture Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Showroom at Lot No. 2Bg8, Clash West, Tralee, Tralee Urban, County Kerry

B E F O R E

Frank Malone

Deputy Chairperson

Brian Larkin - Barrister

Member

Michael F. Lyng - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF DECEMBER, 2004

By Notice of Appeal dated the 6th day of July, 2004 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €200.00 on the above described relevant property.

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

"The valuation is excessive and inequitable."

At Issue

Quantum

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay, Dublin on the 20th day of October, 2004. At the hearing the appellant was represented by Ms. Sheelagh O Buachalla A.S.C.S, Director of GVA Donal O Buachalla, Property Consultants and Estate Agents. Mr. Shay Aylward B.Comm, F.C.C.A, Staff Valuer in the Valuation Office appeared on behalf of the respondent. Both parties having taken the oath adopted their respective précis, which had previously been received by the Tribunal, as their evidence-in-chief, subject to minor amendments and typographical errors. Ms. O Buachalla agreed to accept Mr. Aylward's figures in respect of her comparison No.3, Kiely's Electrical and to exclude comparison No.5, Argos for the purpose of the appeal. Both parties included maps, charts, photographs and comparisons in their respective précis. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal.

The Property

The property is located in the Horan Centre beside the Tralee to Killarney/Dublin road in the town of Tralee, Co. Kerry. The Horan Centre, located on a sloping site, is a purpose built complex consisting of a number of retail warehouses with some smaller retail units and a licensed premises/night club. A Dunnes Stores supermarket and clothing outlet is located to the rear of the site. A petrol filling station is situated to the front of the car park, adjacent to the road. There is no charge for the use of the car park.

The subject property is located to the east side of the development with access from the higher ground towards the rear of the development. The property has frontage to the roadway at the rear of the centre directly opposite the goods entrance to Dunnes Stores. The property is an irregularly shaped retail unit. The ground floor comprises a split-level showroom with steps to the lower ground floor. The first floor, which is

accessible by stairs only, comprises a large showroom. There is a small office, canteen and toilet to the rear of the first floor showroom.

Tenure

The property is held under a 25-year lease with five yearly rent reviews. The current rent is €87,000 per annum.

Valuation History

The property was valued in March 2004 at an RV of €200. The Valuation date is 3rd March, 2004.

At first appeal stage submissions were made to the Revision Officer in the following terms:

1. “Valuation is excessive and inequitable when regard had to levels on other units in the area”
2. “No trading profile or visibility from passing trade”
3. “The entrance is removed from the car park area and Dunnes entrance – not visible as located at rear of Horan Centre”
4. “Previously occupied part at first floor level overlooking Tralee to Killarney Road – no longer have visibility on this road.”

The appeal however was dismissed and the rateable valuation remained unchanged.

Appellant's Case

Ms. O Buachalla proffered evidence on behalf of the appellant. She indicated to the Tribunal that the main area of dispute touched on the location of the subject premises. Ms. O Buachalla referred the Tribunal to the site location map included with her précis.

Description of Property

Ms. O Buachalla referred to her précis and photos. The subject unit is located to the rear of the Horan Centre. It has no frontage to the main Killarney/Dublin Road and, unlike the 5 retail units which have, it does not benefit from such profile. The anchor tenant in the Centre is Dunnes Stores which is also located in a retail unit to the rear of the site. The subject premises is located opposite the goods entrance of Dunnes Stores, away from the main car park. Large advertising signs have been erected to inform customers of the precise location of the premises.

The floor areas of the subject unit are as follows:

Ground floor showroom	250.12 sq. metres
First floor showroom	438.5 sq. metres
First floor canteen and office	19.5 sq. metres

Ms. O Buachalla added that the premises was on a sloping site and was of an irregular shape. The ground floor comprised a split-level showroom with 3 mid-floor stanchions. The first floor comprised a large showroom and its canteen and office were situated to the rear of this. Ms. O Buachalla disagreed with the respondent's description of the premises as being "a single storey furniture showroom". There was however no dispute, she indicated, as regard to valuing the "first floor" at a lower rate than the "ground floor".

Ms. O Buachalla outlined to the Tribunal that central to this appeal was the relative lack of profile and visibility of the subject premises due to its particular location to the rear of the Horan Centre. She stated that even if a unit did not have frontage on to the main Killarney/Dublin road, it was a distinct advantage to be located opposite the entrance to Dunnes Stores or at least have visibility from same. Ms. O Buachalla also expressed the view that units which did not benefit from prime road frontage location were still better positioned than the subject if they were to the side of the Centre unit on the car park approach. Ms. O Buachalla referred in particular to comparisons (1) and (2) in her précis, Tubs and Tiles and Wigoders. These units were valued at €61.51 per sq. metre and €64.92 per sq. metre respectively, in contrast to Kielys, her

comparison (3), at €75.17 per sq. metre and Chartbusters, her comparison (4), at €68.34 per sq. metre, which were located to the front of the Horan Centre. This was an acknowledgement by the Commissioner of Valuation, Ms. O Buachalla stated, that a lower valuation was more appropriate to units located at the rear of the Centre. On this basis Ms. O Buachalla argued that it was not unreasonable to apply a further 10% discount to the subject, which neither benefited from main road frontage, passing car park traffic or visibility from anchor tenant Dunnes Stores main entrance. Accordingly Ms. O Buachalla stated that on her calculations a fair valuation for the subject was €161 (valuing the ground floor showroom at €55.35 per sq. metre). Her valuation is set out in Appendix 1 attached to this judgment.

Cross-examined by Mr. Shay Aylward on behalf of the respondent as to why no representations were made on behalf of the appellant at Representation stage, Ms. O Buachalla replied that this arose due to a breakdown of communication and she did not have sight of the proposed Valuation Certificate.

Lengthy cross-examination of Ms. O Buachalla by Mr. Aylward followed with regard to the visibility and profile of the subject unit by reference to the respondent's précis and photos. It was put to Ms. O Buachalla that the subject was not opposite the goods/yard entrance to Dunnes Stores but was opposite and/or visible from the main Dunnes Stores' entrance. Ms. O Buachalla disagreed and gave evidence to the effect that ongoing loading and unloading of vehicles took place opposite the unit and this was a "put off" to potential customers. Furthermore Ms. O Buachalla continued to reinforce her view about lack of visibility and profile of the subject and added, despite Mr. Aylward's arguments to the contrary, that significant signage was required to address the situation. Ms. O Buachalla also disagreed with Mr. Aylward on the length of time that Dunnes Stores were in occupation of their unit in the Centre and the likely impact such had in terms of pulling power and trade on other units there.

In the course of cross-examination on the appellant's comparisons, Mr. Aylward put it to Ms. O Buachalla that she appeared to focus on Wigoders and Tubs and Tiles. Mr. Aylward put it to Ms. O Buachalla that in fact, overall, Wigoders compared unfavourably with the subject when one took into consideration frontage, display window heights, natural light and air conditioning. Mr. Aylward referred to Valuation

Appeal **VA04/1/047 Sam McCauley Chemists Ltd.** and the fact that it was there established that units of similar size were rated similarly. He put it to the witness that Wigoders was only half the size of the subject and thus was not a comparable property. Ms. O Buachalla rejected this argument on the grounds of non-standard criteria and different configurations.

Cross-examination of the witness continued and it was put to Ms. O Buachalla by Mr. Aylward that Tubs and Tiles had similar characteristics to the subject and yet was valued at €61.51 per sq. metre. Ms. O Buachalla, while accepting that this was so, disagreed that the properties had equal visibility. Arising out of further cross-examination in relation to comparison 3 of the appellant's précis i.e. Kiely's Electrical, Ms. O Buachalla stated that Kiely's had far greater profile and visibility than the subject in terms of its frontal location and superior signage.

Finally, Mr. Aylward put it to Ms. O Buachalla that a similar property is Unit 6, Manor West Retail Park, Tralee, comparison C of the respondent's comparisons with an area of 741 sq. metres, had an agreed R.V. of €278. This property, he said, was relevant to the subject in that its comparative distance from its anchor tenant in Manor West i.e. Tesco, was further out than the subject's distance from its anchor tenant i.e. Dunnes Stores in the Horan Centre, yet the subject R.V. of €200 was considerably less. However, Ms. O Buachalla rebutted the suggestion of comparability on the grounds that Manor West was further outside the town of Tralee and was valued on the basis of passing rents.

Respondent's Case

Mr. Aylward in his direct evidence to the Tribunal stated that he was guided by the Tribunal decision in **Sam McCauley Chemists Ltd.**, which was to the effect that the following were the relevant criteria in arriving at R.V.

- 1) The tone of the list and
- 2) Comparisons were to be drawn with units of similar size.

The comparisons included by the respondent in their précis at (A) to (E) were as follows:

- A. Unit 25.26, Manor West Retail Park, Tralee – occupier – Sam McCauley Chemists Ltd.
- B. Unit 4, Manor West Retail Park, Tralee – occupier - Lifestyle Sports Ltd.
- C. Unit 6, Manor West Retail Park, Tralee – occupier - Vacant
- D. Lot 2Bg/7, Horan Centre, Tralee – occupier - Kielys Electrical Ltd.
- E. Lot 2Bg/2, Horan Centre, Tralee – occupier – Wigoders

Mr. Aylward informed the Tribunal that he was not relying on comparison A and proceeded to outline the salient features of B, C, D and E. Cross examined by Ms. O Buachalla as to why he did not offer Tubs and Tiles as a comparison at Valuation Tribunal appeal stage, given that he used it at first appeal stage, Mr. Aylward said that he felt it was a less relevant comparison but accepted that he was inconsistent. He also accepted, following further cross-examination, that visibility and profile were material features for a retail unit. Mr. Aylward's valuation is set out in Appendix 2 attached to this judgment.

Findings

1. The subject premises comprised a split-level ground floor and first floor showrooms at the rear of the Horan Centre, Tralee, Co. Kerry.
2. The subject premises was on a sloping site and irregularly shaped.
3. The subject premises, while it had road frontage, was positioned opposite the goods entrance to Dunnes Stores at the rear of the Centre.
4. The subject premises was located away from the main Horan Centre car park and did not benefit to any significant extent from passing trade or traffic.
5. Comparisons with retail units in the Manor West Retail Park, Tralee, were inappropriate as Manor West was significantly further outside Tralee and units therein were invariably valued on the basis of passing rents.
6. Wigoders and Kiely's, offered by the respondent as comparisons, were rejected as such on the basis that they were located to the front of the Horan Centre and benefited from significant passing trade and profile.
7. Tubs and Tiles, which formed part of the respondent's comparisons at revision stage but was excluded at appeal stage, was of similar size to the subject and offered the best comparison. However, it had a slight advantage over the subject in being located to the side rather than the rear of the Horan Centre.

8. The Sam McCauley case taken in isolation was not an appropriate yardstick on which to base the R.V. of the subject.
9. Visibility and profile were accepted as crucial ingredients for retail units located in Shopping Centres.
10. Units located to the rear of such Shopping Centres were at a disadvantage in foot fall and passing trade terms to those located to the front and side.
11. Signage eased the problem but did not solve it.
12. An R.V. based on a 10% discount of Tubs and Tiles R.V. was deemed appropriate when all factors were taken into account.

Determination

Having regard to the evidence adduced and arguments proffered the Tribunal determines the rateable valuation of the relevant property as follows:

Ground Floor Showrooms 250.12 sq. metres @ €55.35 per sq. metre = €13,844.00

First Floor Showroom 438.5 sq. metres @ €41.00 per sq. metre = €17,978.50

First Floor canteen & office 19.5 sq. metres @ €27.33 per sq. metre = €532.94

Total N.A.V = €32,355.43

Rateable Valuation €32,355.43 @ 0.5% = €161.77

Say €160.00

And the Tribunal so determines.