

Appeal No. VA05/1/035 & 036

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

DID Electrical & Banba Toymaster

APPELLANTS

and

Commissioner of Valuation

RESPONDENT

RE: Retail Warehouse at Lot No. 20D/Unit 1 (VA05/1/035) & Retail Warehouse at Lot No. 20D/Unit 2 (VA05/1/036), Clearwater Shopping Centre, Finglas East, Finglas South B, Finglas South, County Borough of Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Maurice Ahern - Valuer

Member

Mairéad Hughes - Hotelier

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF SEPTEMBER, 2005

By Notices of Appeal received on the 29th day of March, 2005, the appellants appealed against the determinations of the Commissioner of Valuation in fixing rateable valuations of €505.00 and €605.00 respectively on the above described relevant properties.

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

"Valuation excessive, not valued in line with comparables."

With the consent of the parties these appeals were heard contemporaneously at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on 19th of May, 2005. Both appellants were represented by Ms. Sheelagh O Buachalla, BA, ASCS, a Director of GVA Donal O Buachalla. Mr. Colman Forkin, BSc (Surveying), ASCS, MRICS, MIAVI, appeared on behalf of the Commissioner of Valuation in relation to each appeal.

The Properties Concerned

The properties concerned comprise two new retail warehouse premises on the site of the former Janelle Shopping Centre which has been redeveloped to provide a new Tesco supermarket, 3 retail warehouse units and a Burger King drive-through unit. This new development which is called the Clearwater Retail Park has car parking for 560 cars and is located on an elevated site just off the N2 approximately half a kilometre south of Finglas Village.

Each property is of identical steel portal frame construction with part concrete block and metal deck infill walls and pitched metal deck roof. It is agreed that the buildings are of good construction and have a loading bay access at the rear.

The agreed accommodation and areas measured on a nett internal area basis are as set out below together with details of the lease arrangement under which each unit is occupied.

a) VA05/1/035 Occupier: DID Electrical

Ground Floor: Retail	665.09 sq. metres
Stores:	60.86 sq. metres
Mezzanine Store:	739.27 sq. metres

The premises are occupied under a 25-year full repairing and insuring lease from the 1st of April 2003 with rent reviews at 5 yearly intervals subject to the following rental arrangements.

Years 1 and 2:	€152,368.57
Years 3 and 4:	€162,526.47
Year 5:	€165,508.68

b) VA05/1/036 Occupier: Banba Toymaster

Ground Floor Retail:	801.2 sq. metres
Store/Offices:	130.13 sq. metres
Mezzanine Stores:	838.08 sq. metres

The premises are occupied under a 25-year full repairing and insuring lease from the 1st of April 2003 with rent reviews at 5 yearly intervals subject to the following rent arrangements.

Years 1 and 2:	€190,461
Years 3 and 4:	€203,158
Year 5:	€209,507

In each instance the units were let on a shell specification basis ready to receive tenants' fit-out. In each case the tenant installed mezzanine storage accommodation as a part of their fit-out.

Valuation History

On the 10th of November 2004 Valuation Certificates were issued pursuant to Section 29 of the Valuation Act, 2001 as follows:

- a) Lot No. 20D/Unit 1
Occupier DID Electrical Rateable Valuation €505
- b) Lot No. 20D/Unit 2
Occupier Banba Toymaster Rateable Valuation €605

Evidence was given at the hearing that no representations were made at the draft certificates stage. No change was made on foot of appeals to the Commissioner of Valuation in accordance with Section 30 of the Valuation Act, 2001 and it is against these decisions by the Commissioner of Valuation that the appeals to the Tribunal now lie.

The Appellant's Evidence

Ms. O Buachalla having taken the oath adopted her précis of evidence in respect of each property which had previously been received by the Tribunal as being her evidence-in-chief. In her précis Ms. O Buachalla contended for the following rateable valuations:

a) VA05/1/035 – Appellant DID Electrical

Ground Floor Retail	665.09 sq. metres @ €76.50	= €50,879
Stores	60.86 sq. metres @ €20.50	= €1,247
Mezzanine	739.27 sq. metres @ €13.67	= <u>€10,105</u>
Net Annual Value		= €62,231.80
Rateable Valuation @ 0.63 %		= €392

b) VA05/1/036- Appellant Banba Toymaster

Ground Floor Retail	801.2 sq. metres @ €76.50	= €61,292
Stores	130.13 sq. metres @ €20.50	= €2,667
Mezzanine	838.08 sq. metres @ €13.67	= <u>€11,456</u>
Net Annual Value		= €75,414
Rateable Valuation @ 0.63%		= €475

In support of her opinions of Net Annual Value Ms. O Buachalla introduced three comparisons, details of which are set out in Appendix 1 attached to this judgment. The comparisons in each appeal were the same. In evidence Ms. O Buachalla said that the Clearwater development had a poor profile and was not visible from the N2 and was located quite a considerable distance from the Tesco supermarket. Ms. O Buachalla also expressed the view that the development was not a typical retail park development which usually consisted of at least six units selling a wide range of merchandise. In this development there are only three units and at the date of valuation one of these was still vacant.

Ms. O Buachalla was critical of Mr. Forkin's choice of comparisons all of which she said were situated in other parts of North Dublin and some distance from the property concerned. She said Mr. Forkin's decision in this regard was contrary to the views of this Tribunal expressed in the judgment in the appeal **VA02/2/065 - Bord Gais Eireann** as follows, "comparisons that are some distance from the subject property are of no great assistance to the Tribunal in coming to a decision."

Under cross-examination Ms. O Buachalla agreed that her comparison No. 3 was not a retail warehouse as such nor was it located in a retail park development. She further agreed that neither of her other two comparisons was located in a retail development and that the Power City premises (comparison No.1) was located on Main Street Finglas. Ms. O Buachalla commented, however, that whilst the Power City premises was situated on the Main Street, it was well set back from the pavement line and had limited off-street car parking for only 25 to 30 cars. In any event, it was used for a purpose identical to that of DID Electrical and to that extent it was a relevant comparison. When asked to compare the Power City premises with the DID property, Ms. O Buachalla said that the Power City premises occupied a better location, while from a property perspective the DID premises were better. When asked to quantify the differences between the properties in terms of effect on rental value, Ms. O Buachalla said that the Finglas location warranted a premium of about 10%, but in building quality Clearwater had the edge by about 5%.

When questioned in detail about her analysis of the valuation of the Power City premises in Finglas, Ms. O Buachalla agreed that there appeared to be some inconsistency in the figures advanced by her. It was agreed at the hearing that Ms. O Buachalla and Mr. Forkin would discuss this matter and in due course a letter of clarification was submitted to the Tribunal. This letter set out an agreed analysis of the Power City premises valuation as set out below:

Retail Warehouse	641.49 sq. metres @ €68.35	= €43,846
Store	257.33 sq. metres @ €37.58	= €9,670
Lean-to Shed	75.25 sq. metres @ €13.67	= €1,029
Net Annual Value		= €54,545
Rateable Valuation @ 0.63%	Say	= €342.83

The Respondent's Evidence

Mr. Forkin having taken the oath adopted his précis of evidence and valuation in respect of each unit which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence Mr. Forkin contended for the following rateable valuations.

a) VA05/1/035 Appellant – DID Electrical

Ground Floor Retail	665.09 sq. metres @ €5.42	= €6,811.99
Stores	60.83 sq. metres @ €4.68	= €3,326.18
Mezzanine Store	739.27 sq. metres @ €27.34	= <u>€20,211.64</u>
Net Annual Value		= €80,349.81
Rateable Valuation at 0.63%		= €506.20
Say		€505

b) VA05/1/036 Appellant – Banba Toymaster

Ground Floor Retail	801.20 sq. metres @ €2.00	= €5,698.40
Stores/Office	130.13 sq. metres @ €4.68	= €7,115.51
Mezzanine Store	838.08 sq. metres @ €27.34	= <u>€22,913.11</u>
Net Annual Value		= €95,727.02
Rateable Valuation @ 0.63%		= €603.08
Say		€605

In support of his opinions of Net Annual Value Mr. Forkin introduced three comparisons details of which are set out in Appendix 2 attached to this judgment. The comparisons in each appeal were the same.

In his evidence Mr. Forkin said that the retail warehouse units in Clearwater shared a large car parking area with a major Tesco supermarket which was the anchor tenant in the development. Mr. Forkin said that all his comparisons were similar type units located in various retail park developments in the North County Dublin area. In effect, he said, he was valuing like with like which Ms. O Buachalla was not. Under examination, Mr. Forkin said he did not find Ms. O Buachalla's comparisons to be of much assistance as they were stand-alone buildings not forming part of a retail warehouse scheme of development which consisted usually of a number of units sharing a common car parking area. When asked to explain the difference in the square metre rates applied to the units at Coolock Retail Park and Northside, Mr. Forkin said that the Coolock scheme in his opinion occupied a better location and enjoyed a higher profile.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced and makes the following findings.

1. It is common case that the subject properties are retail warehouses built to a high specification of construction and finish.
2. Whilst there is no standard size for a retail park development it is true to say the larger the scheme the greater the tenant mix. By any criteria the Clearwater development is a small one although the proximity of the Tesco supermarket is a significant positive feature.
3. Ms. O Buachalla in arriving at her opinion of net annual value relied principally on her comparisons No. 1 and No. 2, i.e., the Power City unit in Main Street , Finglas and the Lidl supermarket at the St. Margaret's Road roundabout, also in Finglas. Both of these are stand alone units not located in retail warehouse schemes. Mr. Forkin on the other hand drew his comparisons from two retail warehouse developments close to one another and located in Coolock some distance from the subject property. Generally speaking the Tribunal accepts the proposition that the closer the comparisons are located to the property concerned the more relevant is the evidence of value to be derived therefrom. However this assumes that the comparisons are similar in type or mode of use to the property concerned which is not strictly the case in relation to Ms. O Buachalla's comparisons.
4. In the circumstances of this appeal the Tribunal considers Mr. Forkin's evidence to be the most helpful. Nonetheless the Tribunal is conscious of the limited size of the Clearwater scheme and accepts that this is a factor a hypothetical tenant would take into account in formulating an offer. The Tribunal also considers the valuation of the Lidl supermarket at the St. Margaret's Road roundabout to be of some assistance.
5. Both valuers in arriving at their opinions of value applied a lower rate per square metre to the stores at ground floor level. Ms. O Buachalla applied a rate equivalent to 25% of the rate applied to the retail space whilst Mr. Forkin considered 65% to be appropriate. The Tribunal prefers Mr. Forkin's approach. Similarly the Tribunal prefers Mr. Forkin's valuation of the Mezzanine space which he valued at 26% of that applied to the retail space of the ground floor as against Ms. O Buachalla's opinion of 17%.

6. Mr. Forkin in arriving at his opinion of net annual value valued the retail space in the larger Banba unit at €82 per square metre and the DID unit at €85 per square metre. Ms. O Buachalla valued the retail space of both units at the same rate of €76.50 per square metre. The Tribunal in this instance prefers Ms. O Buachalla's methodology in this regard. Indeed an analysis of the passing rents would seem to indicate that both units were let at the same rate per square metre. That said, there is no good reason to depart from market evidence in this regard.
7. Having examined the details of Mr. Forkin's comparisons, particularly those in the Coolock retail park, which Mr. Forkin described as enjoying a good location with a high profile the Tribunal has come to the conclusion that he did not fully reflect the locational disadvantage of the subject property in arriving at his opinion of net annual value.

Determinations

Having regard to the foregoing the Tribunal determines the rateable valuation of the DID and Banba properties to be €470 and €576 respectively calculated as set out below:

A) VA05/1/035 Appellant – DID Electrical

Ground Floor Retail	665.09 sq. metres @ €80 per sq. metre	= €53,207
Retail Stores	60.83 sq. metres @ €50 per sq. metre	= €3,042
Mezzanine Stores	739.27 sq. metres @ €25 per sq. metre	= €18,482
Total		= €74,731
NAV say		€74,700
Rateable Valuation @ 0.63%		€470

B) VA05/1/036 Appellant– Banba Toymaster

Ground Floor Retail	801.2 sq. metres @ €80 per sq. metre	= €64,096
Retail Stores	130.13 sq. metres @ €50 per sq. metre	= €6,506
Mezzanine Stores	838.08 sq. metres @ €25 per sq. metre	= €20,952
Total		= €91,554
NAV say		€91,500
Rateable Valuation @ 0.63%		€576