

Appeal No. VA06/3/037

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

Movies @ Dundrum Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Cinema at Lot No. A101, Town Square, Dundrum Town Centre, Dundrum, Dundrum Sandyford, Dundrum, County Dublin

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Joseph Murray - B.L.

Member

Maurice Ahern - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JANUARY, 2007

By Notice of Appeal dated the 3rd day of August, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €3,212.00 on the above described relevant property.

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

"The RV is excessive having regard to the levels applied to other cinemas in Dun Laoghaire Rathdown."

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 21st November, 2006. Mr. Joseph Bardon, FSCS, FRICS, Dip in Prop. Ec., Bardon & Co., Chartered Surveyors, Rating Consultants & Valuers, represented the appellant and Mr. Christopher Hicks, a Valuer in the Valuation Office, represented the respondent. At the oral hearing, both parties, having taken the oath, adopted their précis, which had previously been received by the Tribunal, as their evidence-in-chief.

The Property

Location

Subject cinema is situate on the east side of Dundrum Town Centre close to the main entrance to the Centre and is accessible via a large concourse as are a number of restaurants.

The Centre is a modern purpose built regional centre development which is located just south of Dundrum Village. It is c. 92,000 sq. metre of retail space and incorporates over 100 retail units together with the main anchor stores including Tesco, House of Fraser and Penneys. There is underground parking for c. 3,000 cars.

Description

The subject property comprises a modern purpose-built 12 screen cinema complex which has been developed on 4 levels as follows:

- Level 1 includes main foyer, box office, restaurant, office and stores, together with access to the front of Screens 1, 2 & 3. Level 1 is on the lower ground floor.
- The mezzanine floor includes the V.I.P. area, access to rear of Screen 1 only.
- The ground floor includes offices, stores and projection rooms.
- The basement includes the lower foyer, shop and Screens 4-12. The cinema's capacity is 2,209 seats.
- The customer toilets are on level 1 and basement level.

The complex is constructed with carpet concrete floors and smooth plastered walls and ceilings. There is an escalator serving the basement, ground and first floors. There is also a lift serving all floors.

Services

Main services of water, drainage, electricity and telephone are connected. Heating is by means of a gas fired system.

Title

Under lease for 25 years with 5 year reviews from 1st October, 2005 at the initial rent of €1,205,380 p.a.

Costs

The fit out cost of the subject cinema was €8.92 million. The overall area was agreed at 5,108 sq. metres.

Valuation History

The property was first valued in November 2005 at RV €3,212. An appeal to the Commissioner in January 2006 resulted in no change to the valuation.

Appellant's Case

Mr. Joseph Bardon having taken the oath handed in, with the agreement of Mr. Hicks, an amended estimate of valuation, four photographs and a copy of a portion of a tourist map of Dun Laoghaire showing the location of the IMC Cinema – one of his comparison properties - thereon (see the Appendix attached to this judgment). Apart from the said amended estimate he adopted his written précis which had previously been received by the Tribunal as his evidence-in-chief.

He said he had agreed the overall area with Mr. Hicks at 5108 sq. metres but he had not discussed with him the individual areas of the four levels as set out in his revised estimate namely.

1. Basement - Cinemas
2. Ground Floor – Projection Rooms
3. Level 1 – Cinemas, Foyer, Ticket Office, etc.
4. Mezzanine Level – Cinemas, VIP area, Passages, etc.

He pointed out that he had to review his calculations which are set out in his précis. On the day before the hearing, when reviewing his calculations, he noticed a mistake, hence his revised estimate of rateable valuation. The total area was the same as agreed with Mr. Hicks.

Mr. Hicks said he agreed the overall area. How it was set out, he said, was of no importance.

Mr. Bardon referred to the map of Dundrum, which is included in his précis. Movies@ Dundrum Ltd is on the southern side of Sandyford Road, in the northern section of the Centre and close to the main entrance of the centre. This is the only entrance to the centre and is shared with restaurants, a pub etc., which are in this section of the development.

He pointed out that there is no direct access to the Cinema from the town square. Entry is via a concourse from the square and up steps to the ground floor on level one. Six restaurants are now opened in the Centre but only 2 or 3 were opened on the valuation date (November, 2005)

He described the Centre as being just south of Dundrum Village. It had 92,000 sq. metres of space incorporating over 100 retail units. There are c. 3,000 car spaces in an underground car park. There are 3 or 4 entrances to this car park.

He then described the various levels in the Cinema already set out above.

There are 2 other multi-screen cinemas in the Dun Laoghaire/Rathdown rating area. The Ormonde in Stillorgan is a 7-screen cinema. The IMC in Dun Laoghaire is a 12-screen cinema. Detailed particulars of same are at the Appendix to this Judgment. The Ormonde has an RV of €26 and the IMC an R.V. of €2,569.

He said the Ormonde had an entrance from the street between the AIB Bank and a wine shop. It did not have a profile to the street. It had a low level car park down from the entrance. The cinema itself is at the end of a terrace which includes a number of retail outlets.

He also said that profile did not matter in a cinema.

This cinema was refurbished in 1998 and is on 4 floors as already described in his précis. There is free car parking in a car park adjacent to the cinema.

The IMC in Dun Laoghaire is accessed from Georges Street Lower via Convent Road and Convent Lane. There is fee paying car parking in a multi-storey car park which is situate behind the cinema in Library Road. Any patron using this car park can enter the cinema through a back door using his parking ticket.

He said that he had more regard to the IMC in Dun Laoghaire as a comparison. It was similar to the subject cinema, being more modern than the Ormonde and on four floors.

He applied a premium of twenty per cent to the sq. metre rate on each of the four floors in the IMC to arrive at his valuations as set out in his revised estimate of valuation – detailed below – and he considered this as fair and reasonable.

Basement

Cinemas	2,412 sq. metres @ €8.42 per sq. metre	= €237,389
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Ground Floor

Projection Rooms	641 sq. metres @ €16.40 per sq. metre	= €10,512
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Level 1

Cinemas	505 sq. metres @ €14.83 per sq. metre	= €57,989
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Foyer, Ticket Office, etc.	1,096 sq. metres @ €65.62 per sq. metre	= €71,919
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Mezzanine Level

Cinemas	209 sq. metres @ €14.83 per sq. metre	= €23,999
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VIP area, Passages, etc	245 sq. metres @ €55.62 per sq. metre	= €16,076
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Total NAV		= €117,884
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RV @ 0.63%		= €2,632.67
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Say RV	€2,633	
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Cross-examined by Mr. Hicks he agreed that the subject cinema was more modern than the IMC. The IMC, when first built, was a “state of the art” cinema. He agreed that the cinema in Dundrum was better, plusher and more sophisticated.

He said that he was not convinced that the rents in Dundrum were three times higher than in Dun Laoghaire – they were however significantly higher, but he did not think that this was relevant.

He also said that the number of seats in the cinema was irrelevant in arriving at a valuation. He pointed out, however, that they were relevant when considering profits.

Valuing by seats was an extremely crude method of valuation in his opinion. He maintained that he calculated the number of seats in the cinema at 2,110. He got his calculation from the plans. He did not ask his clients. Mr. Hicks put it to him that his clients had told him (Mr. Hicks) that the seating capacity was 2,209.

When Mr. Hicks put it to him that the cinema in Dundrum was smaller than the IMC and had 25% more capacity, Mr. Bardon said that he did not think that this mattered.

He would contest that the IMC, when valued in 1997, was valued on the number of seats therein.

He said that the Dundrum cinema had no profile from the Town Square and that restaurants in the complex were an advantage.

He also pointed out that he would not completely disregard the number of seats in a cinema when considering valuation; they were a factor only in his consideration.

Respondent's Evidence

Mr. Hicks took the oath and adopted his précis as his evidence-in-chief.

He pointed out that the fit out costs (€8.92 million) was considerable. The IMC in Dun Laoghaire had an RV of €2,539, which de-values on a gross internal area of 5,472 sq. metres at €74 per sq. metre. The gross internal area was 5,472 sq. metres for a total of 1733 seats. This, he said, on a preliminary basis of the agreement in this case was 1,733 seats at €32.41 per seat and if this method was applied to the subject cinema, the valuation would be calculated at:

2,209 seats @ €32.41 per seat = €13,393 at 0.63% = €3,234

He said that he based his valuation on the overall floor area of 5,108 sq. metres @ €100 per sq. metre

NAV of €10,800 @ 0.63% = €3,218.04

Say €3,212.

He pointed out that he took the level of €74 per sq. metre on the IMC and added on one third to this level to arrive at his valuation. He considered this valuation to be modest in the circumstances.

On a rate per seat basis of €32.41 in the IMC, he pointed out that he had taken a similar rate per seat in relation to the cinema in Dundrum when arriving at a valuation of €3,234. This, he said, should not be the case as there were significant disadvantages in Dun Laoghaire which rendered each seat less valuable than in Dundrum i.e.

1. The population density.
2. Profit from the cinema.
3. Lack of passing traffic.

If these matters were opened to a hypothetical tenant, he would form an opinion in his mind that a seat in IMC is less valuable than a seat in the subject cinema.

The cinema car park in the IMC is a separate car park. You have to cross a road to access the cinema. There is another car park but it closes in the evening.

The IMC and the subject cinema are similar in size and layout and he could not see why an overall figure could not be applied.

He said that the IMC. was much superior to the Ormonde in Stillorgan yet the rate per sq. metre on the ground floor in the IMC was half the rate per sq. metre applied to the ground floor in the Ormonde. This was difficult to make sense of. He then went on to say that one of the most important facilities adjacent to a cinema was restaurants. The IMC had a large ground floor area, part of which was used as a restaurant which had failed.

Dundrum Town Centre, on the other hand, had thriving shops, restaurants and a pub in the complex.

He described Dun Laoghaire as antiquated with butcher shops, banks etc in Georges Street. There were none of these in Dundrum Town Centre. Values in Dun Laoghaire are much lower than Dundrum. In Dun Laoghaire the shops are small and old. There was, he said, little or no competition between Dun Laoghaire and Dundrum. The value of property in Dun Laoghaire is 5 times lower than in Dundrum Town Centre.

Cross-examined by Mr. Bardon, Mr. Hicks reiterated that rental values in Dundrum are three times higher than in Dun Laoghaire. Dun Laoghaire was a very mixed area and not to be compared with Blackrock or Killiney.

He also said that the Stillorgan Shopping Centre has higher values than the Plaza Shopping Centre where the Ormonde Cinema is located. He would not accept that the valuations in the Stillorgan Shopping Centre were 10% behind those in the Dundrum Town Centre – it was more in the nature of 30% - 35%.

He agreed that the IMC cinema has access to Georges Street Lower via Convent Lane and Convent Road, the entrances to the cinema. These lanes are not suitable for car traffic – they are one way streets and are difficult to negotiate.

Mr. Bardon put it to Mr. Hicks that the Ormonde in Stillorgan and the IMC in Dun Laoghaire were valued on a floor by floor basis and that the cinema in Dundrum should be valued on the same principle. He was looking for consistency of approach. Valuing the Dundrum cinema on an overall basis was not, in his opinion, the correct basis to use. Mr. Hicks did not accept this. Valuations should be on the same level for all floors. He said he saw no practical advantage in valuing on a floor by floor basis.

Findings and Determination

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and make the following findings:

1. Dundrum Town Centre is possibly the largest shopping centre in the country. Movies @ Dundrum Ltd is in the Centre, as are restaurants, retail shopping units including all the biggest and best known names and brands in Europe. The population in the Dundrum area is very large. People from the city and county of Dublin and indeed from the whole country patronise this Centre. It can be said to be a “Mecca” for shoppers and also for cinema goers.
2. The subject cinema is a superb new cinema fitted out at considerable cost (€8.92 million). It is in a new and modern purpose-built regional shopping centre with 12 screens and a seating capacity of 2,209. It has been developed on 4 levels. There are over 100 retail units in the Centre along with restaurants and a public house. There is underground parking for 3,000 cars.
3. The fact that the cinema has no direct access from the Town Centre in Dundrum is of little or no relevance. Entry is via a wide concourse which leads also to the retail units and restaurants.
4. There are only two cinemas for comparison in the Dun Laoghaire/Rathdown area, the Ormonde in Stillorgan and the IMC in Dun Laoghaire. The IMC in Dun Laoghaire is the most favourable for comparison and the Tribunal considers this to be so. It is also a modern 12 screen cinema developed on 4 levels similar to the subject cinema.
5. Both the Ormonde and the IMC were valued on a floor by floor basis. It is the finding of the Tribunal that the subject cinema should be valued on the same basis.
6. The Tribunal accepts that the current method of valuation is on a per sq. metre basis (**VA95/5/006 - Abbey Cinema Group** and **VA06/2/009 - Omniplex Cork Ltd**).
7. The Tribunal does accept that the IMC is the principal comparison and applies a premium of 35% on the floor by floor valuations as therein set out.
8. The Tribunal accepts Mr. Bardon’s evidence that the IMC, when built, was a “state of the art” cinema and, further, we accept Mr. Bardon’s evidence that the cinema in Dundrum, the subject matter herein, is of better quality, plusher and more

sophisticated than the IMC and is adjacent to the Luas transport system. In view of this we think a fair and equitable rate of 35% over and above the rates applied to the IMC should be applied to the subject property.

9. The Tribunal therefore determines the net annual value and rateable valuation of the property concerned to be as follows:-

Basement

Cinemas 2,412 sq. metres @ €10.73 per sq. metre = €267,073.52

Ground Floor

Projection rooms 641 sq. metres @ €18.45 per sq. metre = €11,829.33

Level 1

Cinemas 505 sq. metres @ €29.18 per sq. metre = €148,369.90

Foyer, Ticket Office, etc. 1,096 sq. metres @ €73.82 per sq. metre = €80,904.53

Mezzanine Level

Cinemas 209 sq. metres @ €29.18 per sq. metre = €6,098.93

VIP area, passages, etc. 245 sq. metres @ €73.82 per sq. metre = €18,085.41

Total €170,128.39

RV @ 0.63% = €2,961.81

Say €2,962

And the Tribunal so determines.