

Appeal No. VA06/4/009

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

Carrolls Newsagents Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No. 60B.61B/Unit 32, Ramparts, Marshes Lower, Dundalk, Dundalk UD, County Louth.

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Damian Wallace - QFA, MIPAV, Valuer

Member

Michael F. Lyng - Valuer

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF MAY, 2007**

By Notice of Appeal dated the 18th day of December, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €153.00 on the above described relevant property.

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

"The assessment is excessive by reference to Nett Annual Values of modern developments in Dundalk e.g. Longwalk SC and Carroll's Village, the tone of the list incl. within the Subject Centre and should reflect the circumstances of the unit e.g. size, location and trading. As per 6(a), issues relate to quantum and method of assessment by reference to tone of the list within the Subject Centre and similar developments."

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 7th day of March, 2007. Mr. Adrian Power-Kelly, FSCS, FRICS, ACI Arb., MIPFMA, Costello Commercial Chartered Surveyors, represented the appellant and Ms. Ciara Marron B.Sc. Property Management & Valuation, Dip. in Prop. Valuation & Management, MIAVI, a District Valuer with the Valuation Office, represented the respondent. At the oral hearing, both parties, having taken the oath, adopted their respective précis as their evidence-in-chief.

The Property

Location

The subject unit is situated on level one of the Marshes Shopping Centre, a new shopping centre located on the north side of the Rampart Road, approximately 1 kilometre to the south east of Dundalk Town Centre. Directly opposite the subject development is the Williams Mall, which comprises a mix of quasi retail/workshop units and a small car park.

The Marshes Shopping Centre opened circa November 2005 and comprises a single storey development with elongated enclosed mall incorporating Dunnes Stores and Penneys as anchor stores together with approximately 40 retail units.

Dundalk is the county town for Louth, is situated to the east of the M1 National primary route linking Dublin with Belfast and the north of the country, and, has a population of approximately 32,500 persons.

Description

The subject property comprises a ground floor retail unit with mezzanine/first floor offices.

The agreed floor area of the property is:

Ground floor	112.42	sq. metres
Mezzanine/First Floor Offices	41.58	sq. metres

Valuation History

The property was valued on 13th April, 2006 and a Valuation Certificate was issued with an RV of €153. On 22nd May, 2006 Mr. Adrian Power-Kelly lodged an Appeal on behalf of Carroll's Newsagents Limited against this rateable valuation. On 21st November, 2006 Mr. Jim Gormley, Appeal Manager, issued a Valuation Certificate wherein the rateable valuation was issued unchanged at €153. On 18th December, 2006 Mr. Power-Kelly lodged a formal appeal to the Valuation Tribunal.

Appellant's Case

Mr. Power-Kelly having taken the oath adopted his written précis and valuation, which had been received by the Tribunal as being his evidence-in-chief. He stated that the NAV adopted by the Commissioner of Valuation was too high in view of the following:

The subject retail unit should have been valued by reference to the tone of the list as was the case with the majority of retail units within Marshes Shopping Centre and not by reference to the zoning method, which was used in this case.

He contended for a rateable valuation as set out below:

Retail Unit	112 sq. metres	@ €65 per sq. metre	= €18,480
Offices/Stores	41.6 sq. metres	@ €40.35 per sq. metre	= <u>€ 1,678</u>
Total NAV:			= €20,158
RV @ 0.63%	= €126.99		
Say	€125		

He stated that the property is located in Marshes Shopping Centre, Ramparts, Dundalk, Co. Louth. The annual rent payable is €101,000. He stated that all but three of the units in the Shopping Centre were valued on an overall basis as was Longwalk Shopping Centre, also in Dundalk. He felt that it was unfair that the valuation of the subject property should be determined by reference to the zoning method, that uniformity should have been adhered to and the property valued on an overall basis. In reply to the Tribunal, Mr. Power-Kelly stated that if

you adopt one method of valuation or if the majority of units in any centre are valued on one basis, to change to a different method will bring forward inconsistencies which defeat the purpose of the exercise.

Mr. Power-Kelly introduced 8 comparisons, details of which are attached at Appendix 1 to this judgment.

Cross-examination

In reply to Ms. Marron for the Valuation Office, Mr. Power-Kelly agreed that even though the zoning method had been used in valuing the subject property, the valuation remained the same but said this did not mean it was correct, rather it was “the luck of the draw”.

Respondent’s Case

Ms. Ciara Marron, having taken the oath, adopted her précis as her evidence-in-chief. She gave two valuation assessments of the subject property:

Zoning Method

Retail: 112.42 sq. metres

Zone A: 39 sq. metres @ €322.00 per sq. metre

Zone B: 39 sq. metres @ €161.00 per sq. metre

Zone C: 34.42 sq. metres @ €80.50 per sq. metre

1st floor offices: 41.58 sq. metres @ €54.67 per sq. metre

Net Annual Value: €24,449.79

Rateable Valuation = Total NAV x 0.63% = €154

Valuation = €153

Overall Method

Ground floor retail: 112.42 sq. metres @ €91.34 per sq. metre

1st Floor offices: 41.58 sq. metres @ €68.34 per sq. metre

Net Annual Value: €24,352.97

Rateable Valuation = Total NAV x 0.63% = RV: €153.42

Valuation: €153

Ms. Marron referred to her five comparisons (see Appendix 2 attached) in which she stated that whether you used the zoning method or the overall method the RV is still the same. In reply to the Tribunal as to why in valuing the first floor offices by the zoning method the rate per square metre (€54.67) is not the same as the rate used in valuing the same offices by the overall method (€88.34), she said that if she used the overall rate per square metre when valuing by the zoning method it would have increased the RV.

In regard to the €191.34 rate used in valuing the ground floor retail unit by the overall method, she stated that when originally valuing the Shopping Centre she had to use some valuation as her comparison. Though the Longwalk Shopping Centre and Carroll Village Shopping Centre were inferior to the subject, she valued the subject Shopping Centre on an overall basis using Longwalk and Carroll Village as comparisons and applied a higher rate for the units in Marshes Shopping Centre taking into account the higher standard of the units there and the superior location.

Ms. Marron outlined to the Tribunal, by reference to her five comparisons, that the RV is the same whether you value retail units by the zoning method or by the overall method. She stated that her valuation was fair and reasonable in view of the fact that the subject property was finished to a high standard and was in a superior location to any other shopping centre in Dundalk. She felt that it should be valued on a zoning basis as it was, she thought, the fairest method of valuation in view of the fact that the premises is in an excellent location with the highest quality accommodation. She stated that the NAV in Longwalk Shopping Centre used by Mr. Power-Kelly in his comparisons was not relevant because the method used in calculating these was based on 50% of lease rental.

In reply to Mr. Power-Kelly, Ms. Marron stated that Salsa Jeans, one of her comparisons, was not appealed because the owners must have been satisfied with the valuation. Mr. Power-Kelly asked Ms. Marron if a property was appealed and a decision reached would she agree that the valuation would have a higher standing than a property agreed by default. Ms. Marron said she would agree with this analysis if everything else was equal.

Findings and Determination

The Tribunal having carefully considered all the evidence and arguments adduced by the parties determines as follows:

1. The Tribunal has come to the conclusion that it would be unfair and inequitable to value the subject unit on the zoning basis because almost all of the other retail units in the Centre were valued on the overall basis.
2. Parties are entitled to put into evidence comparison properties valued at the same time as the subject property but such comparisons must be treated with some degree of caution. Some of the comparisons offered in this appeal were agreed at Representation or 1st Appeal stages while others were not appealed. In general, the Tribunal prefers comparisons which have gone through the rigours of the Appeal process.
3. Both Barratts and Salsa Jeans (Units 11 and 12 in Marshes Shopping Centre) are similar to the subject property and are valued at €174.56 and €187.93 per sq. m respectively. Barratts was agreed at 1st Appeal. Salsa is a revision valuation made at the same time as the valuation on the subject property.
4. The retail area of the subject property is smaller than that of both Barratts and Salsa.

Having regard to the foregoing the Tribunal determines the appropriate net annual value and rateable valuation of the subject property to be: -

Ground Floor 112 sq. metres @ €182 per sq. metre	= €20,384.00
First Floor 41.58 sq. metres @ €54.67 per sq. metre	= € <u>2,273.18</u>
Total NAV	= €22,657.18
@ 0.63% = RV	€142.74
Say	€143

And the Tribunal so determines.