

Appeal No. VA08/4/016

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

SV Delahunt & Co. Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 663393, Shop, Store, Yard at Lot No. 2 3 4, Abbey Street, Ballynerrin, Kilmantin Ward, Wicklow UD, County Wicklow.

B E F O R E

John Kerr - Chartered Surveyor

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Damian Wallace - QFA, MIPAV, Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF MAY, 2009

By Notice of Appeal dated the 23rd day of December, 2008, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €250.00 on the above-described relevant property.

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

"On the basis that the RV as assessed is excessive & inequitable. The proposed RV is excessive in the context of the historic values in the town of Wicklow as shown by the established tone."

The appeal proceeded by way of an oral hearing held in the Offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 19th day of February 2009. At the hearing the appellant was represented by Mr. Eamonn Halpin, B.Sc. (Surveying), ASCS, MRICS, MIAVI. Mr. Patrick McMorrow, ASCS, IAVI, a Valuer in the Valuation Office, appeared on behalf of the respondent. Each representative having taken the oath adopted his précis and valuation, which had previously been received by the Tribunal and exchanged with the other party, as his evidence-in-chief.

At the outset Mr. Halpin advised the Tribunal that he wished to amend his basis of valuation in Section 4 of his précis as follows. In the first method of valuation, the zoning method, he increased the area of the “balance” by 3.1 sq. metres to 120.1 sq. metres. In the second method, the overall method, he increased the area of the shop to 510.1 sq. metres.

Valuation History

On 31st October 2007 Mr. Patrick McMorrow was appointed on foot of a revision request from Wicklow Town Council to value alterations. On 28th November 2007 the property was inspected and a rateable valuation of €250 was proposed. On 24th April 2008 the appellant’s agent made a submission for a lower assessment and on 29th April 2008 the Commissioner confirmed the rateable valuation of €250. The appellant appealed this decision through their agent Eamonn Halpin & Co. Ltd. on 26th May 2008 and on 28th November 2008 the Commissioner issued the result of the appeal with the rateable valuation unchanged at €250. The appellant then appealed this decision on 23rd December 2008 to the Valuation Tribunal.

At Issue

Quantum

Location

The property is located at the junction of Abbey Street and St. Patrick’s Road, Wicklow Town. It is close to the Forge Public House and the Grand Hotel and although removed from the Main Street proper this is a prominent location with considerable frontage on to the main route into Wicklow Town.

The Property Concerned

The subject property is comprised of a hardware/household and DIY shop with ancillary offices and stores and a number of ancillary rooms overhead. To the rear and side of the property there is private parking, yards and a large two-storey, former grain store, now used for general storage. This store is on a split level site which allows vehicle access to the store at both upper and lower ground floor levels. Over the years the shop section was extended with a combination of improvement, demolition and extension works carried out while the first floor area over the shop is in need of modernisation, having had no significant works completed. The rear stores are old but have a mass concrete floor at approximately 1 metre above the yard level and part of this area also has an asbestos roof.

Appellant's Evidence

Mr. Halpin said that he also wished to clarify a matter regarding his analysis of the valuation carried out on his Comparison No. 1. He explained that it was based on a 1990 valuation and even though the 1997 revision value remained at the same level, the rate per sq. metre of the shop has been increased because the advertising station is now valued separately.

Mr. McMorrow said that the basis of valuation is as it stands in the Valuation List and this is the 1997 valuation and, in view of the fact that it was entered in evidence, he wished to correct the rate per sq. metre and advise the Tribunal of the correct rate per sq. metre. Mr. Halpin then confirmed that in view of the confusion he was happy to have this comparison ruled out, and withdrawn from evidence.

Mr. Halpin referred to his précis of evidence and said that this was an unusual premises having first been used as a private residence, subsequently became a licensed premises but has been operating as a general store for as long as he could remember. He said that it is located at the entry into the main part, albeit a quiet part, of the town, separated from the main retail area. Mr. Halpin said the property is of a type that one might expect to see in country towns, where the ground floor may appear to be well maintained and presented, somewhat in contrast with the accommodation overhead. He indicated that the premises comprises an old-fashioned hardware store with ancillary offices and a number of disused rooms at first floor level. He noted there is a two-storey grain store and a small yard to the rear of the property but the floor level of the grain store is approximately 1 metre above the level of the yard and it would be very difficult to adapt the stores to modern use. He said it served its purpose very

well in the past but now, because of the raised floor level, it had limited use. There is also limited customer parking to the rear. Mr. Halpin then proceeded to make the following points;

1. The established historic tone in Wicklow town is moderate as can be clearly seen from the local comparative evidence.
2. There is limited retail potential at this location, being removed from the Main Street proper.
3. The Commissioner has erred in comparing the subject with the SuperValu retail unit and ignored the local tone established closer to the subject at Abbey Street and Main Street.
4. The levels per sq. metre suggested by the Commissioner are too high given that the property is situate away from the high value area of the Main Street. They are also too high when the actual size, layout (which evolved over a number of piecemeal additions) and condition of the buildings are fully taken into account.
5. It is inequitable and incorrect to ignore the established local tone and apply a much higher valuation to the subject, which is in a much poorer location than the comparisons.
6. The shop is poorly located within the terms of the prime retail area in the Main Street proper.
7. The subject buildings, particularly the first floor and the old corn stores block at the rear, are in very poor condition.
8. The premises is very large when compared with the average size shop in the town. The hypothetical tenant would take a cautious approach to this property if it was available to let, particularly on FRI terms.
9. The hypothetical tenant would seek a substantial quantum reduction in the rent level applied due to the size and moderate condition of the buildings. The Main Street is poor in retail terms by other town standards. There is only one other shop of this size in the whole of the Main Street area where the average shop floor area is quite small.

Mr. Halpin added that the valuation activity level in Wicklow town is lower than one might expect when considered in the context of other towns and that, on an annual basis, only one or two properties are revised. Wicklow Town, he said, was never regarded as a particularly

strong commercial centre and while Mr. McMorrow had applied a moderate level or rate per square metre to take account of these issues, Mr. Halpin felt that it should be lower.

Mr. Halpin then proceeded to introduce details of his comparisons and said that for many years Tesco and SuperValu were the only two supermarkets of note in the town. SuperValu is purpose-built with parking and is not a good comparison and he added that there is only one other significant comparable property in the Main Street but unfortunately when he investigated it he found that it had not been revised under current legislation. He stated that it was very difficult to find a comparable property in the town and a hypothetical tenant would cap his bid at a level regardless of the additional space available. Mr. Halpin then set out details of his comparisons as follows;

Comparison No. 2 – He said this is not too far from the subject property and is much better located than the subject at the commencement of the main retail area of the town.

Comparison No. 3 - The new Bank of Scotland, formally ESB shop and offices, and regarded for many years as the best premises on the street. Mr. Halpin indicated that the Commissioner of Valuation did not alter the valuation on conversion of this premises from a shop to a bank.

Comparison No. 4 - Mr. Halpin said that this is the most significant comparison, notably the former Scribes Book Shop and now the Credit Union, and it is located on the best part of Main Street.

Details of the foregoing comparisons prepared by Mr. Halpin are at Appendix 1 hereto.

Mr. Halpin then set out details of his valuation and outlined two alternative approaches for the Tribunal. He said that if one valued the property on a zoning basis, Zones A and B are very large zones.

Shop	Zone A 130 sq. metres	@ €95.67 per sq. metre	= €12,437
	Zone B 130 sq. metres	@ €47.84 per sq. metre	= € 6,218
	Zone C 130 sq. metres	@ €23.92 per sq. metre	= € 3,109
	Balance 120.1 sq. metres	@ €11.96 per sq. metre	= €1,399
	(total 510.1 sq m)		

1st Floor (all very moderate)

Offices & Misc. area 175.65 sq. metres @ €20.50 per sq. metre = € 3,600.00
(including disused rooms in very poor condition)

Old Corn Store (Built 1960)

Gr. Floor (10' headroom) 344.65 sq. metres @ €10.75 per sq. metre = €3,705

1st Floor (9' headroom) 344.65 sq. metres @ €6.83 per sq. metre = € 2,354

Total NAV = €32,822

Say €32,000.00

@ 0.5% = **RV €160**

Or

Shop 510.1 sq. metres (overall) @ €41 per sq. metre = €20,787

+ 1st Floor 175.65 sq m overall @ €20.50 per sq. metre = € 3,600

+ Old Stores 344.65 ground floor @ €10.25 per sq. metre = € 3,705

344.65 first floor @ €10.25 per sq. metre = € 2,339

€30,431

Say €30,000 @ 0.5% = €150

RV €150

Mr. Halpin then referred to the map attached to his précis and indicated where he had highlighted the prime commercial part of the town in yellow and noted the subject is not within same. Mr. Halpin concluded his evidence by referring to the photos of the subject property in his précis and highlighted the floor level difference to the front of the property and then showed photos of the Grain Store.

Cross Examination

Under cross examination Mr. Halpin was asked by the Chairperson to clarify details of his valuation as at various stages he had contended for valuations of €150, €160 and €165, the latter in his Notice of Appeal to the Tribunal. Mr Halpin said that he was not arguing for €165 and that the different figures arose out of different valuation methods. He added that there was an argument to be made for both valuation methods but on balance he believed that the zoning method gave a more accurate value. In response to a query regarding the ceiling

height he acknowledged that the ceiling height would not be comparable with those at Tesco or SuperValu.

Mr. Halpin responded to questions from Mr. McMorrow regarding the subject property, his comparisons, and the methods of valuation. Mr. Halpin accepted that the main retail area and the more modern additions to the subject property were in reasonable condition, and he also accepted that there are administrative offices located within the property. Mr Halpin also acknowledged that the entrance to the subject property is at street level, despite the height difference of the internal floor level, and while accepting that the subject is located beside a public car park, Mr. Halpin argued that it is a small public, and rather insignificant, car park adjacent the subject premises. Mr. Halpin also responded to some queries regarding the zoning method of valuation, and he indicated that he did not accept that this was an inappropriate method of valuation for this premises.

Respondent's Evidence

Mr. McMorrow, having taken the oath, corrected a typographical error on page 5 of his précis which he then adopted as his evidence in chief. He confirmed that the areas were agreed and he then set out what he believed were the most important points relevant to this case. He said the subject property was located on a prominent site, on its own grounds with private parking, and is located beside a public car park. He added that the shop has been modernised and is in reasonable condition and while the first floor and rear area are dated, they are useable. He added that the property is right beside a public car park and in addition has its own private parking. Mr McMorrow said that it was totally inappropriate to use the zoning method of valuation for this premises.

Mr. McMorrow then introduced his comparisons (details of which are at Appendix 2 hereto), as follows;

1. Xtra Vision, 15B Abbey Street, Wicklow
2. Paul Vambrick, 2 Abbey Street, Wicklow
3. Aquafawin Ltd./Supervalu, 17A Church Street, Wicklow

Mr. McMorrow said that the valuation on Xtra Vision was agreed at 2008 and it is a modern premises, located further out of town than the subject property and has no yard, but is of

comparable size. He said that the levels set were agreed with an agent at representations stage, and the higher levels reflect a more modern premises.

He said that his Comparison No. 2 is closer to the town and is a small shop in an old premises that has been modernised and the relevant parts of this comparison are the store room and offices at first floor level.

He added that Comparison No. 3, SuperValu, is a large 1990's-built supermarket located at the back of Main Street on Church Street.

Mr. McMorrow then pointed out for the Tribunal the relevant aspects of the photographs attached to his précis of evidence, to emphasise some of the points made during the course of his evidence and he then confirmed his estimate of valuation as follows;

Retail area: 510.1 sq. metres @ €68.35 per sq. metre = €34,865.34

First Floor rooms

Office/Staff/Stock 175.6 sq. metres @ €27.34 per sq. metre = €4,800.90

Stores (rear)

Lower Ground Floor 344.6 sq. metres @ €17.08 per sq. metre = €5,885.77

Upper Ground Floor 344.6 sq. metres @ €13.67 per sq. metre = €4,710.68

NAV €50,262.69

@ 0.5% = €251.31

Say **RV €250.00**

In summarising his case Mr. McMorrow made the following points;

1. The subject premises is located at a good prominent position on Abbey Street on the main arterial route into Wicklow town, it has a good public profile.
2. Customer parking is available on street, in private parking/yard and also in a public car park right beside the subject.
3. The shop has been extended and modernised over the years.

4. The first floor over the shop remains largely in its original state and the external stores to the rear have been upgraded by the addition of RSJ supports for the upper level storage. The levels applied to these area are very modest and reflect their age and condition.
5. The current RV €250 is reasonable and in line with the 'tone of the list'.

In conclusion Mr McMorrow said that he considered the valuation of €250 to be fair and reasonable.

Cross Examination

Mr. McMorrow initially responded to questions from the Tribunal on the subject property and on his comparisons and accepted that his comparisons were drawn from secondary locations and that the main retail area was as Mr. Halpin outlined.

He confirmed that he arrived at a value of €17.08 per sq. metre and €13.67 per sq. metre for the stores, having assessed the value of other stores and having applied a much lower value in view of the condition of the subject property.

In response to questions from Mr Halpin regarding the subject property and Mr. McMorrow's comparisons the latter acknowledged that there was car parking adjacent to his Comparison No. 3, SuperValu, and that SuperValu was much larger than the subject property. However, he added that he did not accept that there was any basis to suggest that Xtra Vision benefits from Tesco, because it is a substantial distance from that premises.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing and makes the following findings;

1. It acknowledges the difficulty for both parties in identifying suitable comparisons.
2. The appellant's agent acknowledged the fairness in approach adopted by the respondent, while stating that though the NAV calculations would generally be considered moderate, he felt they needed to be adjusted further to reflect the low 'tone of the list' as referred to in his earlier direct evidence, for Wicklow Town.
3. The Tribunal noted the appellant's view that a hypothetical tenant seeking a relevant property in the Wicklow Town Council area would be guided by market conditions which

are apparently capped at a level determined by many smaller retail premises. The respondent did not refute this point.

4. The Tribunal noted the appellant's wish to offer preference to the ITZA method of valuation set out in Section 4 of his précis of evidence.
5. However the Tribunal accepts the overall approach to valuation adopted by the respondent.
6. The Tribunal was not provided with evidence to support any consideration to changing or amending the per sq m rates applied by the respondent to the old corn store.
7. The Tribunal is satisfied by the arguments made by the appellant supporting a reduction in the NAV assessed on the first floor of the retail portion of the property. In so doing, being mindful of evidence contained in both précis, the Tribunal believes that the Supervalu comparison agreed at first appeal, following negotiations with professional agents at the rate of €65 per sq. metre levied on the retail area of 766 sq. metres, served as a useful comparator. This guided the Tribunal to reflect on the issue of quantum allowance, location, nature, age and type of construction of the respective buildings which are issues that the hypothetical tenant would consider.

Determination

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

Retail area:	510.1 sq. metres @ €65.00 per sq. metre	= €33,156.50
First Floor rooms		
Office/Staff/Stock	175.6 sq. metres. @ €20.50 per sq. metre	= €3,599.80
Stores (rear)		
Lower Ground Floor	344.6 sq. metres. @ €17.08 per sq. metre	= €5,885.77
Upper Ground Floor	344.6 sq. metres. @ €13.67 per sq. metre	= €4,710.68
	Total NAV	= €47,352.75
	RV @ 0.5%	= €236.76

Say RV €236.00

And the Tribunal so determines.