

Appeal No. VA09/1/023

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

Image Inc.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2194940, Shop at Lot No. Unit No. 9, Balgriffin, Priorswood C, Artane,
County Borough of Dublin

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Damian Wallace - QFA, MIPAV, Valuer

Member

Veronica Gates - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF JULY, 2009

By Notice of Appeal dated the 31st day of March, 2009 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €190.00 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."

This appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 29th day of May, 2009. At the hearing, the appellant was represented by Mr. Terry Devlin, BSc, ASCS, MRICS, MIAVI of O'Donnell Property Consultants. Ms. Orla Lambe, BSc, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation. Each representative, having taken the oath, adopted their respective précis of evidence and valuation, which had been previously received by the Tribunal and exchanged with the other party, as their evidence-in-chief.

History, Location and Description

The subject property, Image Inc. is located in the Northern Cross Development at the junction of the N32 and the Malahide Road, Dublin 17. The development is 8 km from the City Centre and 6 km from Malahide. The subject property is situated on Mayne River Road West which is a cul-de-sac. The Northern Cross Development is a relatively new development of office, retail, crèche and residential properties and is located close to the areas of Belmayne, Clarehall, Balgriffin and Darndale.

The subject property comprises a modern ground floor hair salon unit with double frontage onto the N32 and Mayne River Road West. The subject property operates as a hair salon with tanning and treatment rooms to the rear. Access to the hair salon is from Mayne River Road West.

The agreed floor areas are:

1. Salon 144.60 sq. metres
2. Kitchen 4.68 sq. metres

Appellant's Evidence

Mr. Devlin adopted his précis of evidence, specifically highlighting a number of sections therein. Mr. Devlin emphasised that he was primarily relying on the comparison of Northern Cross Orthodontics, a property which adjoins the subject property and was valued at the same time as the subject. Mr. Devlin submitted that the subject property should be valued in line with this property, with an obvious allowance for the double frontage of the subject. It was

highlighted that whilst there is on-street parking in the vicinity and nearby multi-storey car-parking, clients of the hair salon are not able to park directly outside the subject property and the two car-parking spaces directly outside which can be seen in the photographs are soon to be removed and replaced with double yellow lines as a result of Fire Authority conditions. Mr. Devlin made several points in relation to the general locality of the property stressing that the subject property is located in an area which has not lived up to the expectations of the occupiers. It appears that at the relevant date, only 430 residential units have been completed, many of which remain unoccupied. There is an unfinished development site across from the subject property and given the proximity of the Darndale Estates, properties have been vandalised. Mr. Devlin submitted that the occupier of the subject property had initially formed the impression that this development would become a thriving retail area with a broad mix of occupiers and he has, in fact, been disappointed in this expectation. Mr. Devlin adduced evidence in line with his written submissions in relation to difficulties in attracting occupiers to the development. The competition which exists from the well established Clarehall Shopping Centre, which is located just minutes from the subject property was highlighted as was the location of the subject property which is situate in a cul-de-sac and not accessible in a straightforward manner by road users on the N32 and Malahide Road.

In Mr. Devlin's view, a fair and reasonable rateable valuation would be in the region of €15.00, calculated as follows:

Description	Area sq. m.	Rate €sq. m.	Nav €
Salon	144.60	122.96	17,780.00
Kitchen	4.68	102.47	<u>479.00</u>
Total			18,259.00
RV @ 0.63%			115.00
Say RV €15.00			

Cross Examination

In the course of her cross examination, Ms. Lambe opined that the primary consideration is the tone of the list. She questioned Mr. Devlin as to whether or not the overall economic downturn in the country is the primary factor contributing to vacancies in the development rather than overvalue. Mr. Devlin did not accept this proposition as it is his view that this development is never going to be fully occupied. Mr. Lambe emphasised that this is a mixed

development of residential properties, hotels, crèche, offices and retail units but Mr. Devlin would not concede this point. Although questioned in detail in relation to the car-parking spaces available to the subject property, Mr. Devlin persisted in his opinion that it was to the unit's disadvantage not to have car-parking directly outside the door of the premises. Ms. Lambe raised the issue of the valuation of the Meadows & Byrne unit upon which Mr. Devlin had conducted negotiations directly with her. Whilst accepting that he had agreed this valuation with Ms. Lambe, Mr. Devlin emphasised that the Meadows & Byrne unit was not the best comparison of the subject property.

Respondent's Evidence

Ms. Lambe adopted her précis of evidence and referred to a number of sections therein. In relation to location, Ms. Lambe opined that the subject property has an excellent profile onto the main road and is close to Malahide, Portmarnock and Baldoyle. She emphasised that the subject property is part of a new development with a variety of occupiers such as the four star Hilton Hotel, modern office blocks occupied by tenants such as J.P. Morgan, Cerner Ireland and Experian Group, Fresh Supermarket, a crèche, a bank, Meadows & Byrne furniture store, Insomnia Café, a recently opened off licence and newly constructed apartment blocks. Ms. Lambe described the subject property as a corner ground floor unit with dual frontage allowing good light penetration. It is finished internally to a good standard and on-street car parking is available around the development, with free car parking up to two hours. There is also underground car parking available at Fresh Supermarket and the Hilton Hotel. Ms. Lambe said that the net internal area had been agreed with Mr. Devlin in January, 2009. She said that the basis of valuation was 0.63% of net annual value which is in line with the basis adopted for the determination of other revised properties in the locality and that the valuation overall was made by reference to the values of comparable properties. She submitted that the valuation of €190.00 was fair and reasonable, calculated as follows:

Blocks 1-2: Ground floor hair salon	144.605 sq. m.	@ €205.00 per sq. m.	= NAV €29,644.00
Blocks 3 : Kitchen	4.68 sq. m.	@ €102.52 per sq. m.	= NAV <u>€ 480.00</u>
Total			€30,124.00
RV @ 0.63% = RV	€189.78		
Say RV	€190.00		

Cross Examination

In the course of his cross examination, Mr. Devlin questioned Ms. Lambe's submission that the subject property had an excellent profile onto the Malahide Road. He said that the profile is onto the N32 and not the Malahide Road. Ms. Lambe felt that the N32 is a busy road and well capable of generating passing trade. Ms. Lambe refused to concede Mr. Devlin's point in relation to parking facilities at the subject property. She said that the subject property is situated close to a bus corridor on the Malahide Road, the M50 and M1, the Dublin Port Tunnel and Donamede Dart Station is currently under construction. She felt, therefore, that the subject property has good profile from these roads. She refused to accept Mr. Devlin's point that Malahide, Baldoyle and Portmarnock all have existing neighbourhood centres and that it is unlikely that the subject development would attract shoppers from these areas. Ms. Lambe opined that Meadows & Byrne furniture shop and the Fitness Centre attract clients from which the subject property would benefit. There ensued point and counterpoint in relation to the parking facilities outside the subject property and Ms. Lambe would not accept Mr. Devlin's view that parking is restricted given the ample parking, both on-street and in the nearby underground parking. Ms. Lambe refused to accept that there are valid grounds for adjusting the valuation levels applied. She said that location, size and relative value together with the tone of the list were taken into account in reaching the valuation. She further refused to accept that Northern Cross Orthodontics was the best comparison available and preferred to rely on all the comparators presented in her précis of evidence. She said that the adjoining dental unit is valued in line with other surgeries within the same Rating Authority. She concluded that the offices and retail units in the subject development are also valued in line with other similar comparable uses within the same Rating Authority area.

Findings and Determination

The Tribunal has taken into consideration all of the evidence adduced by the parties, both in their written précis and in the course of evidence-in-chief and cross examination.

1. The Tribunal finds that the subject property is a modern, new built property in a good location but with poor access.
2. There is ample parking in the vicinity but not directly outside the building.
3. The Tribunal finds that the common comparisons presented by both parties of the adjacent dental surgery and Meadows & Byrne retail units are the best comparisons available.

4. The Tribunal notes that the rate per square metre of the dental surgery is at a level of 43% of the subject property whilst Meadow & Byrne ground floor retail area is at 46% of the subject property.
5. The Tribunal concludes that this difference is too great and a more appropriate rate per square metre is €150.00 for the subject property.

In the light of the foregoing findings, the Tribunal determines the valuation of the subject property to be €42.00 calculated as follows:

Description	Area	Rate	NAV
Salon	146.6 sq. metres @	€150.00 per sq. metre	€21,990
Kitchen	4.68 sq. metres@	€102.52 per sq. metre	€480
Total			€22,470
RV @ 0.63%			€41.56
Valuation Say			€42.00

And the Tribunal so determines.