

Appeal No. VA09/3/006

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

Cordners Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2196629, Shop, at Lot No. Unit 9 flr 0 & 1 & 10 flr 1, Johnston Court Shopping Centre, Knappagh Beg, Sligo West, Sligo Borough, County Sligo.

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Damian Wallace - QFA, MIPAV, Valuer

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF DECEMBER, 2009

By Notice of Appeal dated the 8th day of July, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €168 on the above-described relevant property.

The Grounds of Appeal are on a separate sheet attached to the Notice of Appeal, a copy which is attached at Appendix 1 to this Judgment.

1. The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 30th day of October, 2009.
2. At the oral hearing the appellant was represented by Mr. Ken Draper BA, MIAVI, Director of Sherry Fitzgerald Draper. Mr. Briain Ó'Floinn a District Valuer in the Valuation Office appeared on behalf of the respondent the Commissioner of Valuation.

Property

3. The property concerned in this appeal is a retail unit at No. 9 Johnston Court, Sligo. Johnston Court is an enclosed retail mall running from O'Connell Street to what is known as the Wine Street car-park. Johnston Court, which forms part of a mixed development with apartments at two levels overhead, provides a total of twenty-eight retail units, two which have frontage onto O'Connell Street. The mall is so designed as to provide accommodation on two levels. The accommodation on the upper level is not directly accessed from the mall but in some instances the occupiers have, as part of the fit-out, provided an internal staircase linking the two levels. The mall is well finished and, by virtue of its two-level design, provides an attractive shopping environment with unit sizes ranging from circa 37 sq. metres to 334 sq. metres.
4. The property concerned in this appeal is located at approximately one third along the length of the mall from the O'Connell Street entrance and has an agreed internal area of circa 106 sq. metres at mall level and 172 sq. metres at the upper level. The accommodation at mall level, which is used for the sale of shoes and other accessories, is fitted to a good standard with a glazed façade, suspended ceiling, tiled floors and air-conditioning. The accommodation at upper level, which includes space over unit ten, is accessed by way of a steel staircase at the rear of unit nine. The accommodation at this level is used for storage and for a staff canteen and toilet accommodation.

Area

5. The agreed area measured on a net internal area basis is as follows:

Mall level (Retail)	106.01 sq. metres
Upper level stores and staff accommodation	172.14 sq. metres

Tenure

6. The property concerned is under the provision of lease for a term of 25 years from the 25th of October, 2007 at initial yearly rent of €80,000 per annum with rent reviews at five yearly intervals. Since the 2nd quarter of 2009 the passing rent has been reduced by 50%. The lease also provides a break clause at the end of year ten.

Valuation History

7. On 8th September, 2008 the Revision officer issued a proposed Valuation Certificate with a rateable valuation of €188. Following representations by the appellant a Valuation Certificate was issued on the 6th November confirming the rateable valuation at €188. Following an appeal to the Commissioner of Valuation under section 30 of the Valuation Act, 2001 the rateable valuation as determined by the Revision Officer was reduced to €168. The appellant being dissatisfied with the outcome of the appeal to the Commissioner lodged a further appeal to this Tribunal under section 34 of the Valuation Act.

The Appellant's Evidence

8. Mr. Draper having taking the oath adopted his well-presented précis, which had previously been received by the Tribunal and the respondent, as being his evidence-in-chief. In his evidence Mr. Draper contended for a rateable value of €143 calculated as set out below:

Ground floor

Zone A	46.97sq. metres @ €273.35 per sq. metre	= €12,839.25
Zone B	45.97 sq. metres @ €136.67 per sq. metre	= € 6,282.72
Zone C	13.07 sq. metres @ €68.34 per sq. metre	= € 893.20

First floor

Unit 9

Stores	84.98 sq. metres @ €50 per sq. metre	= € 4,249
(less stairwell and WC)		
Stores and stairwell	4.63 sq. metres @ €50 per sq. metre	= € 231.50

Unit 10

Store (net)	82.53 sq. metres @ €50 per sq. metre	= <u>€4,126.50</u>
Total		= €28,622.17
NAV		= € 28,600
RV @ 0.5%		= €143

9. In support of his opinion of net annual value Mr. Draper adduced 4 comparisons, details which are set out in Appendix 2 attached to this judgment. In his evidence Mr. Draper said Johnston Court was not designed to be a “standalone” self-contained shopping centre, but as an integral part of a comprehensive large-scale scheme of development proposed for the area between O’Connell Street and Adelaide Street, as provided for under the National Building Agency’s Central Block Masterplan for Sligo. This plan, he said, provides for a town centre block with multi-storey car-parking as its core. In this regard planning permission has been granted, and a start date announced by Treasury Holdings for the central block development which is to have a gross floor area of 18,469 sq. metres. This development, Mr. Draper said, together with other developments planned for the area will provide over 800 car-parking spaces and will, when completed, be the centre for retailing in Sligo.

10. As of now, Johnston Court is the only element of the master scheme to be completed, and until such time as the other elements of the plan are completed it will remain somewhat isolated with inadequate car-parking facilities. On the other hand, the Quayside Shopping Centre was fully let and had the benefit of 375 covered car spaces with easy access direct from the Sligo inner relief road. The absence of car-parking at Johnston Court, Mr. Draper said, could not be understated and for everyone visiting Sligo for event shopping, Quayside was the obvious venue of choice, and this ensured its continued success and its attraction for major retailers.

11. Footfall for Johnston Court in 2008, Mr. Draper said, was just over 2.4 million as against a projected footfall of over 5 million. Furthermore, this footfall does not distinguish between active shoppers and those merely using the arcade as a pedestrian link between O’Connell Street and the Wine street car-park.

12. Under examination by Mr. Ó’Floinn, Mr. Draper agreed that O’Connell Street was the prime location for retail activity in Sligo. He also agreed that there was a strong retail presence on Castle Street and Grattan Street at their intersection with O’Connell Street. When asked about Quayside Shopping Centre, Mr. Draper said it was a large, successful, self-contained shopping centre at two main levels within a large development scheme. Whilst he conceded that it was located in a secondary retailing street, he said this did not detract from the fact that it was fully let with a strong tenant mix, which was not the case in Johnston Court. When asked to compare the Tesco Mall and Johnston Court, Mr. Draper agreed that they were

dissimilar in design, specification and finish, Johnston Court being the better from all these aspects.

Respondent's Evidence

13. Mr. Ó'Floinn, having taken the oath, adopted his written précis and valuation, which had previously been received by the Tribunal and the appellant, as being his evidence-in-chief. In his evidence Mr. Ó'Floinn contented for a rateable valuation of €68 calculated as set out below:

Ground Floor

Retail Area

Zone A	46.97 sq. metres @ €340 per sq. metre	= €15,969.80
Zone B	45.97 sq. metres @ €170 per sq. metre	= € 7,814.90
Zone C	13.07 sq. metres @ €85 per sq. metre	=€ 1,110.95

Unit 9

First floor stores	84.98 sq. metres @ €50 per sq. metre	= € 4,249.00
Stores at stairs	4.63 sq. metres @ €50 per sq. metre	= € 231.50

Unit 10

Stores at 1st floor	82.68 sq. metres @ €50 per sq. metre	= € 4,134
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Total = € 33,510

RV @ 0.5% = €68

14. In support of his opinion of rateable valuation, Mr. Ó'Floinn introduced six comparisons, details which are set out in Appendix 3 attached to this judgment.

15. In his evidence Mr. Ó'Floinn said that in arriving his valuation of the property concerned he had to have regard to the assessments of retail unit outlets on O'Connell Street and Quayside Shopping Centre. Mr. Ó'Floinn emphasised that O'Connell Street was the prime retailing location in Sligo and the average prevailing Zone A rate on the street was €410 per sq. metres, although some individual units were assessed at levels in excess of this figure. Johnston Court, he said, was a well designed and attractive mall development linking O'Connell Street and Wine Street car-park, which served Tesco's, Penneys and Dunnes Stores. From a locational stand point Johnston Court was similar to the Tesco arcade, but other than that there was little similarity between the two in terms of scale, design

specification and the range of retail units available. Having regard to the established Zone A levels on O'Connell Street and Quayside Shopping Centre, Mr. Ó'Floinn said he considered a Zone A rate of €340 per sq. metres was appropriate for the property concerned having regard to its size. Under examination Mr. Ó'Floinn agreed there was no anchor food store in Johnston Court and to that extent at least it was disadvantaged to the Tesco mall. He also agreed that the tenant mix in Johnston Court was inferior to that at the Quayside Shopping Centre and that there was a considerable number of vacant units still available. These points, together with the fact that the landlord had to reduce the rent of those that were still trading by 50%, indicated that the development was not trading well and will probably continue not to do so until the major development contemplated under the Master Plan was completed.

Findings

1. The Tribunal has considered all the evidence and argument adduced and sets out its findings below.
2. It should be said that in arriving at its determination the Tribunal was greatly assisted by the written and oral presentation made by Mr. Draper and Mr. Ó'Floinn both of whom presented their evidence and argument in a most professional manner.
3. This appeal came before the Tribunal as a result of a request for a revision of valuation pursuant to section 28 of the Valuation Act, 2001.
4. The method for valuing property under section 28(4) is set down in section 49(1) of the Act which states *"If the value of a relevant property (in subsection (2) referred to as the "first-mentioned property") falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property"*.
5. The property concerned in this appeal is a retail unit in Johnston Court which is a new, enclosed mall-type development running from O'Connell Street to the Wine Street car-park.
6. It is common case that O'Connell Street is the premier retailing street in Sligo.
7. The Tribunal accepts Mr. Ó'Floinn's evidence that a Zone A rate of €110 per sq. metre represents the "Tone of the list" for retail premises on O'Connell Street in the vicinity of Johnston Court.

8. It is common case that under the National Building Agency's Centre Block Masterplan for Sligo the area between O'Connell Street and Adelaide Street has been identified for integrated retail developments, to include a town centre block and multi-storey car-park at its core. Johnston Court is an integral part of this overall scheme.
9. A short distance north of Johnston Court is a Tesco supermarket which is accessed off O'Connell Street by an arcade containing a number of small retail outlets and kiosk-type units. Unit No. 7 (Mr. Draper's Comparison No. 2) is one of the outlets which is located close to the main entrance to the Tesco store convenient to the Wine Street car-park.
10. In his written précis Mr. Draper had devalued the net annual value of Unit No. 7 on an overall basis as being €273.35 per sq. metre. During the course of the oral hearing he and Mr. Ó Floinn agreed that on a zoning basis the Zone A rate was €16.44 per sq. metre
11. It is common case that Johnston Court is designed and constructed to a higher specification and finish to the Tesco Arcade and that it provides a total of 28 units in sizes ranging from circa 37 sq. metres to 334 sq. metres. It is accepted that a number of units were vacant at the date of assessment and that 10 or 11 units are still currently unoccupied.
12. The Quayside Shopping Centre is located on the north side of Wine Street some distance from Johnston Court, but convenient to the Dunnes Stores complex. Quayside, which opened in 2005, is a mixed use development with 40 retail units, office and residential accommodation, together with a 375 space multi-storey car-park. The retail element is dedicated primarily to fashion and ancillary uses and, in common with Johnston Court, does not contain a food supermarket. Two major anchor stores are occupied by Next and T.K. Maxx.
13. It is common case that Quayside is not located in a prime retail area, but Mr. Draper contended that any location disadvantages by comparison with Johnston Court are offset by the provision of two anchor stores and on-site car-parking at a reasonable price. This, he said, was borne out by its tenant mix which was much superior to that in Johnston Court which contained a number of vacant units.
14. On balance the Tribunal has come to the conclusion that the most relevant comparison is Unit 7 in the Tesco Arcade, which is similar in size and configuration to the property concerned. Notwithstanding Mr. Draper's argument, the Tribunal is of the view that the property concerned should be valued at a higher Zone A rate than Unit 7 to reflect the better physical attributes of Johnston Court, there being no discernable locational differences between the two properties. The Tribunal accepts that the Zone A rate of

€273.35 per sq. metre applied to retail units in Quayside reflects the difference between a Wine Street location and an O'Connell Street location which, by common consent, is the prime retail pitch in Sligo.

15. In essence the only difference between the two valuers is the appropriate Zone A rate to be applied to the retailing space at ground floor level. Both valuers have used common rates per sq. metre on the first floor level.

Determination

Having regard to the above the Tribunal determines that the value of property concerned to be as follows:

Ground Floor

Retail Zone A	46.97 sq. metres	@ €310 per sq. metre	= €14,560.7
Zone B	45.97 sq. metres	@ €155 per sq. metre	= €7,125.35
Zone C	13.07 sq. metres	@ €77.50 per sq. metre	= €1,012.93

First floor Unit 7

Stores	84.98 sq. metres	@ €50 per sq. metre	= € 4,249
Stores at stairs	4.63 sq. metres	@ €50 per sq. metre	= € 231.50

Unit 10

Stores	82.68 sq. metres	@ €50 per sq. metre	= <u>€ 4,134</u>
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Total = € 31,300

NAV say €1,000

RV @ 0.5% = €155

And the Tribunal so determines.