

Appeal No. VA09/3/031

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

Lambert Hardware Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2197475, Retail Warehouse, Warehouse/Warerooms at Lot No. 5A/1, Scotland, Hacketstown, Baltinglass II, County Carlow.

B E F O R E

John Kerr - Chartered Surveyor

Deputy Chairperson

Aidan McNulty - Solicitor

Member

Niall O'Hanlon - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 4TH DAY OF FEBRUARY, 2010

By Notice of Appeal dated the 6th day of August, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €450.00 on the above-described relevant property.

The Grounds of Appeal are contained in an attachment to the Notice of Appeal, a copy of which is attached at Appendix 1 to this judgment.

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 25th day of November, 2009. The appellant was represented by Mr. Eamonn Halpin, B.Sc. (Surveying), ASCS, MRICS, MIAVI. Mr. Mick Lambert, owner of Lambert Hardware Ltd., was also in attendance. The respondent was represented by Ms. Orla Lambe, B.Sc. (Surveying), a Valuer with the Valuation Office.

In accordance with the rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

At issue

Quantum.

The Property

The property is a standalone retail warehouse and warehouse, featuring a mezzanine floor, mezzanine offices and canteen in the former and served by an enclosed yard. The complex is newly constructed. The retail warehouse is used to sell hardware and domestic bulky goods (white goods). The mezzanine is used for the display of some white goods. The retail warehouse features a floor-to-eaves height of 6.8 metres. The front elevation is fitted with glazing panels, returning on one gable, and the offices and canteen overhead are also located within this part of the property, which is finished to a good standard. It is constructed as a steel portal frame building with metal external sheeting above block walls and double skin metal roof cladding. The adjoining warehouse is of similar construction but with concrete block walls and also features a floor-to-eaves height of 6.8 metres at the front reducing to 5 metres at the rear. This part of the structure stores animal food and agricultural products. The yard provides ample parking with a concrete surface at the front apron, which is also utilised for the storage of agricultural products, as well as meeting circulation requirements. The property is enclosed with security fencing.

Location

The subject property is situated on the outskirts of the town of Hacketstown in south-east Co. Carlow. The town is 26 km from Carlow town, 16 km from Tullow, 10 km from Tinahely, 6 km from Kiltegan, 10 km from Rathvilly and 14 km from Baltinglass.

Valuation History

October 2008:	The subject property was listed for Revision by Carlow County Council.
23 rd October 2008:	Draft Valuation Certificate issued with an RV of €476.00.
19 th November 2008:	The Revision Officer reduced the valuation at Representation Stage to €458.00
14 th January 2009:	Appellant appealed the valuation to the Commissioner of Valuation.
13 th July 2009:	Commissioner of Valuation issues result of the First Appeal with the valuation reduced to RV €450.00.
20 th July 2009:	The subject property entered onto the Valuation List.
6 th August 2009:	The appellant appealed the Commissioner's decision to the Tribunal by Notice of Appeal dated 6 th August, 2009. The parties, reached an agreement on the floor area of the subject on 10 th November, 2009, which resulted in a further adjustment to a reduced RV of €446.00.

Agreed Floor Areas

Retail Display (Front Section)	360.46 sq. metres
Retail Display / Trade counter (under Mezzanine)	542.74 sq. metres
Warehouse (6.8 m eaves)	1,244.40 sq. metres
Warehouse (lean-to 5 metre (av.) eaves)	308.38 sq. metres
Mezzanine offices & canteen	223.38 sq. metres
Retail Mezzanine display area	267.06 sq. metres
Mezzanine office in lean-to store	23.86 sq. metres
Yard	2,000 sq. metres

Appellant's Case

Mr. Eamonn Halpin took the oath, adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission. At this time, Ms. Lambe, representing the respondent, handed in to the Tribunal an analysis schedule of four comparison properties, which were included in her précis, having first shared same with Mr. Halpin and procured his consent to provide copies to the Tribunal. The analysis provided background information as to the basis of valuation and calculation of net annual values of comparison properties appended to her précis, and such details are attached herewith as Appendix No. 4.

Mr. Halpin also provided the Tribunal with copy photographs of his comparisons Nos 1, 2 and 5 at this time, which he also shared with Ms. Lambe.

While reviewing his précis, Mr. Halpin, emphasised the location of Hacketstown, with particular regard to its proximity with the Wicklow county border, its remote location, low population and limited trading conditions. He also stressed that the subject property is removed from the town centre, which had a significant effect on its value, as confirmed by the price paid for the site. He also raised the following points in support of his client's case:-

1. The "tone-of-the-list" in the district is very low due to minimal level rentals and values in the subject disadvantaged area around Hacketstown.
2. The premises serve local needs with little or no potential for passing trade.
3. The complex is essentially made up of modern warehouse structures, with the front section used as a hardware display area. The mezzanine overhead accommodates an enclosed office section, together with an open kitchen display area. The internal fit-out is to warehouse standard, devoid of heating, suspended ceilings, expensive lighting fixtures, elaborate retail displays and other embellishments.
4. The rate per sq. metre levels applied by the Commissioner exceed the "tone-of-the-list" for even superior properties, as indicated in his comparisons Nos 1 – 5 (attached herewith as Appendix 2), and also exceed the level applied to his client's former town centre premises.
5. The value of the subject property would be considered at the lower end of the range of values which would apply to other properties of a similar nature and purpose, primarily due to location and inferior fit-out specification of the subject.

6. The Commissioner did not afford sufficient consideration to the business acumen and management input provided by the occupier of the subject property, resulting in a higher than fair value applied. Moreover, values adopted by the Valuation Office would not be considered economic by any major hardware groups engaged in similar business, as they would be concerned with relevant location and population factors.

Mr. Halpin indicated that the town population of Hacketstown, determined by the CSO in 2006, was only 606 whereas the urban population of Bagnelstown in the same year was 2,352 persons.

He offered his valuation calculation of the subject property, as follows:-

Front Hardware display	360.46 sq. metres @ €27.34 per sq. metre	= €9,855
Trade counter area & display (under mezzanine)	542.74 sq. metres @ €23.92 per sq. metre	= €12,982
Warehouse (6.8 m eaves)	1,244.40 sq. metres @ €20.50 per sq. metre	= €25,510
Lean-to stores (5.0 m eaves)	308.38 sq. metres @ €17.05 per sq. metre	= €5,258
Mezzanine offices	223.38 sq. metres @ €20.50 per sq. metre	= €4,579
Mezzanine display	267.06 sq. metres @ €13.67 per sq. metre	= €3,651
Mezzanine office (in lean-to store)	23.86 sq. metres @ €13.67 per sq. metre	= € 326
Yard	Say	<u>€2,000</u>
		Total NAV €64,161

Say €4,000

RV @ 0.5% = €20

Say RV €20

Cross-examination

In response to various questions put by Ms. Lambe, Mr. Halpin responded as follows:

1. The retail warehouse is a steel portal frame structure, with double skin cladding, industrial quality lighting to the front section and strip lighting to the rear. He also confirmed that the front road and part side elevation of the retail warehouse is fitted with glazing.

2. Modern retail warehouse specifications do not normally provide for suspended ceilings, expensive lighting systems and floor to eaves heights of 6.8 metres. Mr. Halpin also acknowledged that Development Plans and the Planning Permission Application process typically recognise an intrinsic difference between standard warehouses and retail warehouses, the latter normally located near good road profile locations, whereas the former would not necessarily be so.
3. Mr. Halpin acknowledged the good profile to the road of the subject premises to the public road, but contended that there was very little passing trade to be enjoyed at the subject location.
4. Mr. Halpin confirmed that retail warehousing typically requires the provision of a greater number of car parking spaces than regular warehouses. He advised that the subject is served with 52 parking spaces within the property, but stated that such facility in this case, may not be considered crucial to the trade being conducted there.
5. Mr. Halpin acknowledged, on the other hand, that the hypothetical tenant might take the scale of the parking facility into consideration, as he would view the retail activity at the subject premises as a “destination” offering.
6. Mr. Halpin acknowledged that there was a considerable difference in the floor area of the subject when compared to the occupier’s former premises in Hacketstown, notwithstanding that the use of the premises were broadly similar. He noted however, that the front retail area of the subject offered more potential for trade than the rest of the floor area.
7. Mr. Halpin advised the construction costs on the subject to be in the region of €50 per sq. foot.
8. His client is a businessman with over 20 year’s experience, who invested €200,000 in the site and €1.6 million on the buildings. He acknowledged that the lack of trading success due to economic conditions is not of itself a rating valuation issue, but the location is a critical factor and repeated his view that the Commissioner had erred in his interpretation and application of the “tone-of-the-list”.
9. Noting the difference in floor area between the subject and his comparison property no. 1, in reply to Ms. Lambe’s query, Mr. Halpin advised that the his client’s former Hacketstown premises was a much older structure and in poorer condition.
10. Mr. Halpin generally accepted that comparison property no. 2 in his submission was also a poor quality building, at a poor location and burdened with uneven floor levels.

11. In response to similar comments made by the respondent with respect to his comparison property no. 3, noting its age, the absence of insulation and poor access, Mr. Halpin contended that the rate of €13.67 per sq. metre applied by the Commissioner on that 195 sq. metres warehouse was evidential of values in Hacketstown.

12. Referring to his comparison property no. 4, Mr. Halpin argued that this IDA supported premises, was in his view, significant to the task by reason of:

- its superior location next to an estate at Royal Oak at Bagnelstown,
- the scale and size of that development,
- the rate per sq. metre applied by the Commissioner there,
- the building specification which included double skin asbestos roofing.

Mr. Halpin supported his comments with the provision of a copy photograph to Ms. Lambe and the Tribunal of this property, identified as Tanco Engineering at Bagnelstown.

13. Finally, Mr. Halpin advised that his comparison property no. 5 was a basic structure located at Bagnelstown, used as a workshop for the manufacture of furniture, but at a much superior location than the subject, with an RV determined at €63.49, which may have been established in 1999 (correcting an error in his submission of 2009).

Respondent's Case

Ms. Lambe took the oath, formally adopted her précis as her evidence-in-chief and reviewed her submission. Confirming again agreement reached prior to exchange of respective précis of evidence between the parties with respect to the calculation of areas of the subject property, Ms. Lambe also handed in copy details of rating records held by the Valuation Office of comparison properties Nos 1 – 5 in the appellant's submission. Such records were provided to assist the Tribunal in the manner in which the Net Annual Values of those properties were determined by the Commissioner of Valuation. These details were accepted by Mr. Halpin. Ms. Lambe reviewed the valuation of the subject property, as follows:

Retail Warehouse	903.20 sq. metres @ €34.17 per sq. metre	= €30,862.34
Retail Warehouse Mezzanine	267.06 sq. metres @ €20.50 per sq. metre	= €5,474.73
Mezzanine Offices	223.38 sq. metres @ €34.17 per sq. metre	= €7,632.89
Warehouse	1,244.40 sq. metres @ €27.33 per sq. metre	= €34,009.45
Warehouse	308.38 sq. metres @ €27.33 per sq. metre	= €8,428.02
Mezzanine Offices & Canteen	23.86 sq. metres @ €13.67 per sq. metre	= € 326.17

Yard 2,000 sq. metres @ €1.27 per sq. metre = €2,540.00

NAV €9,273.53

Say €9,274

RV @ 0.5% = €46.36

RV Say €46

Having submitted photographic images of her comparison properties Nos 1 and 2 to the Tribunal, Ms. Lambe reviewed and summarised the valuation details pertinent to those two properties and her comparisons Nos 3, 4, 5, 6 and 7. She concluded her evidence and supported the assessed rateable valuation, citing the following points:-

1. The subject was a newly construction retail warehouse, used for the sale of white goods.
2. The property also consisted of a large warehouse, used for the sale of agricultural products and feeds.
3. The entire was constructed to a high standard, comparable with the 7 comparison properties noted above, details of which are attached as Appendix 3 hereto.
4. As there were just two retail warehouses on the Valuation List in the Rating Authority on the inspection date, the Valuation Office took into consideration showrooms, constructed in a similar manner to the subject, and also used for the sale of bulky products.
5. The subject property was located on the outskirts of Hacketstown and as a destination outlet would be considered within the catchment trading areas of Hacketstown, Tinahely, Kiltegan and Rathvilly.
6. The property was supported by ample parking.
7. The property was valued by reference to the “tone-of-the-list”, as per section 49 (1) of the Valuation Act, 2001.

Cross-examination by Appellant

In reply to questions raised by Mr. Halpin, Ms. Lambe advised the following:-

1. Her preferred comparison properties were Nos 1 and 2.
2. Carlow properties carry a higher value than Bagnelstown on a per square metre basis.
3. It was difficult to identify differences in rate per sq. metre applicable to premises between Bagnelstown and Hacketstown, noting that there were only two retail warehouses in Co.

Carlow on the Valuation List at time of revision, but also contending that the subject, Lambert Hardware Ltd., serves a market as far as Tinahely and Rathvilly, as well as other towns and villages in the general area, including Baltinglass.

4. The value attributable in the valuation of the yard was not double counted into the value of the structures.
5. The rateable valuations of her comparison properties Nos 1 and 2 were not appealed.
6. The established “tone-of-the-list” for warehouses in Co. Carlow is €27.33 per sq. metre whereas a rate €20.50 would be for a very remotely located warehouse.

Findings & Conclusions

The Tribunal thanks both parties who attended the hearing and appreciates the time and effort committed by both to seeking a satisfactory and equitable determination.

Having read the written submissions and considered the additional information provided at hearing, together with the helpful photographic images submitted, the Tribunal is of the view that the Commissioner did not give sufficient consideration to the issues noted below in order to reach a fair and equitable rate per sq. metre applicable to the valuation of the subject:-

1. The somewhat remote location of the subject.
2. The wide and scattered nature of the towns and villages considered within the trading catchment area of the subject.
3. The uncontested absence of passing traffic at the location of the subject.
4. The type of business, scope and range of retail services and products being offered from the subject property, which from the evidence submitted and adduced, were primarily focused on meeting the needs of a small rural population engaged in extensive small mixed farming activities, as distinct from intensive large scale commercial agricultural operations.
5. The reduced ceiling height of the warehouse, falling to 5m at the rear.
6. The proportionate area of warehouse to retail warehouse space within the subject.
7. The nature and applied use of the yard, taking into account the sale of agricultural feeds.
8. The absence of a well-established and broadly based “tone-of-the-list” for mixed properties comprising warehouse/retail warehouse in the subject Rating Authority Area, as at the valuation date.

Accordingly, the Tribunal considers the following as a fair and equitable calculation of the rateable valuation of the subject:

Retail Warehouse	903.20 sq. metres @ €30.00 per sq. metre = €27,096.00
Retail Warehouse Mezzanine	267.06 sq. metres @ €18.00 per sq. metre = €4,807.08
Mezzanine Offices	223.38 sq. metres @ €25.00 per sq. metre = €5,584.50
Warehouse	1,244.4 sq. metres @ €24.00 per sq. metre = €29,865.60
Warehouse	308.38 sq. metres @ €22.00 per sq. metre = €6,784.36
Mezzanine Offices & Canteen	23.86 sq. metres @ €13.67 per sq. metre = € 326.17
Yard	2,000 sq. metres @ €1.00 per sq. metre = <u>€2,000.00</u>
	Total NAV = €76,463.71

RV @ 0.5% = €382.32

Say RV €80.00

And the Tribunal so determines.