

Appeal No: VA16/3/013

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

John Barry

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

Property No. 2214390, Gymnasium at Unit 1/B, Cobh Retail Park, Dean & Chapterland of Cloyne, Cobh Rural, Upper Cork, County Cork.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF APRIL, 2017**

B E F O R E:

Barry Smyth - FRICS, FSCSI, MCI Arb

Deputy Chairperson

Grainne Duggan - BL

Member

Hugh Markey- FSCSI, FRICS

Member

By Notice of Appeal received on the 2nd day of August, 2016, the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €27 on the grounds as set out in the Notice of Appeal as follows:

“The RV as assessed is excessive and inequitable for this type of very basic unit at 1. floor of an industrial unit.”

“This is a 1st floor store”.

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and heard the oral evidence on the 25th day of January, 2017 adduced before us by Mr Eamonn Halpin, Eamonn Halpin & Co. on behalf of the Appellant, who contended for a rateable valuation of €8, and Mr Paul Ogbebor, Valuation Office on behalf of the Respondent to the appeal:

DETERMINES

That the rateable value of the subject property be as set out below:

Gymnasium at Unit 1/B, Cobh Retail Park - Property No. 2241390

Ground Floor - 16 sq. m. @ €0 per sq. m.	= €0
First Floor -136.18 sq. m. @ €20 per sq. m.	= €2,723.60
Total,	SAY €2,725

NAV €2,725 by Reducing Factor 0.5% = €13.625, **SAY RV €13.63 (Decrease)**

Findings

The Property

The subject property of this appeal is located in Cobh Commercial Retail Park, Ticknock, Cobh, Co Cork. This modern, mixed use, park is situated approximately 1.5km from the centre of Cobh town and 8km from the N25 Cork – Middleton/Waterford road.

This commercial and retail park was developed in the mid 2000's and comprises of 2 elements viz: the commercial element comprising retail warehousing in which the subject properties are located and a retail element comprising Stores occupied by Lidl and Aldi - both of which share the campus and access road but have dedicated car parking.

Evidence was placed before the Tribunal that planning permission had been granted for a second block of retail warehouses of similar size and nature but this block had not been built.

The Appellant's Case

Mr Halpin, representing the Appellant, contended that the valuation placed on the property by the Commissioner was excessive and inequitable given the location of the property; also that the ground floor area was not in retail warehouse use, nor was the use exclusive. He further contended that the mezzanine level should not be valued at the same level as the ground level; it was a '1st floor mezzanine store'.

The Respondent's Case

Mr Ogbebor, as he was perfectly entitled to do, relied on the 'Tone of the List' and affirmed the valuations placed on the properties.

The Evidence

In the view of the Tribunal, Mr Halpin's evidence lacked candour failing, as he did, to inform the Tribunal of all the facts that would assist the members in reaching a decision. In particular, he failed to inform the Members of the true nature of the Park; that both Lidl and Aldi had trading stores therein and Supervalu traded from an adjacent site. Furthermore his repeated reference to 'industrial' and 'industrial type uses', belied the evidence that planning permission existed for 'bulky goods retail' and these were, in fact, retail warehouses and not industrial buildings.

The subject property comprises a first floor former gym. It is accessed via a doorway adjacent to the warehouse entrance. The undisputed evidence was that this use ceased and the business transferred to the ground floor due to objections from an adjoining occupier to noise transference. The parties also agreed that the space was in basic, shell, condition and that there was a second doorway in the lobby leading to the ground floor of Unit 1.

The valuers differed in their description of the space: Mr Halpin describing it as being a 'ground floor lobby' and '1st floor mezzanine'(sic), while Mr Ogbebor described the space as 'retail warehouse' (Level 0) and Level 1 as 'First Floor – Gymnasium'.

Mr Halpin contended that the occupier of the gym did not have exclusive use of the ground floor lobby – it was further suggested that this doorway and lobby was used by patrons of the gym in the event of high winds when the gym could not be accessed safely by means of the main retail warehouse door. The fact that there existed a door to the main retail warehouse space from the lobby was not disputed by Mr Ogbebor, who merely stated that the occupier 'did not have to use it'.

Matters Agreed

1. Areas

Level 0 - 16 sq. m.

Level 1 -136.18 sq. m.

2. Basis of Valuation

The parties agreed that as this was a revision case, the valuation of the properties must be carried out in accordance with Section 49(1) of the Valuation Act 2001– 'Tone of the List'.

Comparisons

A. The Appellant

Mr Halpin put forward 4 comparators on which he relied:

1. Unit 8 Cobh Commercial Park. PN 2210370.

This analyses at a rate of €13.16 for mezzanine space. Mr Halpin suggested that while this space had the benefit of a goods lift, it lacked separate access. It was not possible for the Tribunal, due to the limited photographic evidence introduced, to make a proper judgement on this comparable but it did find it helpful insofar as it is mezzanine space in an adjacent

unit. It suggests an agreed level for this, internal mezzanine space and sets a 'floor' on the value.

2. Units 1&2 Cobh Commercial Park (An Post) PN2211235

This is a common comparison. Mr Halpin's evidence that the first floor was fitted as high class offices was not disputed by Mr Ogbebor; who suggested that the first floor space is listed as 'warehouse. The agreed rate is €34.16 per sq. m. This comparable is helpful insofar as it sets a 'ceiling' on values.

3 & 4. Unit 2414 Euro Business (PN 2196147) and Units 201/202 Harbour Point Business Park (PN 2195547).

The Tribunal found these comparables to be of limited assistance as they are industrial buildings in business parks in Little Island which is indisputably a superior location to the subject. The Tribunal is of the view that these are not 'similarly circumstanced' to the subject. Furthermore, Mr Halpin was not in a position to assist further in terms of the precise nature of the use to which these mezzanines were put.

B. The Respondent

Mr Ogbebor adduced 4 comparators upon which he relied:

1. Units 1&2 Cobh Commercial Retail Park (An Post) PN2211235.

This is a common comparator and has been fully discussed above.

2 & 3. Unit 206/207 Harbour Point Business Park PN 2212637 & 27 Eastgate Drive, Eastgate Business Park PN2186899.

For reasons elaborated upon earlier, the Tribunal found these of limited assistance, particularly as the witness was not in a position to elaborate on how the same rate of €34.16 per sq. m. was applied to first floor spaces described variously as 'offices' (PN 2212637) and 'stores' (PN2186899).

4. Unit 8 Cobh Commercial Retail Park PN2210370

This unit had been valued in August 2011 when first occupied but the tenant collapsed later that year; one year into the lease term. The level applied to the ground floor of €47.83 differs from that applied to the An Post unit (€34.16) suggesting that a tone did not exist in the Park. Mr Halpin posited that this was possibly due to the lack of representations or an appeal, arising from the tenant's demise. The rate applied to the mezzanine in this case is €13.66. This is differentiated from the subject by the absence of separate access. The unit remains vacant.

Findings:

1. The subject of the appeal is a first floor with gymnasium use.
2. The presence of the discount retailers and that of Supervalu on an adjoining site affects the nature of the subject property in a positive manner.
3. The occupier of the unit does not have exclusive use of the ground floor lobby.
4. The appropriate rate to apply to the first floor gymnasium is €20 per sq. m.

And the Tribunal so determines.