Appeal No. VA07/3/120

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 2001

VALUATION ACT, 2001

Lifestyle Sports Ltd. **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Shop at Lot No. Unit 19, Quayside Shopping Centre, Rathedmond, Sligo North, Sligo Borough, County Sligo

B E F O R E

Maurice Ahern - Valuer	**Deputy Chairperson**
Brian Larkin - Barrister	**Member**
Mairéad Hughes - Hotelier	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF FEBRUARY, 2008

By Notice of Appeal dated the 23rd day of August 2007, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €312 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 in comparison to comparable properties in the rating area"

This appeal proceeded by way of an oral hearing that took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 30th day of October, 2007. At the hearing the appellant was represented by Ms. Dawn Holland, B.Sc. (Hons), MIAVI, of GVA Donal O Buachalla, Property & Rating Consultants. Mr. Bríain Ó'Floinn, a District Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation. At the hearing both parties adopted their précis, which had previously been received by the Tribunal, as being their evidence-in-chief.

The Property

Location and Description

The subject property is a new retail unit in the Quayside Shopping Centre in Sligo which is the principal town and administration centre in County Sligo. There is a population of approx. 20,000.

The subject property is located at street level at the end of the internal mall of the shopping centre between the Wine Street entrance and the Quay Street entrance and adjacent to the Next and Oasis units. It has access from the Wine Street entrance and from the car park via the escalator. It is an L-shaped unit of concrete construction with standard finishes, suspended ceiling, tiled floors and glazed façade. It is also fitted with air-conditioning units.

The combined frontage to the mall is 13.3 metres, 9.2 metres of which faces the pedestrian traffic coming from the mall at Wine Street. The agreed total floor area is 541.85 sq. metres, made up of 396.50 sq. metres retail space and 145.35 sq. metres storage.

Valuation History

This is a new valuation. The proposed valuation certificate with an RV of €312 issued on 23rd November, 2006 and Representations were made to the Revision Officer on 19th December, 2006 on foot of which no change was made to the valuation. An appeal to the Commissioner was received on 29th January, 2007 and the outcome of that appeal was that the valuation remained unchanged at €312. It is against this decision of the Commissioner that the appeal to this Tribunal lies.

Tenure

Leasehold

The Appellant's Case

Ms. Dawn Holland, having taken the oath, adopted her written précis and valuation, which had been received by the Tribunal and the respondent, as being her evidence-in-chief.

In support of her opinion of net annual value Ms. Holland introduced 3 comparisons, details of which are at Appendix 1 hereto. All three comparisons are located in the same shopping centre as the subject. She stated that the subject property at 541.85 sq. metres has almost the same floor area (a difference of only 16 sq. metres) as that of her Comparison No. 1 - River Island (a common comparison). River Island has an area of 557.25 sq. metres. The subject has an RV of €312, on a zoned basis, which is €55 greater than the River Island RV of €257. Ms. Holland said that the River Island unit is better than the subject unit because it is in a prime location within the centre and has an extremely wide frontage. She said that the rent on the subject is €135,000 per annum, compared to the rent of River Island which is €186,000 per annum and yet the RV on the subject is 25% higher than that on River Island. She said the hypothetical tenant would not pay 25% more for the subject.

Her Comparison 2 –Monsoon (also a common comparison) has an RV of €215 on a zoned basis. It has area of 370.59 sq. metres and the RV of €215 devalues, on an overall basis, at €116 per sq. metre.

She said her Comparison 3 – Next was an anchor tenant in the centre. It was not valued on a zoned basis. It is a large store with the retail space of 1,117 sq. metres valued at €82.02 per sq. metre. It is quite close to the subject property.

Ms. Holland said the subject was an L-shaped unit with a primary frontage of 9.2 metres facing to the mall which she felt could be valued in line with the comparisons. But, she said, there was a secondary frontage of 4.1 metres which did not bestow a benefit matching that of the primary frontage and a discount should be made for this.

Ms. Holland then referred to the Society of Chartered Surveyors (SCS)' **Retail Zoning Guidance Note** of September 2003 and said it was clear from the Introduction to it that it was for guidance purposes only and that the figures given in it were not to be taken as rigid cut-off points. Valuers are expected to use their own judgment. She then quoted from the

Guidance Note under the heading "***Dual/Return Frontage – Where to Zone from:"*** as follows:

> *"If the premises has frontage to two areas of equal value it is not felt appropriate to have a large L-shaped Zone A or to have two separate Zone A areas."*

She said Mr. Ó'Floinn had zoned both frontages of the subject property with the effect of giving it a larger Zone A and a 25% higher RV than River Island although, in her view, no benefit accrued from the subject's L-shape.

Ms. Holland also referred to Tribunal decision in **VA97/3/003 - Frank Mulvey** and cited the following Tribunal finding in that case:

> *"…the valuer must take into account the configuration of the retail space and place himself in the position of the hypothetical Tenant if the property was placed on the open market to rent on the date the valuation is to be assessed. The intention of the zoning method is to standardise comparative evidence so that the most valuable part of the retail space can be compared on a similar basis. To apply this valuation practice without regard to the reaction of the hypothetical Tenant to the configuration of the retail space is not the intention of this method."*

This, she said, showed that the valuer needs to step back from the zoning method and ask whether, in this case, the hypothetical tenant would pay 25% more for River Island, and the open market evidence cited showed that he/she would not.

Ms. Holland offered her estimates of the valuation of the subject property on both an overall floor area basis and on a zoned basis as follows:

Overall floor area

541.85 sq. metres @ €92.27 per sq. metre = NAV €49,996 @ 0.5% = RV €249
Say RV €250

Zoned basis

			NAV
Zone A	56.12 sq. metres	@ €273.35 per sq. metre	€15,340
Zone B1	56.12 sq. metres	@ €136.67 per sq. metre	€ 7,669
Zone C1	5.98 sq. metres	@ € 68.34 per sq. metre	€ 408
Zone B2	102.48 sq. metres	@ €136.67 per sq. metre	€ 14,005

Zone C2	102.48 sq. metres	@ € 68.67 per sq. metre	€ 7,037
Remainder	218.40 sq. metres	@ € 34.17 per sq. metre	€ 7,462
			€ 51,921

NAV €51,921 @ 0.5% = RV €259 Say RV €260

A reduction to RV €250 is sought

In reply to the Tribunal Ms. Holland confirmed that she was contending for an RV of €250 and said that she had an open mind as to an overall or zoned method of valuation. Referring to the sketch map in her précis (copy at Appendix 2 hereto) Ms. Holland explained her zoning method which produced Zones A, B1, B2, C1 and C2, all within one open space. She confirmed that the use of Zones B1, B2, C1 and C2 was not standard practise. Zoning was for rectangular units and when faced with a differently shaped unit one had to adapt. She said her net point was that the respondent had applied zoning to the subject in a manner which was not in line with other zoning-based valuations in the shopping centre. He had taken a Zone A from each frontage in the subject property.

Cross-examination

Under cross-examination by Mr. Ó'Floinn, Ms. Holland would not accept that the subject unit had an angled or irregular shop front rather than an L-shaped front and that it should be zoned on that basis following the SCS Guidance Note. In reply to further questions Ms. Holland said she accepted the Zone A rate on the adjacent units, Monsoon and Oasis, and further agreed that the Zone A of Oasis was beside her Zone B2. She also agreed that the subject could be accessed from Quay Street through Next and via a lift, as well as from Wine Street and via the escalator from the carpark. She stressed that the lift in question was a goods lift. She agreed that the Wine Street Mall was the better of the 2 malls in the centre and that River Island was on the external mall. She would not accept that both frontages of the subject unit faced the pedestrian traffic from the external mall.

The Respondent's Case

Mr. Ó'Floinn, having taken the oath, adopted his written précis and valuation, as his evidence-in-chief. He said the subject was in a pivotal location in the shopping centre. It faces shoppers entering from the central plaza and shoppers leaving Next, the anchor of the centre. It is close to the goods lift and to the stairway and escalators from the multi-storey car park which has 380 spaces.

He said his Zone A level on the subject was derived from the Zone A levels on Oasis, Specsavers, Monsoon and Accessorize, none of which face the pedestrian traffic. These and River Island were his comparisons.

Mr. Ó'Floinn contended for a valuation of €312 calculated as follows:

Shop Zone A	99.73 sq. metres	@ €273.35	per sq. metre = €27,261.19
Shop Zone B	136.95 sq. metres	@ €136.68	per sq. metre = €18,718.32
Shop Zone C	174.15 sq. metres	@ € 68.33	per sq. metre = €11,899.66
Remainder	131.02 sq. metres	@ € 34.17	per sq. metre = € 4,476.95
Total NAV			= €62,356.12

RV @ 0.5% = €311.78

Say €312

In support of his opinion of valuation Mr. Ó'Floinn introduced two (common) comparisons, River Island and Monsoon (see Appendix 3 hereto).

He considered the subject property to have irregular shaped frontage and not by any means a dual or return frontage as indicated by Ms. Holland. He said dual or return frontage relates to a retail unit on a corner of a street. Frontage had to be thought of in terms of the location of the observer i.e. the shopper. In his valuation all points of the front of the shop were of equal value.

Cross-examination

In cross-examination Ms. Holland asked Mr. Ó'Floinn if the hypothetical tenant would pay 25% more for the subject unit than for River Island. He replied that the River Island unit had a limited frontage in relation to its size. It was an L-shaped unit and a lot of the shop was behind the stairs and the most valuable features of its dual frontage were taken by News Plaza and The Bagel Bar. So he believed that the subject was worth 25% more than River Island. Asked about the fact that the River Island rent was 37% more than that on the subject he replied that one could only rely on that if the lettings had taken place at the same time.

Summary

In summary Ms. Holland said the hypothetical tenant would not pay 25% more for the subject property than for River Island.

Mr. Ó'Floinn said that Ms. Holland had not justified her zoning method. Zoning was a method of achieving equity between comparable properties. What he had done was eminently fair as he had taken the zoning from the adjacent units. A rent based approached was not as reliable as a comparison/zoning one.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced by both parties and makes the following findings:

1. The Tribunal considers that it is preferable to value the subject property on an overall basis rather than on a zoned basis.
2. Both parties rely on the Monsoon and River Island units in the Quayside Shopping Centre as comparisons.
3. The rateable valuation on the River Island unit, when devalued on an overall basis, is €55 (or 25%) less than that on the subject, although the two properties have almost the same floor area – 541.85 sq. metres in the subject property and 557.25 sq. metres in the River Island unit.
4. The hypothetical tenant would be unlikely to pay 25% more for the subject than for River Island.
5. The subject property is located at the Quay Street end of the internal mall which, the parties agree, is inferior to the Wine Street end.
6. The River Island location, en route to the anchor tenant, Next, would have significantly greater footfall than the subject.

Determination:

Having regard to the foregoing findings the Tribunal determines the rateable valuation of the subject property to be €279 calculated as set out below:

Shop 541.85 sq. metres @ €103 per sq. metre = NAV €55,810.55

RV @ 0.5% = €279.05

Say RV €279

And the Tribunal so determines.