

Appeal No. VA11/5/003

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

**Where Service Counts Ltd. (Kevin Higgins)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 438926, Retail (shops) at lot No.5 Lakelands Road, Upper Kilmacud Road, Stillorgan, County Dublin.

**B E F O R E**

**Maurice Ahern - Valuer, IPAV**

**Deputy Chairperson**

**Michael F Lyng - Valuer**

**Member**

**Mairead Hughes - Hotelier**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 07TH DAY OF DECEMBER, 2011**

By Notice of Appeal dated the 9th day of June, 2011, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €44,500 on the above-described relevant property.

The grounds of appeal as set out in the Notice of Appeal are attached at Appendix 1 to this judgment.

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 15<sup>th</sup> day of September 2011. At the hearing, the appellant was represented by Mr. Eamonn Halpin BSc (Surveying), ASCS, MRICS, MIAVI. Chartered Valuation Surveyors & Estate Agents, 5 Fitzwilliam Terrace, Bray, Co. Wicklow. The respondent was represented by Mr. John Purcell, BSc, MRICS, MSCSI, a valuer in the Valuation Office. Prior to the oral hearing, written précis and valuations were lodged with the Tribunal and exchanged between the parties.

### **Valuation History**

The subject premises was the subject of a revaluation as one of all rateable properties in the Dun Laoghaire Rathdown Rating Authority.

- A Valuation Certificate (proposed) was issued on 15<sup>th</sup> June, 2010. The property had been valued at €44,500.
- Representations were lodged with the Commissioner of Valuation on 5th July 2010. Following consideration of representations submitted, the valuation remained unchanged.
- An appeal was lodged with the Commissioner of Valuation on the 8<sup>th</sup> February, 2011. Following consideration of the grounds of appeal submitted, the valuation remained unchanged.
- An appeal against this decision of the Commissioner of Valuation was lodged with the Valuation Tribunal on 10<sup>th</sup> June 2011.

### **Services**

The usual mains services of water, drainage, electricity and telephone are supplied and connected to the centre.

### **Title**

The subject property is held on a 25 year FRI lease commencing in 1996.

### **Location**

The subject property is situated in a purpose built neighbourhood centre, which dates from the 1950's, on Lakelands Road, off the upper Kilmacud Road in Stillorgan, Co. Dublin.

### Description

The subject property is the ground floor portion of a two-story end of terrace unit in a block of 4 rental units (one of which has been subdivided into two shops). Construction is standard concrete block, with external garage of approx. 6.7metres.

### Accommodation

Retail	119.48 sq.metres
Office	10.48 sq.metres
Store	<u>19.67 sq.metres</u>
Total area	149.63sq.metres

### Appellant's Case

Mr. Eamonn Halpin, having taken the oath, adopted his written précis as his evidence-in-chief. Mr. Halpin stated that the subject property was located on Lakelands Road., just off Upper Kilmacud Road, Stillorgan, Co. Dublin. The area, he stated, is an established residential area. The Lakelands Development is essentially a cul-de-sac with no through traffic and hence, there is limited potential for passing trade. In his opinion this is a very moderate commercial location and not comparable with much of the Commissioner's comparison properties.

Mr Halpin stated that the property is comprised of an old fashioned ground floor convenience store with ancillary staff area and stores area. It is one of 4 units in a 1950s neighbourhood parade. The other units are retail units, being a creche, Fish shop (to let), Butchers and a retail unit as office. The property has external frontage of approximately 6.7 sq. metres. It is relatively deep with a front to back distance extending to approximately 16.0 sq. metres.

Mr. Halpin contended for the following valuation:

Shop Zone A	42.4 sq. metres @ €300 per sq. metre	=	€12,720
Shop Zone B	51.58 sq. metres @ €150 per sq. metre	=	€7,737
Shop Zone C	25.50 sq. metres @ €75.50 per sq. metre	=	€1,913

Office & Stores	30 sq. metres @ €70 per sq. metre	=	<u>€2,100</u>
Total NAV			€22,220

Mr. Halpin stated that all of his comparisons (details of which are attached at Appendix 2 to this judgment) were within the Dun Laoghaire Rathdown Rating Authority Area and were subject to Revaluation. His first comparison was the subject property with a passing rent in 2005 of €25,847. His second comparison located in Oliver Plunkett Road was a new development with large frontage of circa 18 metres and with a Zone A level at €470 per sq. metre. His third comparison, Newpark Centre, Blackrock had a high level of passing trade due to its main road location. It is a double unit in a small shopping centre with parking. The Zone A area level for this property is €500 per sq. metre. His fourth comparison is located in Ballybrack Shopping Centre where the Tesco store is the anchor tenant. This is a very busy neighbourhood centre with a Zone A level of €550 per sq. metre. His fifth comparison is located at Carysfort Avenue, Blackrock. This is also a neighbourhood location with some passing trade. The shop is valued at €200 per sq. metre and the store is valued at €50 per sq. metre.

### **Cross Examination**

In reply to Mr. Purcell as to whether local comparisons carry more weight than those further away when valuing properties, Mr. Halpin stated that they would if they were truly comparable. Mr. Purcell stated that the comparisons put forward by Mr. Halpin were at least 8km from the subject. Mr. Halpin stated that the problem he had with the Commissioner's approach was that he was presenting rateable valuation levels to match the rent. Mr. Halpin also stated that the Commissioner's approach to this parade might be sustainable for the smaller units in the development. However, he felt it was definitely unsustainable for the larger units.

### **Respondent's Case**

Mr. Purcell having taken the oath, outlined to the Tribunal that the subject property is located within a well-established, purpose-built, neighbourhood centre off the Upper Kilmacud Road. It is situated end of terrace in a block of four retail units other than the subject. It is a ground floor portion of a two-storey property. The construction appears to be standard concrete block. There is a small space for off-street parking to the front of the property.

### **Basis of Valuation**

The property was the subject of a revaluation as one of all rateable properties in the Dun Laoghaire Rathdown County Council area. The Valuation Order specifies the 30th September 2005 as the valuation date. Valuation levels were derived from the analysis of available open market rental information of comparable properties and applied to the subject property. The valuation of this property, on appeal to the Commissioner of Valuation, was determined by reference to the values of comparable properties stated in the Valuation List in which they appear.

### **Valuation**

Mr Purcell contended for the following valuation.

Block 1,2 Zone A	42.40 sq. metres @ €50 per sq.metre	€23,320.00
Block 2 Zone B	51.58 sq. metres @ €275 per sq.metre	€14,184.50
Block 2 Zone C	25.50 sq. metres @ €137.50 per sq. metre	€3,506.25
Block 3,4 Store	19.67 sq. metres @ €100 per sq. metre	€1,967.00
Block 5 Offices	10.48 sq. metres @ €150 per sq. metre	€1,572.00
Total		<u>€44,549.79</u>
NAV (rounded to)		€44,500

In support of his opinion of net annual value of the subject property, Mr. Purcell introduced four comparisons, details of which are attached at Appendix 3 to this judgment. All of the comparisons are neighbourhood units and similar properties in the same immediate area as the subject property. The passing rent on the respondent's first comparison at the valuation date was €55,000 per annum. No rental information was provided to the Tribunal on the respondent's second and third comparisons. The respondent's fourth comparison had a passing rent of €35,000 per annum at the valuation date.

### **Cross Examination**

In response to questioning by Mr Halpin, Mr. Purcell stated that a single rent does not set rental values for an area. Mr. Purcell also agreed with Mr. Halpin that rental values are higher if a property is located near a major road and lower if they are not. In reply to further questioning from Mr. Halpin, Mr. Purcell stated that all his comparisons are neighbourhood units and similar to the subject.

### **Findings**

The Tribunal has carefully considered all the written and oral evidence adduced by the parties and the arguments put forward in support of their respective opinions of net annual value and finds as follows:

1. This appeal arises out of a valuation order made by the Commissioner of Valuation under Section 19 of the Valuation Act, 2001, in relation to the Dun Laoghaire Rathdown County Council rating authority area. The valuation order is dated 27th June 2008 and, in accordance with Section 20 of the Act, the valuation date by reference to which the value of every relevant property in the area should be determined is the 30<sup>th</sup> September, 2005. The valuation list so created came into effect on the 31<sup>st</sup> December, 2010.
2. In accordance with the Valuation Act, 2001 the value of each and every relevant property is to be determined by estimating its “net annual value” which is defined in Section 48(3) of the Act as follows:
 

*“Subject to section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant”.*
3. In reaching its determination, the Tribunal has had regard to **VA08/5/125 - Marks and Spencer (Ireland) Ltd** which states that, in the context of Revaluation, “[...] *when an individual appeal comes before the Tribunal for determination the Tribunal must consider and evaluate the evidence then put before it, be it an actual rent of the property concerned, the rents of other properties of a size, use and location similar to the property concerned and last, but by no means least, the assessment of properties which are truly comparable in all respects to the property concerned and which are currently in the Valuation List and attach such weight to this evidence as is considered appropriate.*”
4. While rental evidence was provided in respect of the subject property, the Tribunal notes that neither party to this appeal provided the Tribunal with sufficient detailed evidence of open market rental values for their comparison properties. Accordingly, the Tribunal was

unable to analyse this information, or reach conclusions with any confidence on open market rental values.

5. With regard to the appellant's comparisons, the Tribunal notes that none, other than the subject property, are located within neighbourhood centres. The Tribunal also notes that, on the evidence provided, it would appear that the appellant's Comparisons Nos 3 and 4 are configured, located, and offer retailing possibilities to the tenant in a manner and on a scale different to that of the subject property. Finally, the Tribunal notes that the valuation on the appellant's Comparison No 5 is considerably out of step with the valuations on the other comparison properties submitted by both parties.
6. With regard to the respondent's comparisons, the Tribunal notes that 3 of the respondent's 4 comparison properties are situated on busy thoroughfares, benefiting from substantial levels of passing traffic. The Tribunal further notes that caution must be exercised with regard to the respondent's Comparison No 3, immediately adjoining the subject, as it is likely to have been valued at the same time as the subject property.
7. On the evidence provided, the Tribunal considers the location of the subject property to be moderate, when compared with the locations of most of the comparison properties put forward by both parties.

### **Determination**

Having regard to the foregoing the Tribunal determines the net annual value of the subject property as follows:

Block 1, 2	Zone A	42.40 sq.metres @ €420.00 per sq.metre	€17,808.00
Block 2	Zone B	51.58 sq.metres @ €210.00 per sq.metre	€10,831.80
Block 2	Zone C	25.50 sq.metres @ €105.00 per sq.metre	€ 2,677.50
Block 3,4	Store	19.67 sq.metres @ €70.00 per sq.metre	€ 1,376.90
Block 5	Office	10.48 sq.metres @ €70.00 per sq.metre	<u>€ 733.60</u>
Total NAV			€33,427.80

NAV Say €33,400

And the Tribunal so determines.