

Appeal No. VA11/5/078

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

Little Venezia Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 885471, Unit 4, Leopardstown Valley S.C, Ballyogan Road, County Dublin.

B E F O R E

John F Kerr - BBS, FSCSI, FRICS, ACI Arb

Deputy Chairperson

Mairead Hughes - Hotelier

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF JANUARY, 2012

By Notice of Appeal dated the 9th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €33,300 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:

"On the basis that the NAV as assessed is excessive & inequitable."

"The Commissioner has overestimated the subject's value on a one year with another basis & has assessed this unit at a higher level than other comparable units elsewhere in the Dun Laoghaire Rathdown area."

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 14th day of October, 2011. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying) ASCS, MRICS, MIAVI. The respondent was represented by Ms Teresa O’Sullivan, BSc, MIAVI, a Valuer in the Valuation Office. Both parties having taken the oath adopted their respective précis which had previously been received by the Tribunal as their evidence-in-chief. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal

The Issue

The issue between the parties was the issue of quantum, the appellant maintaining that the rateable valuation of €3,300 was excessive.

Valuation History

The property was the subject of a revaluation as one of all rateable properties in the Dun Laoghaire Rathdown County Council area. A Valuation Certificate (proposed) was issued on June 15th 2010. An appeal was lodged to the Commissioner of Valuation on 8th February 2011 and following consideration of this appeal the Commissioner made no change. On 11th July 2011 Notice of Appeal to the Valuation Tribunal was lodged with the Valuation Tribunal.

The NAV was assessed on a gross internal basis as follows:

Zone A	34.16 sq. metres	@	€50 per sq. metre	€2,204
Zone B	34.16 sq. metres	@	€25 per sq. metre	<u>€1,102</u>
NAV				€3,306
Valuation Office estimate of NAV (rounded)			€3,300	

The Property

The subject property is situated within a terrace of 5 retail units at Leopardstown Valley Shopping Centre, just off Ballyogan Road in Dublin 18. The area is a mix of residential, retail warehousing, some industrial development as well as undeveloped farmland. The subject property is one of a terrace of 6 initial units (one is a double unit) and comprises a single storey chip shop and carry out. Other units in the terrace include a pharmacy, Spar

store, Paddy Power Bookmakers, while a further single unit remains vacant. There is also a Medical Centre and a Crèche in the development.

Tenure

The occupier of the subject property acquired her interest in 2000, with both the rent and lease already in place. In December 2003 a rent review took place establishing a rent at €40,000 pa, while a further review in 2008 made no change. Discussions between the Landlord and the Tenant are ongoing to re-negotiate a rent reduction.

Accommodation

Shop Zone A	=	34.16 sq. metres
Shop Zone B	=	34.16 sq. metres

The Appellant's Evidence

Having taken the oath, Mr. Eamonn Halpin adopted his written précis as his evidence-in-chief. Mr Halpin argued that the location of the subject property is very moderate and serves a local maturing neighbourhood that has little passing trade. He further argued that the subject unit is not comparable with retail units in the adjacent major Leopardstown Shopping Centre, but is more comparable with the Sandyford Hall units that are located nearby. He said that it was not sustainable to suggest that the hypothetical tenant would pay more for a unit such as the subject (as assessed by the Valuation Office at Zone A – €550 per sq. metre) rather than a unit in nearby Sandyford Hall that has a Zone A rate of €500 per sq. metre less 5%, or even the Newpark Centre in Blackrock with similar assessed levels. He said that the Commissioner must not disregard the new Shopping Centre that is now next door, as same is accessed by its own entrance/exit and not serving the subject, and where shoppers are unable to drive from the shopping centre directly to the subject. He acknowledged that a pedestrian access links both facilities. He maintained that it is this large modern and attractive Centre with a variety of shops including the large Dunnes Stores anchor tenant (c.5,200 sq. metres) that shoppers visit, while the subject does not gain footfall from same. Mr. Halpin accepted that while there is a range of values with the subject property type, he felt that the subject was at the lower end of the scale, and believed that the Valuation Office approach is unfair considering the Zone A levels of €500 per sq. metre and less applied at Sandyford Hall, located nearby. Mr. Halpin said that he accepted that over the course of the revaluation exercise in Dun Laoghaire Rathdown, the Valuation Office had established general levels for

neighbourhood retail units such as the subject with Zone A levels ranging from €450 per sq. metre to €600 per sq. metre, However, he said that it was unacceptable to suggest that a premium be added to the subject at €500 per sq. metre for Zone A and to argue that this was fair and equitable, particularly when a nearby unit in Sandyford Hall was reduced to €500 per sq. metre less a reduction of 5% for Zone A on appeal.

Mr. Halpin contended for a NAV of €24,300 on the subject property, calculated as follows:

Zone A:	34.16 sq. metres @ €500 per sq. metre	=	€17,080
Zone B:	34.16 sq. metres @ 175 per sq. metre	=	€ 8,540
			€25,620
Less 5% allowance as applied at Sandyford Hall		-	€ 1,280
			€24,340

Say NAV €24,300

Under cross-examination by Ms. O’Sullivan for the Valuation Office, Mr. Halpin said that while his Comparison 3 (Cash & Carry kitchens in Ballaly Shopping Centre) is similar to the subject, all of his comparisons fit the bill and contribute to his knowledge in arriving at a fair and reasonable valuation for the subject property. Mr. Halpin concluded his evidence by saying that whereas in 1998 when the subject and the other units were built it had some potential as it was the only centre for miles around, there is now a limited trade for the subject premises and that this is mainly due to the opening of the new Shopping Centre that is located directly behind it.

Comparisons

In support of his valuation Mr. Halpin introduced 6 Comparisons, details of which are set out in Appendix 1 to this judgment. His Comparison 1 (Sandyford Hall) is the nearest neighbourhood centre, located just 1 kilometre from the subject property, and is a similar type of centre to the subject. Zone A levels here have been established by the Valuation Office at €500 per sq. metre less a 5% allowances for front to depth ratio where appropriate. Comparison 2 (Newpark Centre, Blackrock) while a much more valuable centre than the subject, is similarly valued at €500 per sq. metre for Zone A, as are the other 4 comparisons, namely Sandyford Hall (Comparison No. 1), Newpark Centre, Blackrock (Comparison No.

2), Balally Shopping Centre (Comparison No. 3), Oliver Plunkett Road, Monkstown (Comparison No. 4).

Respondent's Evidence

Ms. Teresa O'Sullivan having taken the oath adopted her written précis as her evidence-in-chief. Ms. O'Sullivan outlined the valuation history of the subject as already detailed here in this report.

Comparisons

In support of her opinion of Net Annual Value, she introduced 4 comparisons, details of which are attached at Appendix 32 to this judgment. She said that she relied on the correctness of the valuation list as per Section 63 of the Valuation Act, 2001 to support her case.

Ms. O'Sullivan said that shopping centres are location specific and that the "Tone" has been set in the subject Leopardstown Valley Shopping Centre at €650 per sq. metre for Zone A by agents at First Appeal, which cases did not proceed to Valuation Tribunal appeal. Ms. O'Sullivan said that Section 49(1) of the Valuation Act, 2001 was adhered to by her in assessing the subject property at a valuation of €33,300. She believed that rents are the same in both Leopardstown SC and Leopardstown Valley, that every unit in the subject Shopping Centre has been tested and upheld at €650 for Zone A.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced and finds as follows:

1. The Tribunal notes that the parties agreed that the location was secondary being a small neighbourhood retail centre.
2. The Tribunal further notes that the parties agreed that the rent passing during 2005 following a rent review in December 2003 was €40,000 per annum, FRI.
3. The respondent considered the relativity of rents between the subject as one of 5 retail units in Leopardstown Valley Centre as compatible with the rents at the adjoining district retail centre, (namely the Leopardstown SC), and employed this relativity of

rents to establish a similar relationship to Zone A valuation of each of the units including the subject at a level of €50 per sq. metre.

4. The Tribunal considers that Zone A levels between a district and a neighbourhood retail centre should not be compared, but conversely should be evaluated with other centres of similar characteristics, size and definition.
5. Unlike the adjoining district centre with a national brand retail anchor occupying c.5,200 sq. metres and the usual mix of retail and restaurant outlets and accessed primarily from its enclosed mall, the subject strip retail neighbourhood centre of Leopardstown Valley has one convenience grocery store (occupying approximately 4% only of the footprint occupied by the above noted anchor), together with 4 other units which combine to circa 300 sq. metres.
6. Section 48(3) of the Valuation Act, 2001 provides as follows:
Subect 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.
7. The Tribunal was not satisfied with the scope of evidence proffered by the respondent in as much as it was confined solely to valuations of units within the subject retail centre, all valued contemporaneously.
8. The Tribunal noted that many of the foregoing comparison valuations were neither subjected to First Appeal, nor brought forward for appeal to the Valuation Tribunal.
9. The Tribunal considers that the appellant’s primary Comparator No. 1, namely a video rental outlet in Sandyford Hall with a negotiated Zone A rate applied of €500 sq. metres (prior to the front to depth ratio discount) was helpful.
10. The Tribunal also noted that the appellant was able to demonstrate that similar Zone A rental rates now apply to retail units at Blackrock and Monkstown and at a level of €50 sq. metres Zone A at Lakelands in the Lower Kilmacud Road area.
11. Mindful of the foregoing, together with all the evidence submitted and advanced at hearing, the Tribunal considers that a fair and reasonable Zone A valuation on the subject should be set at a level of €75.

Determination

The Tribunal determines a fair and equitable NAV on the subject property to be €29,500, calculated as follows:

Shop Zone A	34.16 sq. metres	@	€75.00 =	€19,642
Shop Zone B	34.16 sq. metres	@	€287.50 =	<u>€9,821</u>
Total				€29,463
Say NAV	€29,500			

And the Tribunal so determines.