

Appeal No. VA11/5/112

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

Cash & Carry Kitchens

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 339101, Unit 15, Sandyford Shop Centre, Balally, County Dublin.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

Frank O'Donnell - FRICS, B Agr Sc, MIREF

Member

Joseph Murray - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF JANUARY, 2012

By Notice of Appeal received on the 29th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €64,800 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 relative value of this unit on a one yr with another basis. The centre is very poor & has declined greatly in recent years even during the boom. Greater allowance must be made."

The appeal proceeded by way of an oral hearing in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin on the 18th day of November, 2011. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying) MRICS, MIAVI. The respondent was represented by Mr. Neil Corkery, ASCSI, 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 the facts relevant and material to the appeal.

At Issue

Quantum.

Location

The subject property is a leasehold property held by Cash and Carry Kitchens Ltd. It is situated mid terrace in a parade of 15 units which are mainly retail units. The neighbourhood centre also has a pub and funeral undertakers. The centre was built in 1988 and is close to the M50 on Blackthorne Road, Sandyford, Dublin 16.

Valuation History

A Proposed valuation certificate was issued on 15 June 2010 with a valuation of €79,900. At representation stage the valuation was reduced to €65,500. On appeal to the Commissioner the valuation was again reduced to €64,800. An appeal was lodged with the Valuation Tribunal on 29th July 2011.

Appellant's Case

Mr. Eamonn Halpin took the oath and adopted his précis as his evidence-in-chief. Mr. Halpin contended for the following:

1. The location of the subject property is too close to the Dundrum Town centre (opened in 2005) and the Beacon South Quarter (opened in 2007) to be independently commercially viable. Passing trade has tapered off since the opening of these centres.
2. There is an extraordinary high service charge on subject due to age of building , security and waste disposal. The hypothetical tenant would have to factor this charge

in with the rent. The service charges in the Newpark Centre, Blackrock are nearly half that in the subject parade.

3. The subject has a service charge of €5,000 per annum and rates of €6,000 .
4. The roof on the subject property is in poor condition.
5. The NAV for the subject €64,800 remains well above the passing rent of €4,000 and is not in line with the Commissioner's basis for valuations in the Dun Laoghaire/Rathdown revaluation area.
6. Rents were fixed on an upward basis only in the mid 2000s and cannot be taken to reflect the true value of rents in terms of Section 48(3) of the Valuation Act, 2001.
7. The Commissioner is trying to impose a uniform solution to a situation which is not uniform.

Mr. Halpin contended for a NAV of €1,900 on the subject property, calculated as follows:

Shop Zone A	82.4 sq. metres @ €400 per sq. metre	=	€32,960
Shop Zone B	82.4 sq. metres @ €200 per sq. metre	=	€16,480
Shop Zone C	24.7 sq. metres @ €100 per sq. metre	=	<u>€ 2,470</u>
			€1,910

NAV say €1,900

Comparisons

Mr. Halpin put forward, and commented on, the following comparisons (details of which are attached at Appendix 1 to this judgment):

1. The subject. Built about 1990. Passing rent from June 2005 is €4,000. Zone A valued at €500 per sq. metre. Higher level on subject which is an inferior building to the levels in comparisons 2 and 3 below.
2. Sandyford Hall. It is unsustainable to suggest that a hypothetical tenant would pay the same rent as this comparison which is a more recent building. This building benefited from front to depth allowance.

3. Newpark centre has a better profile and a high level of passing trade due to location, yet the subject is valued at the same level.
4. Oliver Plunkett road. New development dating from the mid 2000s. Zone A at €470 per sq. metre.

Respondent's Case

Mr. Neil Corkery took the oath and adopted his précis as his evidence-in-chief. Mr. Corkery maintained the following:

1. The subject is a double unit and carries a higher rental value than a single unit.
2. The subject has free car parking, compared with Beacon and Dundrum Centres which have paid car parking.
3. The respondent observed that the appellant did not give comparisons from the subject centre.
4. Sandyford Shopping Centre has 15 units with only 2 vacant. Its physical condition is counteracted by its location.
5. The subject neighbourhood centre has retail retail units including a pub, funeral office and credit union.
6. The valuations of 6 of the units in the subject centre were settled at representation stage and did not proceed to appeal stage.

Mr. Corkery contended for a NAV of €64,800 on the subject property, calculated as follows:

Block 1 Zone A	82.4 sq. metres @ €500 per sq. metre	=	€41,200.00
Block 2 Zone B	82.4 sq. metres @ €250 per sq. metre	=	€20,600.00
Block 3 Remainder	24.7 sq. metres @ €125 per sq. metre	=	<u>€ 3,087.50</u>
			€64,887.50

Valuation Office Estimate of NAV (rounded to) €64,800

Comparisons

Mr. Corkery put forward, and commented on, the following comparisons (details of which are attached at Appendix 2 to this judgment):

1. Massey funerals. This was one of 3 comparisons in the same centre as the subject. Zone A €500 and Zone B €250. At representation stage RV was reduced from €26,000 to €1,300. Total area 54.5 sq. metres.
2. Eskone. Zone A, B and C same as subject. Area 131 sq. metres.
3. Credit Union. Zone A and B same as subject. Area 72.8 sq. metres.
4. Comparison 4 is off the Ballyogan road. Leopardstown Valley Shopping Centre is similar to the subject centre. Zone A rate of €50 per sq. metre applied throughout the centre. Unit smaller than with area of 68.32 sq. metres.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing and make the following findings:

1. The location, description and accommodation of the subject property were not in dispute.
2. The average rate per sq. metre for both sets of comparisons was €500 for Zone A and €250 for Zone B.
3. The best comparisons came from the subject centre itself. Comparisons 1 and 2 were settled at representation stage. Other units in the centre were either settled at representation or appeal stage or not challenged at all.
4. There is clearly an established tone and the respondent valued the subject in line with this tone.
5. The valuations on the list are deemed to be correct and the burden of proving that this is not the case is on the appellant. Mr. Halpin failed to demonstrate this to the Tribunal and did not provide sufficient evidence as to why the subject should be valued at a lower rate to the other units in the centre.
6. While service charges in other centres may be lower, all the units in the subject centre are subject to the same service charges rates.
7. However, the subject property is 189.5 sq. metres and is larger in size than all the comparisons individually of both appellant and respondent. For example, the subject

is more than three times the size of the respondent's comparison No.1, Massey Funerals. In view of this the Tribunal is of the view that a quantum allowance of 10% should be given.

Determination

Accordingly the Tribunal determines that the valuation of the subject property should be as follows:

NAV €64,800

Less 10% €6,480 (for quantum) = NAV €58,320

And the Tribunal so determines.