

Appeal No. VA12/1/001

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

Danoli Supplies Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Lot No. 2209520, Shop at Lot No. 6 Church Street/ ground fl unit 1, Church Street, Wicklow, Abbey Ward, Wicklow UD, County Wicklow.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

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

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF JULY, 2012

By Notice of Appeal received on the 3rd day of January, 2012 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €89 on the above described relevant property.

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

"On the basis that the RV as assessed is excessive & inequitable. It is not in keeping with the tone for comparable property already in the list." "The property is located in a tertiary retail location within the town & yet is assessed at level as high as the prime area of the towns main st. This is not sustainable. Greater allowances must be made to reflect the subjects relative value."

The appeal proceeded by way of an oral hearing held at the offices of the Valuation Tribunal, 3rd floor, Holbrook House, Holles Street, Dublin 2 on the 23rd day of April, 2012. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), ASCS, MRICS, MIAVI, and the respondent was represented by Ms. Fidelma Malone, BSc (Hons) Estate Management, MIAVI, a valuer at the Valuation Office.

Location

The property is located at Unit 1, 6 Church Street, Wicklow Town, within a three-storey commercial development constructed in 2010. It is situated near the centre of Wicklow Town on the east side of Church Street opposite Supervalu Shopping Centre and a public car park. There are no other retail properties beyond the subject heading out of town.

Description

The subject is comprised of a ground floor shop in use as a pet shop. The shop has frontage of 10.7 metres to the street and a depth of 22.5 metres. It is within a recently constructed three-storey mixed-use development comprising one ground floor retail unit and first and second floor office units. The subject retail unit is finished to a good standard with tiled floor, plastered walls and ceilings. There is a WC, kitchen and store area positioned to the rear. The unit benefits from rear pedestrian access through an adjoining courtyard.

Accommodation

The subject comprises an area of 172.77 sq. metres. This area was agreed by both parties.

Tenure

The property is held on a 20-year FRI lease with five-year reviews from 1st September, 2010 with an initial rent of €22,992 per annum plus VAT.

Valuation History

15th November, 2010	Revision Officer appointed on foot of Wicklow Town Council's request to value subject property.
4th April, 2011	Proposed Valuation Certificate issued with RV of €111.
28th April, 2011	Representations made to Commissioner of Valuation.
1. 10 th May, 2011	Final Valuation Certificate issued with a RV of €89.

9th June, 2011	The occupier appealed to Commissioner of Valuation through agent Eamonn Halpin & Co. Ltd.
8th December, 2011.	Valuation remained unchanged.
2nd January, 2012	Appeal to the Tribunal by the occupier through agent Eamonn Halpin & Co. Ltd.

The Issue

The only issue in dispute is the quantum of the net annual value of the property concerned, to be determined in accordance with Section 49 of the Valuation Act, 2001.

The Appellant's Evidence

Mr. Halpin, having taken the oath, adopted his written précis and valuation which had previously been received by the Tribunal and the respondent as his evidence-in-chief. He set out a number of factors which he stated affect the net annual value of the subject property.

He stated that the property is located in a tertiary retail location within the town and yet is assessed at levels as high as the prime area of the town's main street. This, he said, is not sustainable and greater allowance should be made to reflect the subject's relative value. He submitted the following points for consideration:

- 1. The location of the subject property is a quiet side street off the main street. It is a secondary/tertiary retail location in the context of Wicklow Town, with very little footfall. It is notable that there is no other retail property beyond the subject going away from the town's Main Street.*
- 2. Wicklow Town has historically had a low rental base and consequently a moderate historic NAV tone. This is borne out by the comparisons put forward by the appellant which show moderate historic levels in the prime main street area.*
- 3. The subject unit would be unattractive to the hypothetical tenant due to its location, who would undoubtedly much prefer to be located in the main street prime area or form part of a shopping centre. The occupier here, in fact, was attracted to the subject property as the rent was less than half that of an equivalent unit in the main street.*

This allowed him to occupy a property in effect twice the size at this location at a moderate price.

- 4. It is completely unsustainable and inequitable for the Commissioner to zone the prime main street and then impose a higher overall level on this side street. The frontage to depth ratio makes it eminently suitable for zoning.*
- 5. The levels suggested by the Commissioner for the subject property are at variance with the broad tone of the list for comparable properties.*
- 6. The appellants seek to have their assessment reduced to more fairly reflect their unit's relative value taking into account their actual location and configuration, together with the level applied to other units as shown by the comparisons.*

Mr. Halpin also stated that because of its location one cannot value Church Street as one would Abbey Street and Main Street. He observed that the Commissioner of Valuation valued the subject as being in a prime location.

Mr. Halpin contended for alternative rateable valuations of €48 or €50, depending on whether the subject is valued on an overall basis or a zoned basis (although he conceded that his “zoned” approach to this particular valuation was not in keeping with conventional zoning practice).

“Zoned” Basis

Front Shop	52 sq. metres @ €82.00 per sq. metre	=	€ 4,262 [sic]
Mid Shop	37.92 sq. metres @ €68.34 per sq. metre	=	€ 2,591
Rear Shop and stores	82.85 sq. metres @ €34.17 per sq. metre	=	<u>€ 2,831</u>
			€ 9,684

@ 0.5% = €48.42 Say, RV €48

Overall Basis

Shop 172.77 sq. metres @ €58.10 per sq. metre = €10,038

@ 0.5% = €50.19 Say, RV €50

In support of his opinion of net annual value, Mr Halpin put forward seven comparisons as follows:

Comparison 1

Liam/Aoine/S. O'Laoghaire, Fitzwilliam Square/ Main Street

Property No. 662703, RV €43.17 (1994)

NAV Basis: Front Shop 23 sq. metres @ €123.03 per sq. metre

Rear Shop 33 sq. metres @ €68.34 per sq. metre

Stores 20.3 sq. metres @ €68.34 per sq. metre

+ Domestic (Upper Floors)

Comment: Much superior location to the subject, fronting Fitzwilliam Square/ Main Street. Devalues at €84.82 per sq. metre overall (currently 17.25% less than the subject despite superior location).

Comparison 2

Bank of Scotland, Main Street (former ESB Shop)

Property No. 662843, RV €114.28 (2006)

NAV Basis: Front Shop 42.5 sq. metres @ €123 per sq. metre

Rear Shop 42.6 sq. metres @ €82 per sq. metre

Kitchen & Store 14.7 sq. metres @ €41 per sq. metre

Office 21.3 sq. metres @ €68.34 per sq. metre

Basement @ €20.50 – 34.17 per sq. metre

1st Floor 89.4 sq. metres @ €54 per sq. metre

Comment: One of the best prime Main Street retail properties in Wicklow, vastly superior location to the subject. Property completely reconstructed by the ESB in the 1990s and again improved internally by the bank in the 2000s. Devalues at €102.50 per sq. metre on the shop overall (currently exactly the same as the subject despite vastly superior location). If the entire ground floor is taken into account it devalues at €97.02 per sq. metre (currently 5.5% less than the subject).

Comparison 3

Brian O'Farrell, Main Street (former Scribes Bookshop, now Wicklow and Rathnew Credit Union)

Property No. 663339, RV €76.18 (1994)

NAV Basis: Front Shop 49.7 sq. metres @ €123 per sq. metre
 Rear Shop 38.65 sq. metres @ €61.49 per sq. metre
 1st Floor Retail 71.72 sq. metres @ €54.68 per sq. metre

Comment: One of the best located shops in the whole town - fully modernised at the time of its revision in 1994. Prime main street location, much superior to the subject. Devalues at €96.09 per sq. metre overall on the ground floor shop (currently 6.3% less than the subject despite superior location).

Comparison 4

Celtic Bookmakers, Main Street

Property No. 662897, RV €45 (2005)

NAV Basis: Front Shop 41.14 sq. metres @ €130 per sq. metre
 Rear Shop 48.44 sq. metres @ €70 per sq. metre
 Small Store 1.08 sq. metres @ €54.67 per sq. metre

Comment: Main street location, superior to the subject. Devalues at €99.27 per sq. metre overall on the ground floor shop (currently 6.3% less than the subject despite superior location.) Property leased on a 9 year 11 month lease from 1/4/2004 with 3 year reviews. Initial rent of €30,000 p.a.

Comparison 5

Extravision PLC, Abbey Street

Property No. 663412, RV €68.57 (1994)

NAV Basis: Front Shop 57.6 sq. metres @ €123.03 per sq. metre
 Rear Shop 54.9 sq. metres @ €68.35 per sq. metre

Comment: Prominent location along recognised retail street (Abbey Street- which also forms part of Main Street). Devalues at €96.34 per sq. metre overall (currently 6% less than the subject despite superior location).

Comparison 6

Wicklow Hire, Abbey Street

Property No. 2171850, RV €80 (2004 1st Appeal)

NAV Basis: Shop 122.3 sq. metres @ €88.85 per sq. metre
 1st Floor 121 sq. metres @ €34.16 per sq. metre

Display Yard @ €650 (NAV)

Comment: Unit has access from Abbey Street (set back from the street) and more importantly frontage onto Supervalu's entrance courtyard. Superior location to the subject (currently 13.33% less than the subject despite superior location).

Comparison 7

Dooley Poynton, Main Street (former Wicklow Credit Union)

Property No. 663371, RV €50 (2004)

NAV Basis: Ground Floor 81.6 sq. metres @ €104.49 per sq. metre

Understairs Store: 1.2 sq. metres @ €41 per sq. metre

1st Floor Offices 45 sq. metres @ €41 per sq. metre

Comment: Main Street location, superior to the subject - high volume of passing traffic (currently 6.6% less than the subject despite superior location).

Cross-examination

When questioned by Ms. Malone, Mr. Halpin agreed that the subject property is a modern retail unit located opposite Supervalu and a public car park.

Respondent's Evidence

Ms. Malone, having taken the oath, adopted her précis as her evidence-in-chief. She outlined the location, description, tenure, floor areas and valuation history of the property. She stated that, in her opinion, the best method for valuing this property was on an overall basis.

Basis of Valuation

Ms Malone stated that the rateable valuation was assessed at 0.5% of the net annual value which is in line with the basis adopted for the determination of other revised properties in the same rating authority area as the subject. She further stated that the valuation is made by reference to the values of comparable properties appearing in the valuation list for the Wicklow Town Council area. She contended for an NAV of €17,793.40 giving a rateable valuation €89, as follows:

Ground Floor Retail 172.77 sq. metres @ €103.45 per sq. metre = €17,793.40

Rateable Valuation = Total NAV €17,793.40 x 0.005 = €88.97

Say RV €89

In support of her opinion of net annual value, Ms. Malone put forward three comparisons, all of which are located near the subject.

Comparison 1

Property Number 2095115 - Moviedrome Ltd., Unit 5.6, Supervalu Centre, Church Street, Wicklow. This is a purpose-built retail unit opposite the subject, valued as follows:

Ground Floor Retail 167.9 sq. metres @ €128.24 per sq. metre = €21,532.09

Rateable valuation = €21,532.09 x 0.005 = €107.66 Rounded to €107

Comparison 2

Property Number 2095113 - Greg and Faine Rintoul T/A Time C, Unit 3.4 Supervalu Centre, Church Street, Wicklow. This is a purpose-built retail unit within the Supervalu shopping centre complex, valued as follows:

Ground Floor Restaurant 95.2 sq. metres @ €146.01 per sq. metre = €13,900.10

Rateable Valuation = €13,900.10 x 0.005 = €69.50 Rounded to €69.84 [*sic*]

Comparison 3

Property Number 662722 - Aine O'Leary & Val Young T/A Heels Shoe Boutique, Bridge Street, Wicklow. This is situated on the corner of Bridge Street and Church Street, *circa* 50 metres south of the subject property. It is a corner location. Valued as follows:

Ground Floor Retail 71.38 sq. metres @ €144.00 per sq. metre = €10,278.72

Rateable Valuation = €10,278.72 x 0.005 = €51.39 Rounded to €51

In conclusion, Ms. Malone made the following points:

- *Having considered the valuation, there appears to be no grounds for adjusting the valuation levels applied.*

- *The subject property was valued by reference to Tone of the List, Section 49(1) of the Valuation Act 2001.*
- *The issues raised by the appellant have been adequately reflected in my valuation.*

Ms Malone submitted that a valuation of €89 is fair and reasonable.

Both parties submitted maps and photographs of the subject premises and comparisons.

Findings

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

1. The Tribunal is of the view that valuing the subject property on an overall basis is the correct approach.
2. The subject property is in a secondary location and is poorly configured.
3. The Tribunal considers the respondent's comparison property no. 1 to be of most assistance, being located almost directly opposite the subject on the same street.
4. The Tribunal notes the respondent's evidence that the subject property was valued at a rate per sq. metre circa 19% lower than that of the aforementioned comparison to allow for the disadvantages attaching to the subject when compared with this comparison.
5. However, the Tribunal is of the view that a 19% allowance is insufficient and that a further allowance in the order of an additional 10% is appropriate in this case.

Determination

Ground Floor Retail 172.77 sq. metres @ €93.10 per sq. metre = €16,084.89

RV = NAV €16,084.89 @ 0.5% = €80.42

RV Say €80

And the Tribunal so determines.