

Appeal No. VA12/3/005

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

Lots Furnishings Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2210702, Retail Warehouse at Lot No.1 H Unit 2, Manor East, Tralee Rural, Tralee, County Kerry.

B E F O R E

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

Deputy Chairperson

Fiona Gallagher - BL

Member

Patricia O'Connor - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF JANUARY, 2013

By Notice of Appeal received on the 12th day of July, 2012, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €125 on the above described relevant property.

The grounds of appeal are set out in a schedule accompanying the Notice of Appeal, copies of which are attached at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal on the third floor of Holbrook House, Holles Street, Dublin 2, on the 23rd day of August, 2012. Mr. Tom McGillicuddy of Lots Furnishings Ltd. represented the appellant, and the respondent was represented by Mr. Alan Sweeney, B.Sc. Property Valuation & Management, a valuer at the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

At Issue

Quantum.

The Property

The subject property is located at Unit 2, Manor Park, Mile Height, Tralee, Co Kerry. The subject property is one of five new retail warehouse units built on the site of the former Heat Merchants warehouse, containing suspended ceiling, recess lighting, sliding doors, office accommodation and toilets and solid concrete floors at ground and first floor level.

The property is held under a 21 year FRI (Full Repairing Insuring) Lease from August 2011 with a passing rent of €50,000 net of VAT.

Location

Manor Park is located on the eastern edge of Tralee town just off the M21, which is the main route for traffic entering Tralee from the South and East, and accessed via a slip road off the N21 at the Clashlehan roundabout. The retail park is situated adjacent to Manor West Retail Park which is the main shopping centre in Kerry and is a short drive from Tralee town centre. Tralee is the principal town in County Kerry with a population of in excess of 23,500.

Services

The subject property is served with mains power, water, telephone, storm and foul sewer. The retail park has not been taken in charge by the Local Authority and is maintained by the Landlord. The tenants contribute to a management fund at a rate of €1 per square metre. The retail park is also provided with car parking spaces.

Floor Areas

The accommodation of the subject property is as follows:

Ground floor Retail Warehouse	253.09 sq. metres
First floor Retail Warehouse	<u>253.91</u> sq. metres
Total gross internal area (GIA) was agreed at:	507.00 sq. metres.

Valuation History

20 th September 2011:	A Valuation Certificate (proposed) was issued on the subject property with an RV of €138.00.
21 st November 2011	Following representations by the appellant, the RV was reduced to €25.
16 th December 2011.	An Appeal was lodged with the Commissioner of Valuation by the appellant.
18 th June 2012.	The RV remained unchanged following Appeal.
12 th July 2012.	An Appeal was lodged with the Valuation Tribunal against this decision.

Appellant's Case

Mr. McGillicuddy stated that prior to moving into the property approximately one year ago, he had carried out costings and based the rates figure on one similar to that paid by Pat McDonnell Paints (comparison 2 below). The appellant accepted that it was hard to identify direct comparisons to the subject property and described his location as slightly off-beat.

The appellant stated that his main comparison was Pat McDonnell Paints (comparison 2), pointing out that his rateable valuation was approximately 50% greater than that paid by comparison 2. The appellant accepted that his final three comparisons were car dealers and

were not directly comparable but did state that they were all clearly visible from the main road, unlike the subject property.

The appellant stated that a first floor location for furniture retail is deemed to be worth 50% less than the trading value of the ground floor. He contended that a rateable valuation of €6 per square metre would amount to a rates bill of approximately €8,000 per annum whereas the rateable valuation contended for by the respondent would result in a €10,000 rates bill per annum.

The appellant confirmed that the retail park was not maintained by the Council but privately by the Landlord. The appellant pointed out that in effect he had no front of house parking and that his customers would usually have to park at Pat McDonnell Paints (comparison 2) and walk back to his unit. He accepted that there were approximately 10 shared car parking spaces in front of his block but stated that because of the nature of its business, customers of the neighbouring café would tend to use all of these spaces. The appellant confirmed that there was a suggestion of a levy in respect of management of the retail park being imposed by the Landlord but this is not in place at present. The appellant also stated that because of the orientation of his unit, the subject property cannot be seen on entry into the park, but only when one is exiting the park.

The appellant concluded by stating that based on the respondent's figures, he felt that a base figure of approximately €47 per sq. metre was accurate but pointed out that there was what he termed a "certain amount of opinion" in fixing a rate on a property, particularly where it is new in the Valuation List.

Valuation by the Appellant

Mr. McGillicuddy contended for a rateable valuation of €6.94 per sq. metre for the subject property, calculated as follows:

Ground Floor	253.09 sq. metres @ €47.83 per sq. metre	=	€12,105.29
First Floor	253.91 sq. metres @ €28.69 per sq. metre	=	<u>€ 7,284.67</u>
Total NAV			€19,389.96
	€19,389.96 x 0.5%		
	RV €6.94		

Appellant's Comparison Properties

In support of his opinion of ratable valuation, Mr. McGillicuddy put forward 7 comparison properties, as follows:

1. Subject property.
2. Pat McDonnell Paints, Mile Height, Killarney Road, Tralee, Co Kerry. RV€155
3. Bowling Buddies, Mile Height, Killarney Road, Tralee, Co Kerry. RV€205
4. Tralee Furniture Centre, Mile Height, Killarney Road, Tralee, Co Kerry. RV€165
5. Billy Naughton Motors, Mile Height, Killarney Road, Tralee, Co Kerry. RV€125
6. Kerry Motor Works, Mile Height, Killarney Road, Tralee, Co Kerry. RV€209.51
7. Adams Autos, Mile Height, Killarney Road, Tralee, Co Kerry. RV€152.37

Cross-examination of the Appellant

The respondent did not have any questions on cross-examination.

Respondent's Case

Mr. Sweeney stated that the subject property was clearly visible upon leaving the retail park but somewhat less visible when entering the park. He clarified this by saying that the subject property could not be seen without turning your head on entering the retail park. The respondent stated that the property was provided with plenty of parking, citing 1,000 car parking spaces in Manor West Retail Park. It was the respondent's opinion that the subject property was better located than a number of his comparisons and he stated that there was no direct comparison for the units in Manor Park, including the subject property.

Mr. Sweeney confirmed that an allowance had been made for the subject property given that it was much larger than his comparisons 1 and 2. He felt that both comparisons 3 and 4 were inferior to the subject property. He stated that his comparison 5 (Pat McDonnell Paints) comprised a showroom element attached to a warehouse or store lock up. He further confirmed that an end allowance had been given to comparison 5 to compensate for poor access through the former Heat Merchants yard. Mr. Sweeney stated that his comparison 6 was not a property which he would compare to the subject property and this should be disregarded. The respondent was unable to assist the Tribunal in calculating the quantum allowance for comparison 5, as Mr. Sweeney felt that he was not able to speak for another valuer.

Mr. Sweeney confirmed that his comparisons 1 and 2 had not been appealed. Upon further enquiry he confirmed that none of his comparisons (other than comparison 6 which had been disregarded) had been subject to representations or First Appeal. Upon a query from the Tribunal as to the initial assessed rate of €47.53 per sq. metre applied to the first floor of the subject property, Mr. Sweeney confirmed that his current calculations did not reflect the same percentage reduction when comparing the level now assessed on the ground floor. Mr. Sweeney accepted that if he had applied the same percentage reduction across both floors, this would have resulted in a lower rateable valuation on the subject property.

The respondent did not agree that the subject property had a lesser street and public profile to any of the comparisons. The respondent accepted however, that circumstances had changed in respect of the retail park since the end allowance had been granted in 2003 given the level of development which had been carried out at the rear of the building in the mid 2000's.

In response to a question by the Tribunal, the respondent accepted that there was limited parking in the retail park and parking next door in Manor Park would not be of any benefit, given that any potential customer would have to walk down to the main road to enter Manor Park from Manor West. The respondent did state however that on the two occasions that he had visited the subject property, he had had no difficulty with parking.

Valuation by the Respondent

Mr. Sweeney contended for a rateable valuation of €125 for the subject property, calculated as follows:

Ground Floor Retail Warehouse	253.09 sq. metres @ €54.66 per sq. metre =	€13,834
First Floor Retail Warehouse	253.91 sq. metres @ €44.42 per sq. metre =	<u>€11,279</u>
Total NAV		€25,113
€25,113 x 0.5%		
RV	€125.56 rounded to	€125

Respondent's Comparison Properties

In support of his opinion of rateable valuation, Mr. Sweeney put forward 6 comparisons properties, as follows:

1. Kerry Hair Supplies, Unit 3 Manor Park, Mile Height, Tralee, Co Kerry. RV€46
2. Gemma Knightlys Hair and Beauty, Unit 4 Manor Park, Mile Height, Tralee, Co Kerry. RV€37
3. World of Wonder, Mile Height Retail Park, Tralee, Co Kerry. RV€250
4. Soundstore, Unit 1 Mile Height Retail Park, Tralee, Co Kerry. RV €295
5. Pat McDonnell Paints, Mile Height, Killarney Road, Tralee. RV€155 (including allowance)
6. Kerry Motor Works, Mile Height, Killarney Road, Tralee, Co Kerry. RV €209.51.
(This comparison was disregarded)

Cross-examination of the Respondent

Mr. Sweeney accepted the circumstances of the change in respect of his comparison 5 (Pat McDonnell Paints) in that there had been a lot of development on the Heat Merchants site since the end allowance was first granted in 2003. The appellant put it to the respondent that in fixing a rate for the subject property by comparison with his comparisons 1 and 2, neither of which had been contested, was like “shooting in the dark” but the respondent did not accept that contention. The respondent however, did accept the appellant’s contention of a percentage reduction in value between the ground floor and the first floor but felt that relevant value in this context might be 2/3 as opposed to the 50% reduction contended for by the appellant.

Upon questioning by the Tribunal as to the tone of the list (tone) in Manor Park, the respondent said that prior to his inspection the tone in the area would have been €47.83 per sq. metre. However, he said that on inspection he felt that this subject property was more valuable and of a higher standard than the comparisons and that to be fair to the properties already on the Valuation List (list) he felt that he had to be cautious in the levels he was going to apply to the units in Manor Park.

Summaries

Both parties made brief closing statements.

Findings

The Valuation Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions at hearing, and finds as follows:

1. The respondent confirmed that the retail warehouses rated at the benchmark value of €47.83 per sq. metre qualified for quantum allowances based on their larger floor areas. There were no other comparisons on the list in terms of similar floor area and the rate per square metre applied which were adjudicated from the benchmark.
2. The Tribunal is satisfied that if the benchmarked rate for retail warehouses of larger floor area qualifying for a quantum allowance is to be found on the list calculated by reference to an initial base rental rate of €47.83 per sq. metre, then it infers from same that the allowance granted by the Commissioner of Valuation equated to approximately 10%. Consequently the Tribunal finds that the subject property should be valued in accordance with those values on the list, but readjusted with a premium on the rate to remove the quantum allowance and calculate the NAV accordingly.
3. The parties agreed that the parking facilities at the subject property were not as generous as was provided in the appellant's comparison properties numbers 3 to 5. The Tribunal further notes that the respondent's comparison 6 is to be disregarded.
4. The respondent also confirmed that the profile of the subject property, as well as comparisons 1 and 2, was limited on ingress to Manor West but improved on egress.
5. The Tribunal further notes the respondent's evidence in respect of the differential in trading value between first floor and ground floor accommodation, but does not consider such as a matter of consideration in the rating hypothesis.

Determination

In view of the foregoing, the Tribunal determines that the rateable valuation on the subject property should be calculated as follows:

Ground Floor Retail Warehouse	253.09 sq. metres @ €3.14 per sq. metre =	€13,449.20
First Floor Retail Warehouse	253.91 sq. metres @ €35.43 per sq. metre =	<u>€ 8,996.03</u>
Total NAV		€22,445.23

$$€22,445.23 \times 0.5\% = €112.23$$

RV say €112

And the Tribunal so determines.