

Appeal No. VA12/3/019

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

DFL Fashion Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2211542, Shop at Lot No. Unit 5C, The Cornmarket Centre, Centre B, Centre West, County Borough of Cork.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

Frank Walsh - QFA, Valuer

Member

Patricia O'Connor - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 31ST DAY OF JANUARY, 2013

By Notice of Appeal received on the 1st day of August, 2012 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €154 on the above described property.

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

"The proposed RV is excessive, inequitable, not in keeping with tone of list/relevant comparisons."

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 16th of October, 2012. The appellant was represented by Mr. Séamus Costello BSc, FSCSI, MRICS, chartered surveyor with DTZ Sherry FitzGerald (Cork), and the respondent was represented by Mr. Don Donovan, BSc (Property Management & Valuation Surveying), Dip FM, 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 comprises an internal mall unit on the ground floor of the Cornmarket Centre.

Location

The Cornmarket Centre is a new retail development fronting onto Cornmarket Street in Cork City Centre and adjacent to the retail areas of Cork City.

Floor Areas

The agreed zoned floor areas of the subject property are as follows:

Zone A	46.9 sq. metres
Zone B	54.9 sq. metres
Zone C	<u>29.7 sq. metres</u>
Total Area	131.5 sq. metres

Valuation History

1. The property was listed for revision in 2011 following a request by Cork City Council.
2. In November 2011 a draft certificate issued with a rateable valuation of €230.
3. On 9th December 2011 the appellant made representations to the revision officer.
4. In December 2011 a final certificate issued without change.
5. On 17th January 2012 the appellant lodged an appeal with the Commissioner of Valuation.
6. In July 2012 the rateable valuation was reduced to €154 and a valuation certificate issued.
7. On 31st July 2012 the appellant's agent lodged a Notice of Appeal with the Valuation Tribunal.

Appellant's Case

Mr. Costello took the oath and adopted his précis. He commenced his evidence by saying that the centre is still largely vacant and this, in his opinion, confirms the poor quality of the development and the location. He stated that, in his opinion, the most appropriate comparisons are located on Paul Street.

Valuation by the Appellant

Mr. Costello contended for a rateable valuation of €5.30 for the subject property, calculated as follows:

Zone A	46.90 sq. metres @ €185.00 per sq. metre	= € 8,676.50
Zone B	54.90 sq. metres @ €2.50 per sq. metre	= €5,078.25
Zone C	29.70 sq. metres @ €46.25 per sq. metre	= <u>€1,373.63</u>
		€15,128.38

Opinion of NAV: €15,128

@ 0.63% = €5.30

Appellant's Comparison Properties

In support of his opinion of rateable valuation, Mr. Costello put forward two comparison properties, as follows:

1. Unit EM4/5 Paul Street Shopping Centre, Paul Street, Cork. The property comprises a ground floor internal mall unit facing the front door of Paul Street Shopping Centre and has a rateable valuation of €84, calculated as follows:

Zone	Sq m	NAV/Sq m	Total €pa
A	35.00 x	218.73	= 7,655.55
B	43.53 x	109.36	= 4,760.44
C	<u>17.47</u> x	54.68	= <u>955.26</u>
Total	96.00		13,371.25

Equates to RV of €84

2. Unit EM1/2 Paul Street Shopping Centre, Paul Street, Cork. This property comprises a corner ground floor internal mall unit within Paul Street Shopping Centre with a rateable valuation of €7.86, calculated as follows:

Zone	Sq m	NAV/Sq m	Total €pa
A	43.28 x	218.73	= 9,466.63
B	48.01 x	109.36	= 5,250.37
C	<u>14.94</u> x	54.68	= <u>816.92</u>
Total	106.23		15,533.92

Equates to RV of €7.86

Cross-examination of the Appellant

On cross-examination Mr. Costello stated that it was his opinion that the tone of the list was flawed in respect of this development and that this was why he suggested that Paul Street was the best comparison. He was of the view that it was more appropriate to look at a similar type of location rather than at a range of properties.

Respondent's Case

Mr. Donovan took the oath and adopted his précis. On behalf of the respondent Mr. Donovan said that he was of the view that the difference between the appellant's and the respondent's cases was his having looked at a broader spectrum in assessing the tone of the list. He pointed out that it would be unusual to look at a single development and stated that given the

differences between the subject property and the Paul Street development, this would necessitate a broader view of comparisons.

Valuation by the Respondent

Mr. Donovan contended for a rateable valuation of €154 for the subject property, calculated as follows:

Zone A	46.9 sq. metres @ €300 per sq. metre = €14,070.00
Zone B	54.9 sq. metres @ €150 per sq. metre = € 8,235.00
Zone C	29.7 sq. metres @ €75 per sq. metre = <u>€ 2,227.50</u>
Total NAV	€24,532.50

RV €154.55

Say €154

Respondent's Comparison Properties

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

1. TK Maxx Cornmarket Centre RV €2,250.
2. Edward Kenny, 32 Oliver Plunkett Street. RV €14.28.
3. Viyella, Opera Lane. RV €385
4. Coast, Patrick Street. RV €14.28
5. Vibes & Scribes, Lavitts Quay. RV €10
6. Matthew Centre Lavitts Quay, RV €285
7. Wired to the world, North Main Street. RV €85

With regard to the respondent's comparisons Mr. Donovan made the following comments;

1. Comparison 1 – the ground floor was broken down to Zone A at a rate of €409.87 per sq. metre. He said that this was not an ideal comparison given the size of the overall dimensions and nature of the property.
2. Comparison 2 – he viewed this as a better comparison as it was more established. The Zone A rate for this property was €351.32 which was 17% higher than that of the

subject property. He made the point that there was an existing Tribunal judgment in relation to this property.

3. Comparison 3 – he said that Opera Lane comprises the best retail in Cork and was a short distance from the subject property.
4. Comparison 4 – again this is a short distance from the subject property. Mr. Donovan accepted that it was a more established retail area. Mr. Donovan was of the view that this was a poorer location than that of the subject property.
5. Comparison 5 & 6 – again Mr. Donovan was of the view that these were situated in poor locations.
6. Comparison 7 – again Mr. Donovan pointed out that the level applied to the Zone A of this property was 9% lower than that applied to the subject property and although this comparison is reasonably close to the subject property, it is in a poor retail location.

Cross-examination of the Respondent

Mr. Donovan stated that he was not aware that the property was first planned as a hotel. He accepted that a large number of the units were vacant but was of the view that this was more down to the timing of the release of the development, not a reflection on the centre. He said that he was not aware of any negotiations which the tenants had with the landlord. He again pointed out that he did accept that the footfall was well below what was envisaged but was of the view that this was by reference to the prevailing economic conditions. On questioning from Mr. Costello he confirmed that he did not look at every single retail property in the city as some would have been valued on a rental basis as being close to the 1988 valuation date and would not have been appropriate. He discounted, for example, some of the arcades or shopping centres which would not have been appropriate comparisons. Mr. Donovan disagreed that the units in Paul Street were appropriate comparisons as he was of the view that the Cornmarket Centre, where the subject property was located, was designed to attract clothing retailers whereas the subject mix in Paul Street was not the subject mix that the developers of the subject property were looking for.

Mr. Costello queried the analysis of the figures upon which Mr. Donovan had based his opinion. Mr. Donovan stated that he had done this by looking at the entire range of comparisons and forming an opinion of where the subject property fitted into that scheme. In response to questioning from the Tribunal, Mr. Donovan accepted that the unit on St.

Patrick's Street as per his comparison would be a better retail location. Of the remainder of his comparisons, he opined that Opera Lane was a better location than that of the subject property. He also was of the view that Paul Street was a better location but that the Quays was a poorer location than that of the subject property. He confirmed that the rateable valuation of the subject property had been reduced from €230 to €154 based on the comparisons and further research done following the appeal made to the Commissioner of Valuation. He rejected the appellant's suggestion that the rateable valuation was too high in the first place. Mr. Donovan again made the point that Paul Street Shopping Centre was very different to the subject property in its layout and type of tenants.

Findings

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

1. The task of the Tribunal is to determine a fair and equitable valuation on the subject property based on the 'tone of the list', in compliance with section 49(1) of the Valuation Act, 2001.
2. The Tribunal notes that the proper method for establishing the 'tone of the list' is by having regard to the existing rateable valuations on the Valuation List, where available. Both the appellant and the respondent have furnished a number of comparable properties. In particular, the respondent has provided a broad basket of comparable properties which afforded a comprehensive overview of the retail property sector.
3. Mr. Donovan asserted during the course of the hearing that his comparison property no. 1 should be disregarded because of the unique nature of the property and the Tribunal has accordingly disregarded it in its deliberations.
4. The Tribunal is of the view that most weight should be accorded to the values of the appellant's comparison properties because of their close proximity to the subject property.

5. The Tribunal accepts Mr. Donovan's contention that the original intention of the developers of the Cornmarket Centre was for a different retail mix from that of Paul Street Shopping Centre. That said, the Tribunal is of the view that the Paul Street Shopping Centre is a superior trading centre and location due to the fact of its having an anchor tenant, higher footfall than the Cornmarket Centre and multi-storey car parking.

Determination

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

Zone A	46.9 sq. metres @ €215 per sq. metre	= €10,083.50
Zone B	54.9 sq. metres @ €107.50 per sq. metre	= € 5,901.75
Zone C	29.7 sq. metres @ €53.75 per sq. metre	= <u>€ 1,596.37</u>
Total NAV		€17,581.62

RV @ 0.63% = €110.76

RV Say €10

And the Tribunal so determines.