

Appeal No. VA12/3/026

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

P C Hospitality Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2203826, Restaurant/Cafe at Lot No. Retail Units 6-7, Tullow Street, Carlow Urban, Carlow UD, County Carlow.

B E F O R E

Niall O'Hanlon - BL

Deputy Chairperson

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

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF FEBRUARY, 2013

By Notice of Appeal received on the 10th day of August, 2012 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €184 on the above described relevant property.

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

"On the basis that the RV as assessed is excessive and inequitable & not in accordance with broader Tone in Carlow."

"The Commissioner has failed to take into account the actual location of the subject & its relative value. Greater allowance needs to be made if the property is to be fairly valued against the established Tone for comparable properties."

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 day of November, 2012. The appellant was represented by Mr. Eamonn Halpin, B.Sc. (Surveying), MRICS, MSCSI, a director of Eamonn Halpin & Co. Ltd. The respondent was represented by Ms. Claire Callan, B.Sc. (Surveying), M.Sc. in Planning & Development, a District 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 (Units 6 & 7 Shamrock Plaza) comprises of a ground floor restaurant, with single frontage to front and double return frontage which is angled and set back, open-plan with seating for approximately 80 persons in a newly constructed purpose-built development comprising of a mix of apartments, and offices with 6 retail units at ground floor level which includes a bank, building society, coffee shop/bakery hairdressers and a pharmacy, and with no anchor tenant. The subject property has a limited set down car parking area to the side of the property with a car park also attached to the development which consists of free car parking.

Location

The property is located on Tullow Street in Shamrock Plaza approximately 400 metres from Potato Market and the central area of Tullow Street, adjacent to the R726 which connects to the N9 Carlow/Waterford Road in Carlow Town.

Services

All main services are connected.

Floor Area / Accommodation

The subject property consists of a restaurant with an area of 183 sq. metres also with a preparation area of 35 sq. metres as agreed by the parties. Total area: 218 sq. metres.

Tenure

Title is Leasehold

Valuation History

August 2011	Property inspected on foot of a request for a revision by Carlow Town Council.
October 2011	Proposed Valuation Certificate issued at €10.
November 2011	Representations were made on behalf of the appellant by agents Mr. Eamonn Halpin & Co Ltd.
December 2011	Valuation Certificate issued unchanged at RV €10.
January 2012	Appeal lodged with the Commissioner of Valuation on behalf of the occupier through agents Mr. Eamonn Halpin & Co Ltd.
July 2012	Valuation Certificate issued at RV €184 (reduced without agreement).
August 2012	The occupiers appealed to the Tribunal through their agents Mr. Eamonn Halpin & Co Ltd.

Appellant's Case

Mr Eamonn Halpin took the oath and adopted his précis as his evidence-in-chief. He then provided the Tribunal with a review of his submission and made the following points:-

- The subject property is in a moderate location at the eastern extremity of the retail activity in Carlow town being at the junction of Green Lane and Staplestown Road.
- The prime retail area in Carlow is located in the Potato Market and adjoining sections of Tullow Street and Kennedy Avenue, where Carlow Shopping Centre is located.
- The subject property is considerably removed from the prime area and largely surrounded by secondary and tertiary uses along Staplestown Road and Barrack Street and the east end of Tullow Street.

- The property is not located in a conventional shopping centre development. There are only 6 retail units in total in the development and as such the development is not large enough to internally generate sustainable trade resulting in little footfall.
- The relative attractiveness of the subject property to the hypothetical tenant is compromised by the configuration of the unit and by its location and the lack of a self – sustaining retail development at the subject property location. The unit also has approximately 50% of its frontage to Green Lane obscured by the Coffee Shop which lies to the front.
- The level of the R.V. is excessive in view of the size of the unit and it is inequitable to assess this property at the proposed level applied to superior town centre properties which are in a prime location.
- This off-centre location should be valued at a much lower level given what is applied to the prime area of the town. All the main areas of the town are zoned and this approach would suggest a much lower level if assessed on an overall basis at this secondary location.
- The appellants believe that comparisons for similar restaurant/café/takeaway units in the Potato Market valued at €5.67 per sq. metre and €109.34 per sq. metre represent a fair level for the subject property on an overall basis, with the lower level for the larger property. Though older than the subject property, these units benefit from a significantly superior location and profile to the main retail centre of Carlow and the highest footfall in the town.
- The appellant seeks a reduction to more fairly reflect their unit's relative value considering its location together with the level applied to other units in Carlow Town as shown by the comparisons. The relative attractiveness of the subject property to the hypothetical tenant is compromised by its location and the lack of a self-sustaining retail development at the subject property's location.

Mr. Halpin's 6 comparisons are set out in his précis at page 7 and page 8.

Based on the 6 comparisons submitted, together with additional details on same contained within his précis, Mr. Halpin concluded that the rateable value of the subject should now be determined as follows:

Valuation

Estm.Nav of 1988 Basis:

Restaurant	183 sq. metres @ €5.67 per sq. metre	=	€17,508
Prep Area	35 sq. metres @ €41.00 per sq. metre	=	<u>€ 1,435</u>
			€19,843

RV @ 0.5% = €4.71

Say R.V. €5

Details of Mr. Halpin's 6 comparisons are at Appendix 1 hereto.

Cross-Examination

Mr. Halpin in reply to Ms. Callan agreed that the only comparison that they had in common was his comparison No. 3, Berlin Hair & Butterfly Beauty, Unit 1 Shamrock Plaza and that his other comparisons were all much further away. Mr. Halpin in reply to the Tribunal on his assessment of quantum discount sought said he was seeking a discount of approximately 12.5%. In addition, he stated that he was seeking a further 5% allowance due to the shadow cast on the subject property by the Quigley Bakery premises.

Respondent's Case

Ms. Callan having taken the oath adopted her précis as being her evidence-in-chief and assessed the rateable valuation of the subject property with a total agreed area as follows:

Valuation Assessment

Total Area	218 sq. metres @ €64 per sq. metre	=	€5,752
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NAV €5,752 x 0.5% = RV Say €178.00

(The Tribunal notes that this figure is lower than the rateable valuation of €184 currently appearing in the Valuation List in respect of the subject property, which is the valuation under appeal.)

Ms. Callan stated that the valuation adopted by the Commissioner of Valuation of €178.00 was in line with her comparisons. She believed that the issues raised by the appellant have

been adequately reflected in the assessment being put forward. In her opinion facts such as location, standard and quantum have all been appropriately accounted for in the valuation figure and submitted that it was not excessive. She said that all factors have been considered to ensure that this property is valued fairly according to its size, location and condition. Ms. Callan stated that the subject property was a modern, newly constructed, high spec, mixed-use development which enjoyed free car parking. She said that she has chosen all three of her comparisons from the Shamrock Plaza which, are in her view, in line with the tone of the list established in the area. The valuation levels were derived from the analysis of similar type property in the immediate adjoining units, none of which were appealed. Ms. Callan was asked by the Tribunal what she thought of the quantum allowance sought by Mr Halpin. She said that if a discount was appropriate in the circumstances it should be in the region of 5-7%.

Details of Ms. Callan's 3 comparisons are at Appendix 2 hereto.

Cross-examination

Ms. Callan in reply to Mr. Halpin's questioning said she believed her assessment was fair and equitable and that one should not have varied values for similar type properties. She accepted that quantum allowances are justified on floor area as was done in Comparisons Nos. 1 and 2 in the 1990s. Ms. Callan, when asked what affect the Quigley Bakery premises had on the subject property, accepted that it did hamper the subject unit by the shadow it cast on the subject unit. On the issue of secondary location she said it was considered and that the decision of the appeal officer to make an allowance was granted.

Findings

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

1. In the instant appeal, the comparisons put forward by the respondent are of the most assistance to the Tribunal as these are located within the subject development whereas, with one exception, the appellant's are not so located. The one comparison put forward by the appellant which is within the subject development was a common comparison. The respondent's comparisons are especially helpful given their similarity in construction and finish with the subject property.

2. Of the three comparisons cited by the respondent, Comparison No. 1 is closest to the subject property in terms of size.

3. The respondent's Comparisons Nos. 2 and 3 (Comparison No. 3 being common to both parties) are considerably smaller than the subject property, in addition to which the Tribunal notes the evidence that the valuation of Comparison No. 3 was influenced by its "locational differential".

4. The Tribunal notes that the rate per sq. metre put forward in evidence at the hearing on behalf of the respondent in respect of the subject property, i.e. €64.00, has also been applied by the respondent to its Comparison No. 1. The Tribunal finds that this is the appropriate rate per sq. metre for the subject property.

5. The Tribunal is of the view that a discount of 10% should be applied; 5% in respect of quantum and 5% in respect of shadow.

Determination

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

Restaurant 218 sq. metres @ €147.60 per sq. metre = 32,176.80

RV = €32,176.80 @ 0.5% = €160.88

RV Say €160

And the Tribunal so determines.