

Appeal No. VA96/2/040

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**United Cinemas International**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Cinemas at Map Ref: 7A.8A/3 Malahide Road, Ward: Coolock, Ayrfield, County Borough of Dublin

Quantum - Method of Valuation

**B E F O R E**

**Fred Devlin - FRICS.ACI Arb.**

**Deputy Chairman**

**Brid Mimmagh - Solicitor**

**Member**

**Rita Tynan - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 25TH DAY OF JULY, 1997**

By Notice of Appeal dated the 22nd day of April 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £3,000 on the above described hereditament.

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

"The valuation is excessive and inequitable when rental levels and other factors are taken into consideration."

This appeal proceeded by way of an oral hearing which was held in Dublin on the 13th day of November 1996. The Appellant was represented by Mr. Brian Bagnall, ARICS, ASCS, and Principal of Brian Bagnall & Associates and the Respondent was represented by Mr. David Molony, MA, BSc, ARICS, ASCS, a Valuer in the Valuation Office.

**The Property:**

The subject of this appeal is a modern purpose built ten screen cinema constructed in 1991 on the Malahide Road at Coolock about 4 miles north of the city centre. The cinema shares a common site with a leisure complex catering for adults and children, a Power City retail outlet and a Burger King restaurant. The undeveloped portion of the site is used for parking and 650 spaces are provided. The entire development is self contained and the surrounding area is mainly in residential use; close by are a number of large industrial premises and the Coolock Industrial Estate.

The building is rectangular in configuration with a fair faced brick outerleaf and a flat metal deck roof with an asphalt finish. At the front there is an open canopy over the entrance to the main foyer area.

The accommodation within the complex comprises at ground floor the entrance foyer concourse with ticket sales kiosk, shops, administration offices, stores and toilets. The projection room is at first floor level together with additional office accommodation, staff room and toilets.

Evidence was given that the building was constructed and completed to a high specification and the concourse area has a ceramic tiled floor finish, plastered and painted walls and suspended ceiling, incorporating recessed lighting. The cinemas have a similar finish with sloped floors and sound insulated walls. Evidence was given that the total cost of the cinema complex including site was £3,551,000 and that the gross turnover was £1,740,000 reflecting an occupancy rate of 30%.

All main services are connected to the property and gas fired warm air heating is installed throughout and air conditioning is also installed.

**Accommodation:**

The area of the building measured on a net internal area basis is agreed as follows:-

Ground Floor	31,750 sq.ft
First Floor	4,880 sq.ft.

Mr. Bagnall gave evidence that the gross external area of the ground floor is 39,243 sq.ft. but it would appear that this area has not been agreed.

**Seating Capacity:**

The seating capacity for each of the ten cinemas is as follows:-

Cinema no. 1	204 patrons
Cinema no. 2	204 patrons
Cinema no. 3	204 patrons
Cinema no. 4	204 patrons
Cinema no. 5	326 patrons
Cinema no. 6	326 patrons
Cinema no. 7	204 patrons
Cinema no. 8	204 patrons
Cinema no. 9	204 patrons
Cinema no. 10	<u>204 patrons</u>
<b>Total</b>	<b><u>2,284 patrons</u></b>

**Oral Hearing:**

At the oral hearing Mr. Bagnall and Mr. Molony adopted as their evidence in chief their written submissions and valuations which had previously been submitted to the Tribunal and exchanged between them.

### **The Appellant's Evidence:**

In additional oral evidence to the Tribunal, Mr. Bagnall said that this appeal to the Tribunal was the first in relation to a multiplex cinema complex and that the decision would set the trend for future determinations.

Mr. Bagnall said that in arriving at his opinion of net annual value he had looked at the assessment of other purpose built multiplex cinemas in Dublin and elsewhere. However, he had not relied upon those located in designated areas as the impact of the tax concession and rates relief made accurate analysis difficult.

In total Mr. Bagnall introduced details of seven comparisons, including five cinema complexes and these comparisons are included in Appendix 1 which forms part of this decision. Mr. Bagnall also provided at comparison number 7, details of a factory premises close by to illustrate the difference in the rate per square foot attributable to buildings in close proximity to one another and which are in different use.

On the basis of analysis of his comparisons, Mr. Bagnall submitted three valuations calculated on the three different bases as set out below.

#### **1. Gross External Area Basis**

Ground Floor	39,243 sq.ft. @ £4.43 psf = £173,846
First Floor (net internal)	4,880 sq.ft. @ £2.50 psf = <u>£ 12,200</u>
Total	<u>£186,046</u>
Fraction @ 0.63%	RV £ 1,172

He retained the net internal calculation for the first floor as he indicated that accurate measurement of the gross external is not possible for this area.

#### **2. Net Internal Area Basis**

Ground Floor	31,750 sq.ft. @ £5.00 psf = £158,750
First Floor	4,880 sq.ft. @ £2.50 psf = <u>£ 12,200</u>

Total	<u>£170,950</u>
Fraction @ 0.63% gives an RV of	£ 1,077

### 3. Seating Capacity Basis

2,284 seats @ 43p = £982

#### *Summary*

Method 1 - RV = £1,172

Method 2 - RV = £1,077

Method 3 - RV = £ 982

Total = £3,231 ÷ 3 = £1,077    Say    RV = £1,080

Mr. Bagnall made the following comments in relation to his valuation methods:

- "
1. The immediately adjoining unit (Leisureplex/comparison number 1) I have analysed on a gross external basis and hence the figure £4.43 psf.
  2. Comparisons 2 to 6 inclusive are all multiplex cinemas and these have all been agreed on a gross external basis with three of them at £5 psf on the ground floor and the fourth one at £3.97 psf.
  3. All these cinema complexes have a per seat basis varying from 42p to 56p. The Omniplex cinema in Santry analyses at 42.3p and is the most similar in size and location to the subject property.
  4. The first floor of UCI is very poor with no natural light and it would be below the level of finish achieved in the offices which are contained in comparison number 7 where the office complex is valued at £3.30 psf on a gross external basis.
  5. The valuation placed on these premises by the Valuation Office at £3,000 RV at best seems extraordinary and the levels used devalue at £14 psf on the ground floor and £7 psf on the first floor."

**The Respondent's Evidence:**

Mr. Molony in his evidence stressed the strategic location of the cinema complex and its proximity to several well established and densely populated suburban areas. He outlined the changes that had taken place in the cinema industry and the shift from city centre based cinemas to modern suburban multiplex developments which provided on-site car parking facilities and a wider choice of entertainment.

Mr. Molony introduced three comparisons which appear as Appendix 2 of this decision and upon an analysis of these comparisons arrived at his opinion of net annual value as set out below.

"	Estimate of Net Annual Value	
	Ground Floor	31,758 sq.ft. @ £14.25 psf = £452,551
	First Floor	4,880 sq.ft. @ £ 5.00 psf = <u>£ 24,400</u>
		Total = <u>£476,951</u>
	Estimated NAV	£476,951 @ 0.63% = £ 3,005
		Say = £ 3,000
	NAV equates to:	(i) £208 per cinema seat
		(ii) £13 psf overall."

Whilst Mr. Molony considered all the comparisons submitted by him to be relevant he considered the Omniplex cinema at Santry to be particularly relevant due to its size and location.

Under cross examination by Mr. Bagnall, Mr. Molony agreed that the Omniplex cinema was first valued at the 1993/2 revision and whilst negotiations with a Rating Consultant had taken place at that time, no correspondence was exchanged, nor was the valuation agreed. He also agreed that the valuation which appeared in the Valuation List at £945 could be devalued at £5 on the ground floor accommodation and £3 on the first floor accommodation. Dublin Corporation, he said listed this hereditament for the 1995/4 revision and on foot of this

application the valuation had been revised and the rateable valuation was now £2,800. He agreed that this assessment was currently under appeal.

Mr. Molony agreed that from a locational point of view the Omniplex cinema was better than the subject but on the other hand he considered the subject was built and finished to a higher specification.

In regard to the UCI complex in Tallaght, Mr. Molony stated that this was located in a designated area and hence it would not be liable for rates for the first ten years of its existence. Mr. Molony agreed that many occupiers of premises in the Square Shopping Centre development had not appealed their assessments and he further agreed that this could be because no rates were being paid in any event.

Mr. Molony when questioned about the rent being paid for the Virgin complex in the Parnell Centre, said that this development was also located in a designated area and that the rent was for a basic shell finish and that Virgin had to provide the fit out at their own cost.

Mr. Molony said that he had inspected the adjoining Leisureplex premises and had come to the conclusion that whilst it is somewhat similar in construction the subject has a better quality finish. When asked by Mr. Bagnall how the leisure complex was valued, Mr. Molony said that the ground floor bowling alley and games room at first floor levels were valued at approximately £5 psf and the remainder of the ancillary space at different rates varying from £3 psf to £4 psf giving a net annual value of £190,300 and a rateable valuation of £1,200.

Mr. Molony said that the first floor area contained games machines and that generally speaking this section of the building had a somewhat basic standard of finish.

In his closing remarks Mr. Molony pointed out that the sister UCI complex in Tallaght was not appealed either at the time of the original assessment or following the 1996/4 revision when the original valuation was left unchanged.

Mr. Molony in a review of Mr. Bagnall's comparisons said that the Janelle premises was not relevant as it was not a multiplex cinema in the true sense of the word. The other properties he said were located in provincial towns and hence not comparable to a large complex located in Dublin which could draw on a much larger potential customer base. A hypothetical tenant in the market Mr. Molony said would consider the catchment area to be an important factor.

Mr. Bagnall in his closing remarks contended that the valuation of the subject property could not be taken in isolation and some regard must be given to the valuation of the Leisureplex complex immediately adjoining. He referred to the valuation of the Omniplex cinema at Santry and the lack of reasons advanced for increasing the valuation from £945 to £2,800 which figure in any event was under appeal.

Mr. Bagnall said that little weight should be attached to the valuation of the UCI complex in Tallaght and the Virgin complex in the Parnell Centre as these were located in designated areas which enjoyed a ten year rates free holiday and capital tax allowances such as accelerated capital write offs and/or double rent allowance.

When asked by the Tribunal what impact designation might have on market rents, Mr. Molony stated 15%, whilst Mr. Bagnall said 40%. Neither Valuer gave an explanation as to how they arrived at their respective opinions.

**Determination:**

1. The Tribunal accepts that the cinema industry is going through a major change with the opening of suburban multiplex cinemas and the closure of city centre, single screen cinemas. The principal features of a multiplex is its high level of accessibility by road and the proximity to established centres of population. The multiplexes are designed to provide a number of individual cinemas served by a common projection room and the central concourse area contains a number of kiosks selling a range of confectionery items.
2. In relation to IMI v. Commissioner of Valuation Mr. J. Barron made the following statement:-



"... what must be considered are valuations which

(a) are comparable

(b) relate to tenements or hereditaments of similar function

(c) have been made or revised within a recent period..."

3. Using the above criteria the Tribunal finds that the three comparisons introduced by Mr. Molony are particularly relevant. Those submitted by Mr. Bagnall relate mainly to smaller cinema complexes in provincial towns and hence lesser weight is attached to this type of evidence as it is not strictly comparable. The evidence of the Leisureplex building is relevant to a degree in that it shares a common site and is of a somewhat similar size but dissimilar use. The evidence in relation to the Smurfit factory is not relevant under any circumstances.
4. The Tallaght multiplex cinema is also owned and occupied by UCI and forms part of the Square Shopping Centre development in Tallaght which opened just over six years ago. This is a twelve screen complex with a much larger area and seating capacity than the subject and has a rateable valuation of £5,000. The Square development is in a designated area where occupiers and owners benefit from generous tax breaks such as capital and double rent allowances and a ten years rate free holiday. This property was listed for the 1996/4 revision when the existing valuation was left unaltered. No appeal against this assessment has been lodged.
5. The Omniplex cinema complex is located in the Omni Park Shopping Centre development at Santry. This is a free standing building without the centre proper and is owner occupied. It is somewhat similar in size to the subject and was first valued at £950 but at the 1995/4 revision this was increased to £2,800. This assessment is currently under appeal. The Tribunal agrees with Mr. Molony's assertion that whilst the location of the Omniplex centre may be better than the subject the quality of finish is not as good.
6. The Virgin cinema complex is considered to be particularly relevant in that it is let for a term of 35 years from 1995 at an initial rent of £350,000 pa. The lease provides for rent reviews at 5 yearly intervals and the rent is on the basis of a shell finish. The Valuers are agreed that the net internal area is 40,154 sq.ft.. The Virgin complex is located on the first floor of a large multi-purpose development

including shops, bars and restaurants, an amusement centre, apartments and multi-storey car park. The entire development is in a designated area and the occupier in this instance has the benefit of double rent allowance and a ten years rate free holiday. At the hearing Mr. Molony expressed the view that the impact of the benefits accruing to the tenant in these circumstances would equate to an uplift over normal rental levels of 15% while Mr. Bagnall considered 40% to be appropriate. Neither Valuer indicated by what means they had arrived at their conclusions but since they are experts in the field of valuation their opinions are of worth. The Tribunal is of the opinion that Mr. Bagnall may have overestimated the impact and accordingly finds that a 20% adjustment is appropriate based on the evidence presented to it in this regard. A crude devaluation of the rent being paid for the Virgin complex indicates an overall rate of £8.75 psf on the basis of a shell finish.

7. The Leisureplex building is a two storey structure immediately adjoining the subject of this appeal. Externally it has a somewhat similar appearance and internally the major portion of the ground floor and first floor are given over to bowling alleys and games room respectively. According to Mr. Molony the level of fit out is not as good as that in the subject and in any event the user is substantially different. In the Leisureplex building the space is mainly open plan whilst in the subject the space is subdivided to give ten cinemas with sound proofed walls and sloped floors.

8. In accordance with rating law this Tribunal is to determine what rent a hypothetical tenant would pay for this property in its actual state at the relevant date. The only rental evidence available to the Tribunal is that in regard to the Virgin cinema complex but even this evidence has limitations as the letting is on a shell basis and the property is located in a designated area. The other comparisons i.e. UCI Tallaght and Omniplex Santry are of limited assistance since one, Tallaght, is located in a designated area whilst the other is the subject of an appeal to the Commissioner of Valuation.

Having regard to the above the Tribunal has come to the conclusion that the valuation submitted by Mr. Molony cannot be sustained. Making the best judgment it can of the evidence available to it the Tribunal determines the net annual value of the property to be

£290,000.

Estimate of net annual value		
Ground Floor	31,758 sq.ft. @ £8.50 psf =	£269,943
First Floor	4,880 sq.ft. @ £4.00 psf =	<u>£ 19,520</u>
Total NAV		<u>£289,463</u>
<u>RV @ 0.63%</u>		£1,825.

In arriving at the above valuation, the Tribunal adopted the basic rent payable in the Virgin cinema as the foundation of the valuation and made due allowances for fit out, impact of designated area status, location and other factors.

The Tribunal would like to record its appreciation for the manner in which the Valuers prepared their evidence. Mr. Molony's submission with its photographs, maps and layout drawings was of particular assistance to the Tribunal.