

Appeal No. VA96/2/084 to
VA96/2/094

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

Aurora Fusco (VA96/2/084 - Unit 1, Shop)
Castle Centre Management Services Limited (VA96/2/085 - Unit B, Offices (1st Floor))
M. O'Donnell (VA96/2/086 - Unit 10, Shop)
Gruaig Hair Studio (VA96/2/087 - Unit 11, Shop)
V. Cullinan (VA96/2/088 - Unit 12, Restaurant)
Oliver Douglas (VA96/2/089 - Unit 7, Shop)
Finola Conway & Marie Nordone (VA96/2/090 - Unit 6B, Shop)
Margaret Gleeson (VA96/2/091 - Unit 6A, Shop)
S. Quinlan (VA96/2/092 - Unit 5, Shop)
J. Bourke (VA96/2/093 - Unit 4, Shop)
Mavis Fashion Fabrics (VA96/2/094 - Unit 2, Shop)

APPELLANTS

and

Commissioner of Valuation

RESPONDENT

RE: Shops, Offices (1st floor) and Restaurant at Map Ref: 1d.6b.7b.8b.9b.10b.11def Roscrea Shopping Centre, Main Street, Townland: Townparks, ED. Roscrea, RD. Roscrea, Tipperary N.R., Co. Tipperary
Quantum

B E F O R E

Mary Devins - Solicitor

Deputy Chairman

Brid Mimmagh - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 9TH DAY OF JULY, 1997

By Notices of Appeal dated 25th April, 1996 the Appellants appealed against the determinations of the Commissioner of Valuation in fixing rateable valuations as follows on the units described above:-

Unit 1 - RV£32, Unit B - RV£13, Unit 10 - RV£30,
 Unit 11 - RV£32, Unit 12 - RV£65, Unit 7 - RV£50,
 Unit 6B - RV£22, Unit 6A - RV£25, Unit 5 - RV£48,
 Unit 4 - RV£42, Unit 2 - RV£28

The Property:

The property comprises units in a small modern purpose built infill Shopping Centre of standard rendered concrete block construction with flat low pitched roofs, providing an anchor supermarket unit of approximately 18,000 sq.ft. with 13 ancillary shop units.

The Centre is located behind the buildings fronting Main Street and Castle Street, the two principal streets in the town. Access from these two streets is by way of pedestrianised malls with additional access from the private car park at the rear. The access is also linked to the main public car park in the town which is also to the rear of the centre. The building is predominantly single storey in nature apart from the two storey Castle Street frontage which is retained, the two storey Quinnsworth offices at the rear and the management offices which are at the first floor level. The design and layout were greatly influenced by the position of the entrances from Main Street, Castle Street and the car park and the location within the centre of the anchor tenant. The focal point of the centre is the central mall/atrium apex with natural roof lighting. Finish throughout is to a good modern standard. The individual units are generally well fitted and for the most part have timber framed display shop fronts. The restaurant (unit 12) is, save for the kitchen area, is separated from the mall by low level partitioning. Units under appeal are as set out above.

Written Submissions:

A written submission was received on the 9th day of January 1997 from Mr. Alan McMillan, a Director of Donal O'Buachalla & Company Limited, an Associate of the Society of Chartered Surveyors and a member of the Irish Auctioneers & Valuers Institute on behalf of the Appellants. In the written submission, Mr. McMillan described the shopping centre and gave details of each of the units under appeal.

Unit 1 - Fusco t/a Friends

At the valuation date the premises was occupied by A. Fusco from the 30/3/93 at £8,580 and operated as a ladies fashion boutique. The premises was vacated on the 31/7/95 and relet from September 1995 on a verbal basis of £7,000pa. Rent reduced to £5,960 from November, 1996. The service charge on the subject premises was in the amount of £2,665.

Mr. McMillan submitted that a fair rateable valuation was as follows:-

406 sq.ft. @ £10 psf. NAV £4,060. RV £20

Unit 2 - Vacant

Let to Lydian Limited (t/a Focus) in October, 1992. Vacated August, 1993. Subsequently let from 14/2/94 to M. Beck (t/a Fashion Fabrics) on short term basis at £100 per week. Service charge £2,333. Mr. McMillan proposed a rateable valuation as follows:-

374 sq.ft. @ £10 psf. NAV £3,740. RV £19

Unit 4 - Rated Occupier - Bourke (Pharmacy)

Let on a 35 year term from October, 1992 at £10,500pa - lease formalised September, 1994. Service charge £3,328. Rateable valuation proposed:-

581 sq.ft. @ £10 psf. NAV £5,810. RV £29

Unit 5 - Rated Occupier - Quinlan (Butcher)

Vacant to 1/9/93. Leased to S. Quinlan for 5 years at £10,000pa. Service charge £3,992. Vacant August, 1996. Valuation proposed:-

1,004 sq.ft. @ £8 psf. NAV £8,032. RV £40

Unit 6A - Rated Occupier - Gleeson (Cake Shop)

Leased for 11 months from October, 1992 @ £6,000pa. Vacated May 1996, relet from 29/8/96 at £6,000pa subject to service charge ceiling at 20% of rent. Service charge £2,077. Proposed rateable valuation:-

300 sq.ft. @ £12 psf. NAV £3,600. RV £18

Unit 6B - Rated Occupier - Conway & Nordone t/a Glitzi Bitz

Leased from October, 1992 for 11 months at a rent equivalent to £5,200pa. Still occupied on a monthly basis. Service charge £1,830. Proposed rateable valuation:-

250 sq.ft. £10 psf. NAV £2,500. RV £12.50

Unit 7 - Rated Occupier - Douglas (Hardware)

Let short term from December, 1992 at £13,500pa. Vacated 30/9/95. Let to Quinnsnorth from December, 1995 at £1,000. Relet short term from the 4/5/96 at £12,000. Service charge £4,163. Proposed rateable valuation:-

775 sq.ft. @ £8 psf. NAV £6,200. RV £31

Unit 10 - Rated Occupier - O'Donnell (Jeweller)

99 year lease at nominal ground rent. Service charge £2,494. Proposed rateable valuation:-
400 sq.ft. @ £11 psf. NAV £4,400. RV £22

Unit 11 - Rated Occupier - K. Hogan (Hair Salon)

First let short term from 20/10/92 at £10,000pa. Vacated October, 1993. Let to rated occupier short term from 1/11/93 at £7,800pa. Vacated April, 1994. Let November, 1994 on a verbal weekly basis at £150 per week, £7,800pa. Service charge £2,665. Proposed rateable valuation:-

576 sq.ft. @ £9 psf. NAV £5,184. RV £26

Unit 12 - Rated Occupier - Cullinan t/a Rosewood Restaurant

Originally let from October, 1992 to February, 1993. Let short term one year from 1/2/93 to Cullinan at £20,000pa to include all fittings and equipment. Evicted 28/8/96. Currently being operated by lessor. Service charge £5,405. Proposed rateable valuation:-

1,680 sq.ft. @ £6 psf. NAV £10,080. RV £50

Unit B - Tiernan Properties (Offices)

295 sq.ft. Proposed rateable valuation:-

295 sq.ft. @ £4 psf. NAV £1,180. RV £6

A written submission was received on the 13th day of January 1997 from Mr. Denis Maher, District Valuer on behalf of the Respondent. In the written submission, Mr. Maher gave details of the units under appeal and of his assessed rateable valuations as set out below. He said that in assessing the net annual values for the shop units in the centre regard had been had to:-

- (1) The passing rents adjusted to 1988.
- (2) The impact that rates might have on rental levels.
- (3) The impact that the service charge might have on rents.

Unit 1

A small slightly irregularly shaped unit of 406 sq.ft. located adjacent to Castle Street entrance to the centre. The unit has frontage to the shopping centre of 28 feet with additional display window frontage to Castle Street. Mr. Maher indicated that it was held leasehold for a period of one year from 1/4/93 at rent of £7,800pa. Mr. Maher proposed a rateable valuation:-

406 sq.ft. @ £16 psf. RV £32

Unit B

The property comprises the management offices attached to the shopping centre, located at first floor level and accessed by stairs off the entrance mall from Main Street. Rateable valuation assessed:-

Offices 295 sq.ft. @ £9 psf. £50 per week. RV £13

Unit 10

Property comprises a rectangularly shaped unit fronting onto the main central mall/atrium area, close to Quinnsworth supermarket. Net frontage of 13 feet and floor area extending to about 400 sq.ft. Leasehold for a term of 99 years from 20/10/92. Rateable valuation proposed:-

400 sq.ft. @ £15 psf. RV £30

Unit 11

The property comprises an irregularly shaped but functional unit overlooking the main central mall/atrium. Area adjacent to the mall entrance off Main Street and to the entrance to Quinnsworth supermarket. Leasehold for a period of 6 months from 10/10/94 at £181 per week. Valuation proposed:-

576 sq.ft. @ £11.50 psf. RV £32

Unit 12

The unit comprises an open plan restaurant/coffee shop with enclosed kitchens and stores situated within the central mall/atrium area of the shopping centre. The restaurant area extends to 1,200 sq.ft. with a further 500 sq.ft. of kitchen space and a general purpose store of 550 sq.ft in the yard. Leasehold one year from 1/2/93 at £20,000pa. Rateable valuation proposed:-

1,680 sq.ft. @ £7 psf. Stores 550 sq.ft. @ £2.50 psf. RV £65

Unit 7

The property comprises a rectangularly shaped unit located overlooking the central mall/atrium area. Leasehold 2 years 11 months from December, 1992 at £13,500pa.

Rateable valuation assessed:-

775 sq.ft. @ £13 psf. RV £50

Retail use: unit used as household goods/hardware shop.

Unit 6B

Retail unit of small rectangular shape frontage of 10 feet to the Castle Street mall. Leasehold for a period of 2 years 11 months from October, 1992 at a rent of £5,200pa. Rateable valuation assessed:-

250 sq.ft. @ £17.50 psf. RV £22

Unit 6A

Open fronted cake shop/bakery. Property comprises a small rectangular unit centrally located within the shopping centre with total frontage to the mall area of 30 feet. Monthly tenancy at a rent amounting to £6,000. Rateable valuation assessed:-

300 sq.ft. @ £16.50 psf. RV 25

Unit 5

Butcher shop. An irregularly shaped unit adjacent to the mall entrance from the car park.

Restricted frontage of unit relative to size of overall floor area of about 1,000 sq.ft.

Incorporates a butcher shop at front with built in cold stores at the rear. Shop area well fitted out and finished to EU regulatory standards. Leasehold for a period of 3 years from

September, 1993 at £320 per week. Rateable valuation assessed:-

1,004 sq.ft. @ £9.50 psf. RV £48

Unit 4

Chemist shop with dispensing and storage area. Property comprises irregularly shaped unit with double frontage, display windows extending to 33 feet. Well located within this centre, opening onto the central mall/atrium area of its junction with Castle Street mall and the car park mall. Leasehold interest for a period of 35 years from the 20/10/92 at a rent of £10,500pa with 5 year reviews. Rateable valuation proposed:-

581 sq.ft. @ £15 psf. NAV £8,715. RV £42

Unit 2

Retail shop vacant at the relevant date but occupied on a short term letting at inspection. A small rectangularly shaped unit with frontage of 22 feet to the Castle Street mall. Rateable valuation assessed:-

374 sq.ft. @ £15 psf. RV £28

Both valuers adduced comparisons on the Main Street in support of the rateable valuations proposed. In addition, Mr. McMillan produced three units in the shopping centre agreed at 1993/4 first appeal. These lists of comparisons are set out at Appendix 1 and 2.

Oral Hearing:

At the oral hearing which took place in Dublin on the 15th January, 1997 Mr. Alan McMillan appeared on behalf of the Appellants. The Respondent was represented by Mr. Denis Maher of the Valuation Office.

Also present were Mr. Michael Tiernan and Mr. Darren Quinn, Managing Director and Surveyor and Manager of Tiernan Properties respectively.

Mr. McMillan gave evidence of a general pattern of quick turnover of tenants in the subject premises. He said that passing rents as of the relevant valuation date did not reflect the true market value and that the terms and length of the lettings achieved since that date reflected the real situation.

Mr. McMillan contended that the service charges which were based on the total rateable valuation of the shopping centre and appropriate apportionment, were very high compared to similar centres in other towns.

Mr. McMillan referred to Units 8 & 9 which were let to the anchor tenant in the centre and which do not form part of this appeal and said that the appellants were seeking parity with those units.

Mr. Michael Tiernan gave evidence that the centre had been completed in October, 1992 and that negotiations with Quinnswoth, the anchor tenant, had resulted in service charges being based on rateable valuation.

Mr. Tiernan explained that because of the nature of the in-fill site there was a very high proportion of malls to shop units and he gave evidence that the pharmacy was the only long term lease achieved and that it had a break clause. He said that to date the total uncollected rents amounted to approximately £70,000 and that the total arrears of service charges amounted to approximately £30,000.

Mr. Maher submitted that the only relevant evidence was the situation pertaining at the relevant valuation date. He said that, accepting rental value as the base for net annual value, the best evidence of such rental value was the rent negotiated on the open market at the relevant valuation date.

Mr. Maher said that there had been very few recently revised comparable properties in Roscrea but that those on Main Street which had been revised showed an overall pattern of letting values at £12 psf approximately.

Determination:

The Tribunal has had regard primarily to the rents agreed by the tenants of the subject properties at the relevant valuation date, i.e. November, 1993 and would stress that in this case, as in all others, if the situation in relation to letting values and market values generally should change at any stage after the valuation date, that it is open to the parties to have the properties listed for revision.

The Tribunal notes that the respondent did adjust the passing rents to conform to 1988 levels. It notes too that the revising valuer made allowances for the impact of rates and services charges.

In light of the above and taking into account the comparative evidence adduced the Tribunal affirms the decision of the respondent in respect of each of the subject hereditaments.

