

Status of Judgment: Distributed

Appeal No. VA97/2/040

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

Superquinn Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Supermarket at Map Reference Lot No. 80-82/A Townland: Market Cross Shopping
Centre, Ward: Kilkenny No1 Urban, Urban District of Kilkenny, Co. Kilkenny
Quantum

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Rita Tynan - Solicitor

Member

Finian Brannigan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 28TH DAY OF JANUARY, 2000

By Notice of Appeal dated the 11th April 1997, the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,650 on the above described hereditament.

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

1. "The valuation is excessive and inequitable.
2. The valuation is bad in law".

This appeal, which was heard in the Council Chamber, Kilkenny, proceeded by way of an oral hearing at which Ms. Sheelagh O’Buachalla of Donal O’Buachalla & Company Limited, appeared on behalf of Superquinn Limited and Mr. Denis Maher, a District Valuer in the Valuation Office appeared on behalf of the Commissioner of Valuation. The respective parties had, prior to the commencement of the hearing, exchanged their précis of evidence and submitted the same to this Tribunal. Both valuers, having taken the oath, adopted their précis as being and as constituting their evidence in chief. Further evidence, either directly or via the cross-examination process was adduced. Submissions were made. From the evidence so tendered the following emerged as being the facts relevant and material for the purposes of this appeal;-

- (a) Market Cross Shopping Centre was developed in the early 1990’s on a designated site. It is located west of High Street and lies between Chapel Lane on the south and James Street on the north all of course in the city of Kilkenny. This centre was developed and laid out mainly on two levels around an open rectangular shaped square with a spur towards High Street at Level One, along what is known as Coffee House Lane. This lane also serves as the main entrance from High Street. Along the northern boundary, which also serves as a pedestrian entrance from the adjoining multi-storey car park with accommodation for 520 cars, this centre extends to Level Three where office accommodation and staff facilities are located. There is also a pedestrian access to Level Two from and along Chapel Lane.
- (b) The hereditament above identified comprises areas within this shopping centre on all three levels. On Level Two the main supermarket is located with some storage accommodation. The balance of the storage facility is on Level One. As above mentioned Level Three provides office accommodation for Superquinn and the Central Management Offices as well as staff facilities. The premises are of modern construction throughout being of concrete and steel under pitch-slatted roofs. Floors and ceilings are tiled in the retail area and air quality/temperature is controlled. The condition throughout, as one would expect with a modern purpose built complex of this nature, is excellent.

- (c) The agreed accommodation areas are as follows;-

	Sq.ft.
Level 2 Retail	32,315
Level 2 Stores	3,227
Level 1 Stores	3,497
Level 3 Offices/staff facilities	7,560

Following a request therefore this property was revised in November 1994 and a new rateable valuation of £1,650 was fixed thereon. An appeal was lodged on behalf of the company by Messrs Donal O’Buachalla & Company Limited. The results thereof were published in March 1997. There was no change in the figure of £1,650. Hence the appeal before this Tribunal.

2. There being no issue on the correct method of valuation in this case, it being agreed that the same should be based on comparable evidence, Mr. Maher on behalf of the Commissioner suggested that the following net annual values should be at tributable to each portion of the accommodation as above identified. His figures are as follows;-

	Sq.ft.	£
Level 2 Retail	32,315	8.00
Level 2 Stores	3,227	4.00
Level 1 Stores	3,497	4.00
Level 3 Offices/staff facilities	7,560	5.00

In support of these figures he referred to eight comparisons which for convenience are listed and set forth in Appendix A to this judgment.

3. On behalf of the appellant company the rating consultant places £6.00 on the supermarket, £3.00 on the stores located at both levels and £3.50 on the offices/staff facilities. As with the appeal valuer Ms. O’Buachalla referred us to a number of comparisons, which are listed and set forth in Appendix B to this judgment.
4. On behalf of the appellant company Ms. O’Buachalla essentially, though not exclusively, relied on comparison number three as supporting her suggested N.A.V. figures. She believes, and so confirmed by way of evidence, that in her opinion the most appropriate comparison is the Superquinn property located at Carlow Shopping Centre. On that hereditament a figure of £6.00 is applied to the retail component of 27,516 sq.ft. a figure of £3.00 on the stores element of 4,206 sq.ft. and on the offices/canteen, 4,635 sq.ft. a figure of £3.50 is placed thereon. She is of the opinion that likewise with the subject property these figures should be so applied. She conceded, correctly in our view, that comparisons 4 and 5 could not have any evidential value for the purposes of this appeal.
5. Mr. Maher on behalf of the Commissioner takes serious issue with the underlying suggestion advanced on behalf of the appellant namely that rental levels in Kilkenny are the same or similar to those pertaining in Carlow. He stated that Kilkenny is a thriving commercial, cultural and tourist city with a primary catchment area of 60,500 people and a total catchment area of about 130,000 people. He asserted that High street shops in Kilkenny are valued at about £30 p.s.f., that is for small to medium units (mainly Zone A) whereas similar properties in Carlow are valued at half that. Again, he gave evidence to the effect that the average size unit in the Carlow Shopping Centre is valued at about £20 p.s.f. whereas the comparable unit in the Market Cross Shopping Centre has a value of anywhere between £31 and £35. These examples, in his opinion, are sufficient to dispel any belief that Carlow’s net annual values, in particular the levels applicable to Carlow

Shopping Centre should be taken as the appropriate basis for ascertaining the N.A.V. in this case.

6. Looking at the comparisons, set forth in Appendix A, we are satisfied that comparison No. 3, being Dunnes Stores, in the North Main Street in Cork, is of no real value to us given its location and given its situation within that location. Equally so comparison number 4, being Quinnsworth property in Gladstone Street, Clonmel, is quite different for a number of reasons including its age, condition and level of finish. In addition the comparison immediately following namely Superquinn's property in Clonmel, is presently under appeal to this Tribunal and since the totality of the N.A.V. is the subject matter thereof, this comparison, with its present status, cannot be safely relied upon as furnishing any basis of application to this case.
7. That being so it appears from the rest of the comparisons that in the case of Roches Stores in Waterford, the retail space of just over 47,000 sq.ft. being almost equally divided between Levels Three and Four commanded an agreed N.A.V., at first appeal stage in 1993, of £7.50 p.s.f. The stores varied between £3.50 to £4.50 p.s.f. A similar rate, on a retail space of almost 35,000 sq.ft. was agreed for and in respect of the Dunnes Stores premises in Waterford. On 3,775 sq.ft. of store, at Level Four, a rate of £4.50 applied. This in our respectful view is the most helpful figure for the purposes of this case. Whilst we have not overlooked the agreement reached at 1994 revision stage, in the case of Penny's Ltd., we do not think that the rate of £9.50 p.s.f. on a retail area of just over 13,000 sq.ft. can, even with adjustments, be really applied to this case.
8. In conclusion the Tribunal is of the view that the appropriate valuation of the hereditament should be as follows;

Level 2	Supermarket	32,315 sq.ft. @ £7.50 =	£242,362.50
	Stores	3,227 sq.ft. @ £4.00 =	£ 12,908.00
Level 1	Stores	3,497 sq.ft. @ £4.00 =	£ 13,988.00

Level 3

Offices/

Staff facilities 7,560 sq.ft. @ £4.50 = £ 34,020.00

N.A.V. = £303,278.50 x 0.5% = £1,516.39

Say = £1,516.00

*Comparisons by Sheelagh O’Buachalla, Donal O’Buachalla & Company Limited***1. Dunnes Stores, 1a Redmond Rd, Wexford**

Status : 1992/1 First Appeal

R.V. : £1,350

	<i>Sq.ft.</i>	<i>£</i>
Ground Floor	41,041 @	£5.70
First Floor	12,832 @	£2.80

- A new development in Wexford town situated in a designated area.

2. Quinnsworth, Longford Shopping Centre, Longford

Status : 1995/3 First Appeal

R.V. : £770

	<i>Sq.ft.</i>	<i>£</i>
Ground Floor Retail	24,280 @	5.60
Ground Floor Stores	2,690 @	2.50
Mezzanine Stores	1,590 @	1.00
First Floor Offices/Canteen	2,933 @	3.00

- New premises in a designated area. Located in County town.

Roches Stores, Waterford**1993/4 First Appeal**

Level 3	Retail	23,638 sq.ft. @	£7.50
	Store	2,184 sq.ft. @	£4.50
	Mezz.office	260 sq.ft. @	£5.00
	Services Yds.	5,089 sq.ft. @	£2.00
Level 4	Retail	23,564 sq.ft. @	£7.50
	Offices/staff rooms	3,593 sq.ft. @	£4.00
	Stores	7,880 sq.ft. @	£3.50

Est. N.A.V. £414,000

R.V. at 0.63% - £2,608

Agreed £2,600

Dunnes Stores, Waterford**1993/4 First Appeal**

Level 3	Retail	17,136 sq.ft.			
Level 4	Retail	<u>17,750 sq.ft.</u>			
		34,886 sq.ft. @	£7.50	£261,645	
Level 3	Mezzanine	1,997 sq.ft. @	£5.00	£ 9,985	
Level 4	Store	3,775 sq.ft. @	£4.50	£ 16,987	
	Mezz.Store	3,701 sq.ft. @	£4.00	£ 14,804	
Level 2	Store	3,079 sq.ft. @	£2.50	£ 7,697	
	Handling	630 sq.ft. @	£3.00	<u>£ 1,887</u>	
					£313,005

Est. N.A.V. - £313,000

R.V. at 0.63% - £1,972 Agreed £1,975

Dunnes Stores, Ntd. Main Street, Cork. 93/4 First Appeal

Shop	34,923 sq.ft. @	£10.00
Offices	8,095 sq.ft. @	£ 6.00
Balance of stores and offices at £2.50 to £4.00		

Quinnsworth, Crazy Prices, Gladstone Street, Clonmel. 95/4 First Appeal.

Supermarket	22,000 sq.ft. @	£6.50	£143,000
Passage	732 sq.ft. @	£4.00	£ 2,928
Lifestyle shop	980 sq.ft. @	£6.50	£ 6,370
Creche	1,091 sq.ft. @	£5.00	£ 5,455
Cold Stores	766 sq.ft. @	£3.00	£ 2,298
Store	1,550 sq.ft. @	£2.75	£ 4,263
1 st fl.stores/			
Toilets/lockers	4,724 sq.ft. @	£2.00	£ 9,448

Old building with fairly ordinary level of finish.

Superquinn Ltd. Clonmel at Market Place Shopping Centre. 1994/4 First Appeal.

Supermarket	26,569 sq.ft. @	£7.00
Stores	3,849 sq.ft. @	£3.50
Stores (open)	649 sq.ft. @	£2.50
Plant Room	370 sq.ft. @	£1.00
Yard	2,411 sq.ft. @	£1.50
Offices	4,172 sq.ft. @	£4.00

Hallways 1,149 sq.ft. @ £1.00

Offices 1,010 sq.ft. @ £4.00

Stores 936 sq.ft. @ £2.00

Plant Hse. 930 sq.ft. @ £1.00

Corridor 1,125 sq.ft. @ £1.00

N.A.V. for the above - £230,800

R.V. at 0.5% - £1,150

Say £1,150

Appealed to Tribunal

Superquinn Ltd., Carlow – VA96/5/012

Determined by Tribunal as follows:

Retail 27,516 sq.ft. @ £6.00

Stores 4,206 sq.ft. @ £3.00

Stores 2,901 sq.ft. @ £1.00

First Floor offices and canteen – 4,635 sq.ft. £3.50

Est. N.A.V. - £196,837.50

R.V. at 0.5% £984.18 Say £984

Supervalu, Eyre Square, Galway. 1992/4 First Appeal

19,296 sq.ft. @ £8.50

Penneys Ltd. on level 1 of Market Cross Shopping Centre, Kilkenny

Valued 1994/4 Revision

Retail	13,261 sq.ft.	@ £9.50
Offices	958 sq.ft.	@ £5.00
Store Rooms	5,029 sq.ft.	@ £3.50

N.A.V. £148,312

R.V. at 0.5% = £742

Say £750

