

Appeal No. VA98/3/022

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

The Reel Picture Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Cinema at Map Reference Block C, Times Square, ED: Ballincollig, RD: Cork Lower, Co. Cork

Quantum - Comparisons, location

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Ann Hargaden - FRICS.FSCS

Member

George McDonnell - F.C.A.

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF DECEMBER, 1999

By Notice of Appeal dated the 25th day of July 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £500 on the above described hereditament.

The Grounds of Appeal as set out in the Notice of Appeal are that; "the valuation of £500 is excessive having regard to the valuation of comparable properties used for the same purpose. The basis of valuation applied by the Commissioner conflicts with precedent established by the Tribunal and is accordingly incorrect and bad in law".

The Property

The Property under appeal is a newly built multi-screen cinema complex. It comprises a 6 screen complex with a total seating capacity of 1,256 seats.

In addition, there is a foyer shop and toilet facilities. The building is of basic reinforced concrete portal frame construction, in two bays with brick and fair-faced concrete cavity walls, double skinned metal deck roof, concrete floors and a glazed screen to the entrance foyer. It is principally single storey with a central mezzanine level.

The subject property is located in the town of Ballincollig in a development known as “Times Square”. The cinema is situated in a commercial/residential complex comprising a courtyard development of 12 ground floor retail units with residential apartments overhead and car parking for approximately 120 cars. The agreed floor areas of the subject are as follows :

Ground floor	14,936 sq. ft.
First floor	1,140 sq. ft.

	16,076 sq. ft.

Valuation History

The property was first valued in 1997 at £690. This figure was appealed against and following first appeal the valuation was reduced to £500.

The written submission prepared by Mr. John A. Elliott, MIAVI, Principal at Elliott & Co., Valuers and Property Consultants, was received by the Tribunal on the 4th day of October 1999. This submission proposed an R.V. of £390 for the subject property.

The written submission prepared by Mr. Peter Conroy, District Valuer in the Valuation Office was received by the Tribunal on 28th day of September 1999.

The appeal proceeded by way of an oral hearing that took place in the Council Chamber, Cork County Hall, Victoria Cross, Cork on the 13th day of October ‘99. The appellant was represented by Mr. John Elliott and the respondent was represented by Mr. Peter Conroy.

Mr. Joseph O’Leary, an accountant with Patrick McNamara and Associates and a director of The Reel Picture Ltd. together with Mr. Tom O’Connor also a director of The Reel Picture Ltd. gave evidence to the Tribunal on behalf of the appellant. In accordance with the rules of the Tribunal and following established practice, the parties had prior to the hearing, exchanged their written submissions. At the oral hearing both valuers, having taken the oath, adopted their written submissions respectively as their evidence-in-chief.

Appellant’s Case

At the outset, Mr. Elliott explained that there was agreement with the Valuation Office regarding the valuation of the first floor, being 1,140 sq. ft. @ £3.00 p.sq.ft. Mr. Elliott said that Ballincollig has a population close to 14,000 people and is a dormitory suburb some six miles west of Cork City Centre on the main Killarney Rd. Its hinterland on three sides is agricultural with a low density of population. At the valuation date the closure of the army barracks was imminent with uncertainty as to how the future of the village would be affected. He further pointed out that the retail units in the overall complex proved difficult to rent indicating a general lack of confidence in the location.

The appellant pointed out that precedent for the basis of assessment in respect of these type of properties has been well established both in the case of *United Cinemas International v the Commissioner of Valuation (VA96/2/040)* and in the case of *Abbey Cinema Group v The Commissioner of Valuation (VA95/5/006)* where assessments based on a per seat basis and assessments based on capital cost were rejected in favour of valuations based on rental by reference to the sq. footage basis. While there are no direct comparisons of open-market rentals for multi-screen cinemas available, Mr. Elliott put forward the comparison of Cinemaworld in Douglas, Cork as the most appropriate comparison. He explained that the property in Douglas was in a prime location with a far greater catchment area than the subject – the population in Douglas and surrounding environs was around 47,000 while the equivalent population in Ballincollig would be around 23,000.

He also mentioned that the level of discretionary spending in the Douglas area would be greater. In his opinion, the subject premises is more of warehouse-type construction as compared with Douglas, which is built to a much higher specification. The capital cost of

Cinemaworld was approximately £1.2m. (just over £1,200 per seat) while the capital cost of the subject was approximately £800,000 (around £640 per seat).

Mr. Joseph O'Leary, director of the appellant company gave evidence with particular reference to the extract from the accounts that had been included in the precis of evidence from Mr. Elliott. While the profit and loss account referred to the 31 month period up to end of August '98, trading only commenced on 17 July '97 and accordingly the figures represented commercial activity for 13.5 months. Mr. O'Leary mentioned that occupancy rates in the subject were running at around 13% as compared with a norm for the industry of around 30%. On the other hand, Cinemaworld at Douglas was achieving occupancy rates significantly ahead of the norm. The extract from the accounts showed a gross profit in the cinema of 62.8% and in the shop area of 47.49% which were less than the industry norm according to Mr. O'Leary.

He also pointed out that if the notional rent of £100,000 which had been assumed by the Valuation Office in arriving at their valuation was applied in practice, the subject business could not continue trading. The number of patrons who attended the subject premises for the year to August '98 was 202,000 while the equivalent number for the year to August '99 was 199,000. On the other hand, the equivalent numbers for Cinemaworld in Douglas were in the region of 480,000.

Mr. Tom O'Connor, director of the appellant company also provided evidence. He had been a director of Cinemaworld in Douglas up to '96 when he sold out his interest. He mentioned that turnover in Douglas for the 10-month period up to the end of '96 was around £1.2m. and in his opinion, it was on a continuing upward trend. He said the quality of construction in Douglas was significantly ahead of the subject premises. While he would see long-term potential with regard to the subject premises, he considered that would take quite some time and in any event it would be very difficult to achieve the occupancy levels enjoyed by Cinemaworld.

Mr Elliott stated that Cinemaworld has a total area of just over 16,000 sq. ft., which is quite similar to the subject, and the R.V. on this property is £530. On average, the Douglas property had an area of just under 17 sq.ft. per seat while the equivalent area for the subject is just under 13 sq.ft. Mr. Elliott submitted that the Douglas premises is prominently situated

alongside McDonalds in the heart of a thriving commercial area and between two major shopping centres with excellent access from the ring road system. In his opinion, there should be a substantial differential between the rental levels applied to the subject and those applied to the Douglas premises.

Respondent's Case

In his submission, Mr. Conroy indicated that in the absence of any market evidence of cinemas being rented in Cork, the valuation has been assessed on a price per seat basis and on an estimate of rental value. He explained the subject premises is easily accessible and adjoining a public car park. Ballincollig is the major satellite town of Cork with a continuing increase in both the immediate and surrounding population. He explained the property is quite functional and was custom-built for its present use.

Mr. Conroy put forward a schedule of seven comparisons but at the outset withdrew comparison no. 4 being the Gate Cinema, North Main St., Cork, as it was not operating at the valuation date. Three of the other comparisons were located in areas outside Cork (being Carlow, Wexford and Tralee) and were not considered an appropriate basis for comparison with the subject. In addition, two of the remaining comparisons could not be related directly with the subject – the Capital Cinema at Grand Parade, Cork was located in the City Centre while the Kino Cinema in Washington St. West, Cork was a single screen cinema showing less commercial films.

In the circumstances, Mr. Conroy also agreed that the best comparison was Cinemaworld in Douglas, which was included as his comparison no. 3. In the case of Cinemaworld, Mr. Conroy pointed out that when it commenced, it was also quite slow to generate business and the levels of occupancy were somewhat disappointing. At the time, the level of throughput at Douglas Court Shopping Centre and in McDonalds was significantly lower than is currently the case and in his opinion, a business such as the subject will take some time to reach acceptable levels of occupancy.

While he accepted there was a differential between the premises in Douglas and the subject, it was his view that same was reflected in the lower rental p.sq.ft. being applied to the Ballincollig property. He also mentioned that the rate p.sq.ft. in Douglas is lower than that applicable to equivalent premises in the city centre.

In his opinion, the extract from the accounts included in the précis from the Appellant was of no particular assistance. While these figures showed a loss for the period up to end of August '98, he suggested fairly significant adjustments would need to be made with regard to management fees, finance charges and depreciation if one were to consider the final accounting result as a basis for consideration. In addition, one would need accounts over a longer period in order to draw any realistic conclusions. While Mr. Conroy pointed out that Cinemaworld had been valued on a price per seat basis, he accepted that following the Tribunal judgement on the Abbey Cinema Group (VA95/5/006), reference to NAV was the more appropriate method. While there was no direct rental evidence with regard to cinema premises, Mr. Conroy mentioned that a typical supermarket of around 20,000 sq.ft. might have a rent applied of around £5.50 p.sq.ft. On the other hand, fairly basic warehouse premises might have a rent in the region of £2.25 p.sq.ft. and a somewhat better unit would be up to around £3.50 p.sq.ft. Taking these numbers into consideration and given the better location and parking facilities, etc. of the subject, he considered that a rate of £6.50 p.sq.ft. was reasonable.

Mr. Conroy also pointed out that while the number of patrons attending the subject premises in the initial stages were somewhat low (particularly as compared with the Douglas premises), nevertheless this was not unusual for the type of business involved as it takes some time to fully target audiences and attract people to a local facility as distinct from the more traditional cinema locations in the city centre. This type of situation was also experienced by Cinemaworld during the start-up phase.

Findings and Determination

The Tribunal has considered the submissions and the evidence submitted and matters raised at the oral hearing by both the appellant and respondent. Both parties have relied substantially on comparative evidence as the basis for their valuations and the Tribunal has had regard to same.

In the case of the appellant, just one comparison was put forward for consideration, being Cinemaworld in Douglas. While the respondent put forward a schedule of seven comparisons, there was agreement that the most appropriate also was Cinemaworld.

The Tribunal accepts the Cinemaworld comparison as being the most appropriate. While the Tribunal accepts the overall level of finish and general building specification at Cinemaworld

is somewhat higher than the subject, it does not consider these differences to be very significant. While it also accepts that the levels of occupancy at Cinemaworld are greater than at the subject, it has been the experience in this type of business that attendance levels increase over time.

Although the attendance and turnover figures in the subject have been somewhat lower than expected during the initial stages, the potential for further increases is clearly evident given the substantial growth in population and other factors relevant to Ballincollig. While there is an expectation that attendance and turnover numbers should increase further as the business develops, nevertheless the Tribunal is of the view that some account needs to be taken of the somewhat inferior quality of the building as compared to Cinemaworld and the other factors already explained in this judgement.

The Tribunal therefore considers it reasonable to place a figure on the ground floor of the subject at £6 p.sq.ft. and accordingly determines the rateable valuation of the subject hereditament as follows :

N.A.V. Ground Floor	14,936 sq. ft. @ £6.00 =	89,616
First Floor	1,140 sq.ft. @ £3.00 =	3,420

		£93,036

N.A.V. of £93,036 @ 0.5% = R.V. £465.18 say £465

This Tribunal so determines.