

Appeal No. VA99/3/057

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

McDonalds Restaurants of Ireland Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Restaurant/Cafe at Map Reference 7.8.9AC/Unit 451, Townland: Coolmine, E.D.
Blanchardstown Coolmine, County Dublin.

B E F O R E

Barry Smyth - FRICS.FSCS

Deputy Chairman

Michael Coghlan - Solicitor

Member

Anita Geraghty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF MAY, 2000

By Notice of Appeal dated the 3rd day of August 1999, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £270 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the valuation is excessive, inequitable and bad in law . The quantum is excessive compared to recently revised properties of similar function".

The appeal proceeded by way of an oral hearing which took place on the Monday, the 10th day of April, 2000 at the Tribunal offices in Dublin. The appellant was represented by Mr. Eamonn S. Halpin B.Sc. (Surveying) A.S.C.S. A.R.I.C.S. M.I.A.V.I. Mr. Noel Lyons, B. Comm., a District Valuer with over 26 years experience in the Valuation Office represented the respondent.

In accordance with the Rules of the Tribunal, the parties had prior to the commencement of the hearing exchanged their précis of evidence and submitted the same to this Tribunal

At the oral hearing both parties having taken the oath, adopted their précis as being their evidence in chief. Submissions were also made. From the evidence so tendered the following emerged as being the facts relevant and material to the appeal.

The Property

The property comprises a standard McDonalds "drive through" air conditioned restaurant with seating capacity for approximately 76 customers, a children's corner and three window booths serving "drive through" facility. The property is located at the Blanchardstown Centre beside the centre's entrance / exit road from the Main Blanchardstown Road South.

Tenure

The restaurant is held under a 35 year F.R.I. lease from October 1997 at a commencing rent of £75,000pa (years 1 and 2) and £82,500 in years 3,4 and 5.

Appellant's Evidence

The appellant assessed the rateable valuation on the premises as follows;

Estimated NAV (1988 tone)

Agreed Areas

Restaurant	267.7m ² = 2,774 sq.ft @ £11.00/sq.ft.	=	£30,514
Container Store	14.8m ² = 159 sq.ft @ £ 2.00/sq.ft.	=	£ 318
	NAV £30,832 @ .63%	=	£ 195

The appellant submitted that the lease was not a normal open market transaction in that it was a finance lease artificially constructed to cover a complicated sale and lease back arrangement

whereby the appellant's building was constructed on a site provided by the developer and then sold back to the developer who leased the entire back to the appellants on a 35 year lease.

Mr Halpin relied on five comparisons in support of his valuation comprising McDonalds Restaurants as follows:

- | | | |
|----|---|---------|
| 1. | McDonalds Artaine Castle | RV £310 |
| | Devalues :Restaurant 511.8m ² = 5,509sq.ft. @ £8.80. | |
| 2. | McDonalds "Drive Thru " Nutgrove Shopping Centre | RV £315 |
| | Devalues :Restaurant 4,082sq.ft. @ £12.25/sq.ft. | |
| 3. | McDonalds Omni Centre Santry | RV £235 |
| | Devalues :Restaurant 2,743sq.ft. @ £13.50/sq.ft | |
| 4 | McDonalds "Drive Thru " Belgard Road Tallaght | RV £360 |
| | Devalues :Restaurant 3,864sq.ft. @ £14.75/sq.ft. | |
| 5. | McDonalds "Drive Thru " Kylemore Road Dublin 10 | RV £510 |
| | Devalues :Restaurant 5,661sq.ft. @ £14.15/sq.ft. | |

Respondent's Evidence

Mr Lyons on behalf of the Commissioner of Valuation determined the rateable valuation on the premises as follows:

Restaurant

(Gross Internal) 267.7 m² (2,774 ft²) @ £163.19 per m² (£15.16per ft²) = £42,054

Steel Container as store :

14.8 m² (c.159ft²) @ £21.53 per m² (£2.00 per ft²) = £ 319

£42,373

x .63% = £266.95

Say = £270 RV

In support of his valuation Mr Lyons gave details of five comparisons comprising McDonalds Restaurants as follows:

1. 1992/04 McDonalds 11 Tallaght West RV £360

Devalues	359 m ² (3,864 ft ²) @ £157.15 per m ² (£14.60 per ft ²)	=	£56,417
Store	15 m ² (163 ft ²) @ £ 43.06 per m ² (£ 4.00 per ft ²)	=	£ 646
	Estimate of NAV £57,063 x .63%	=	£ 359.50
			Say £360 RV

2. 1991/04 McDonalds No 88 Tallaght West RV £485

Map reference 303 The Square, Level 3

Devalues	456.43 m ² (4,913 ft ²) @ £168.46 per m ² (£15.65per ft ²)	=	£76,890
	Estimate of NAV £76,890 x .63%	=	£484.41
			Say £485 RV

(Note: Relationship of the NAV level per m² on the Centre unit Comparison No. 2 with the NAV per m² on the external unit (Comparison 1) = 1: 0.933)

3. 1997/04 McDonalds Blanchardstown RV £590

Map Reference 7.8.9/ Ac/ Unit 306 Coolmine Blanchardstown Centre - Happy Family Foods Ltd
t/a/ McDonalds

Devalues	533.35 m ² (5,741ft ²) @ £174.91 per m ² (£16.25 per ft ²)	=	£93,288
Store	7.15 m ² (77ft ²) @ £ 53.82 per m ² (£5.00 per ft ²)	=	£ 385
	Estimate of NAV £93,673 x .63%	=	£590 RV

(Note: Applying the relationship of NAV to the internal and external units as at Comparison 3 (ante) derived from McDonalds restaurants at The Square, Tallaght, to the NAV of £174.91 per m² for Blanchardstown (at Comparison 3) i.e. £174.91 per m² x 0.933 gives an NAV for the "drive thru" unit in Blanchardstown of £163.19 per m²).

4. 1993 and 1997 Revision McDonalds Artaine RV £310

Map Reference 4CaF Artane South (Artane Shopping Centre)

Devalues	511.8 m ² (5,509ft ²) @ £94.72 per m ² (£8.80 per ft ²)=	£48,478
Store	29.36 m ² (316ft ²) @ £21.53 per m ² (£2.00 per ft ²)=	£ 632

Estimate of NAV £49,110 x .63% = £310 RV

5. 1990/04 Appeal Inchicore B RV £360 McDonalds "Drive Thru" located at Kylemore Road Junction with Naas Road.

Map Reference 7M1.7L2 Drimagh

Devalues 525.92 m² (5,661ft²) @ £152.35 per m² (£14.15 per ft²)= £80,124

Store 15.33 m² (165ft²) @ £53.82 per m² (£5.00 per ft²)= £828

Estimate of NAV £80,952 x .63% = £510 RV

Mr. Lyons said the subject had a huge catchment area. He said that in a specialised building such as the subject, one had to have regard to rents in the Shopping Centre and he had related the rents on retail warehouses to the rents in the Shopping Centre as he had done in other shopping centres. He said that he only received information on the rent in the subject at the exchange of precis.

FINDINGS AND DETERMINATION:

The Tribunal has considered the written submissions and the oral evidence submitted by Mr. Halpin and by Mr. Lyons.

While it is noted that neither of the parties has relied upon lease evidence in this case, nevertheless the Tribunal is of the view that same cannot be entirely disregarded. This is particularly so when noting the evidence of Mr. Lyons who computed that according to the Jones Lang LaSalle Retail Index, upon the initial rental, the subject produced in or about £19.60 per square foot backdated to 1988. Notwithstanding that rate it is noted that Mr. Lyons seeks little over £15.00 per square foot upon the basis of the comparative evidence adduced.

The Tribunal has in a number of its decisions stressed the value and relevance of passing rents. It would thus be wholly inconsistent to now disregard such evidence even though same has not been emphasised by either party.

The Tribunal has considered the comparisons offered which in this case are particularly apposite to the subject. Notwithstanding the submissions of Mr. Halpin, the Tribunal is of the view that the best comparator adduced is that of McDonalds "Drive Thru" at Belgard Road. This premises is located adjacent to a shopping centre of similar size and commercial status. Moreover the volumes of pedestrian traffic passing the site of the McDonalds in Tallaght and in Blanchardstown are in the view of the Tribunal essentially similar.

It is noted that the Restaurant located in Tallaght at 3,864 sq. ft. is considerably larger than the subject. From the evidence it appears that the Blanchardstown Shopping Centre is superior to Tallaght and can now be considered the flagship of its type within the Dublin area. Shopping Centres such as Blanchardstown and Tallaght rely in the main upon customers using their own vehicles to gain access. The location of the McDonalds near the perimeter of the car parking area is thus not in the Tribunal's view a hindrance to the volume of custom.

By virtue of the foregoing, the Tribunal affirms the valuation determined by the Commissioner of Valuation at first appeal stage and so determines the RV to be £270.