

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Thomas Martin

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

Property No. 857352, Retail (Shops) at 13 O'Connell Street & 1 Thomas Hill, Waterford City, Co Waterford.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF AUGUST, 2016

B E F O R E:

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Michael Lyng - Valuer

Member

Orla Coyne - Solicitor

Member

By Notice of Appeal received on the 4th day of September, 2016 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €13,970 on the above described relevant property on the grounds as set out in the Notice of Appeal at Appendix 1.

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 6th day of May, 2016 adduced before us by Mr David Halpin on behalf of the Appellant, who contended for a net annual value of €5,580, and Ms Triona McPartlan on behalf of the Respondent to the appeal who contended for a net annual value of €13,970.

Property

The property is situated at the corner of O'Connell Street and Thomas Hill, Waterford. The Property comprises of a ground floor of an old three storey property to the front. Construction approximately 1900s with a retail shop fronted ground floor level and a single storey section to the rear (1 Thomas Hill). The floor area is agreed at in relation to the O'Connell Street Retail Zone A 38.88m² and Retail Zone B 23.76m².

The Appellant says that while the area is agreed at 21.55m² in relation to the portion of the property on Thomas Hill the Appellant regards this area as storage, while the Commissioner regards that portion on Thomas Hill as 16.72m² Zone A and the balance 4.83m² at Zone B.

Issue

The issue in dispute in this Appeal is quantum.

The Tribunal, having examined the particulars of the property the subject of this Appeal, having confirmed its valuation history, considered the written evidence, and heard the oral evidence adduced before us by Mr. David Halpin on behalf of the Appellant and Triona McPartland on behalf of the Respondent

DETERMINES

The net annual value/rateable valuation of the subject property be as set out below:

Both the Appellant and the Respondent confirmed to the Tribunal that there was a passing rent of €7,200 per annum at the valuation date. Both parties agreed that this was an oral agreement. It was agreed between the Appellant and the Respondent there was a passing rent of €7,200 per annum which was agreed orally in 2011 and payable at the valuation date on the 28th October 2011.

The subject property is zoned retail in its entirety. Mr. Halpin, on behalf of the Appellant, contended that the portion on Thomas Hill was not in use as retail in 2011 as it was in very poor condition and only used as storage. The passing rent included this portion of the property. argued the portion which is on Thomas Hill was not in use in 2011 as it was in bad condition and used only as storage area, although the rent included this portion of the property. When first valued this portion was not included. However, under the revaluation appeal the valuation was increased and amended to €13,970 as the portion on Thomas Hill was taken into account and regarded as retail, therefore increasing the value by 40%.

At the initial valuation stage, the Commissioner did not include this portion but during the revaluation process the portion on Thomas Hill was included. This had the effect of increasing the NAV by circa 40%.

The Reasoning Being

Appellants Comparisons

The Tribunal finds that comparators 4, 5 and 7 provided by the Appellant were not of assistance. Comparator 3, being a restaurant, was discounted. Comparator 6 is considered a better property than the subject.

Comparator 2 of the Appellant while there is no actual rental value for 2011 there is a current Lease in place at €15,000p/a. However, this is a far superior building with much better glass frontage and a much larger building.

The Tribunal found that the Appellants comparators 4, 5 and 7 were not of assistance because they were either considered to be larger or there is only an asking rent being offered or a much poorer location than the subject property. Comparator 3 is a restaurant and was also discounted.

Comparator 6 across the road from the subject property, no rental value was produced. The Tribunal would regard this property as being more valuable because of it being a full glass fronted unit.

Respondents Comparisons

No direct comparisons were provided by the Respondent.

Two rental informers were provided by the Respondent. The Tribunal found that the informers were too remote from the subject property to be of assistance. The Tribunal finds that there is a dearth of rental evidence at the Valuation date.

Further, the Tribunal finds that the Respondents Tone of the List comparisons were also of limited assistance.

The rental comparator properties that were furnished by the Respondent the first one is occupied as a restaurant with a commercial kitchen and the second comparator was too far away from the subject property to be of assistance to the Tribunal. No other rental comparators were produced by the Respondent.

The Tribunal found that the Respondent's tone of the list to be of little assistance in so far as property 1 was much larger than the subject property and of better condition. Property 2 and 3 were located in a different area to where the subject property is and are much smaller.

The Tribunal found that there was a verbal lease in existence at the date of the valuation of the subject property which was supported by the Commissioners own report and it is the best evidence and relevant. However, the Tribunal found that the Commissioner did not put sufficient weight on this evidence.

The Commissioner in his Précis of Evidence stated "this collection of NER's provides the basis for deciding what is the appropriate NAV per square meter or Zone A to be applied to the group of properties sharing similar characteristics, including the subject property. Following that, if there are any relevant individual considerations in relation to the subject

property relative to that group, further adjustments may be made to the property's NAV". Accordingly, the estimate of value is what a hypothetical tenant would pay by way of rent in accordance with Section 48.

The Tribunal finds that the Appellants evidence is more persuasive than the Respondents and holds that a 35% reduction should be applied to Zone A of the subject property as it is situated in a tertiary retail street (O'Connell Street). The portion of the property on Thomas Hill is situated on a predominantly residential street with limited footfall. In this particular case the Tribunal found that the Appellants evidence more informative and more persuasive. The Tribunal further found that the subject property as a whole while retail all over, necessitated a reduction to reflect the inferior location and the rent of €7,200 being the best evidence acceptable as stated.

The Tribunal held that a 35% reduction should be applied to Zone A of the subject property in the circumstances where the property as already stated is in an inferior location at €130/m². The Tribunal takes into account the view of the Appellant that it is situated in a tertiary retail street. The Tribunal while it took into account the statement of the Applicant's Representative who regarded as a tertiary retail street the Tribunal does accept that it is not on one of the main retail streets in Waterford. The rent at the valuation date would be what a willing tenant would give for the subject property and the only comparator given by the Commissioner which may be of some relevance on the same street was a restaurant with a commercial kitchen. The Tribunal held Zone B then to be €65/m².

In relation to the portion of the property on Thomas Hill which was being used by the Appellants as storage. Thomas Hill being a predominantly residential street with little footfall and has no retail trade save for one other property and is a tertiary retail location the Tribunal values Thomas Hill at €65/m².

		Area (m ²)	€ per m ²	NAV	
0	Retail Zone A	38.88	130	5,050.40	Decrease
0	Retail Zone B	23.76	65	1,544.40	Decrease
0	Thomas Hill	21.55	65	1,400.75	Decrease
	Total			7,999.55 Say €8,000	

And so the Tribunal determines.