

Appeal No. VA04/1/062

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

Gerry Sparrow

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Supermarket at Lot No. Unit B, Mount Oval Village, Mounthovel, Cork
Lower/Douglas, County Cork

B E F O R E

Frank Malone

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Michael McWey - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF SEPTEMBER, 2004

By Notice of Appeal dated the 30th day of March, 2004, the appellant appealed against the determination of the respondent in fixing a rateable valuation of €15.00 on the above described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are:

"On the basis that the RV is excessive inequitable and bad in law. On the basis that there was no clear request to allow the Commissioner to identify my client property as opposed to others in the development."

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay, Dublin, on the 31st May 2004. At the hearing, the appellant was represented by Mr Eamonn Halpin, B.Sc. (Surveying), A.S.C.S., M.R.I.C.S., M.I.A.V.I.. Mr. Terry Dineen, B.Agr.Sc., a District Valuer in the Valuation Office represented the respondent. Both parties having taken the oath adopted their respective précis as their evidence-in-chief.

Remedies Sought

- (1) That the revised valuation be struck out based on the failure to have the occupier and/or unit specifically identified for revision, as is standard practice. These grounds were included under the “exceptional circumstances” provision as previously allowed by the Tribunal in relation to earlier appeals.

- (2) That the quantum be reduced to a level that would accurately reflect the letting value (1988 tone) of a property of this type given that it is located in a moderate location in a partly developed housing estate well away from the established retail areas of Cork city centre and Douglas and given that there is no passing trade.

The Property

The property comprises a new Spar convenience store with ancillary office, canteen, W.C.s and external store.

The property is located within Mount Oval Village – a new housing development approximately 6.5 miles from Cork City and $\frac{3}{4}$ miles from Douglas.

The development is a long-term project which when completed in an estimated 4-5 years will contain 850/900 residential units.

At valuation date, approximately 250 units had been built with work ongoing on other units.

Valuation History

The premises were first assessed on 18th June 2003 when the Valuation Certificate was issued fixing RV @ €15. Following an appeal by the appellant to Commissioner of Valuation, and subsequent discussion with the revision officer, no agreement was reached.

The Commissioner issued the result of the 1st Appeal on 4th March 2004 as an unchanged valuation at RV €15.

Appellant's Evidence

Mr Halpin proposed some amendments to the floor areas in his submission.

The shop area should read 231.2 sqm as against 231.19 sqm. The canteen, office and store should be amended from 41.15 sqm to 44.8 sqm thus altering the valuation to $€16278.58 \times 0.5 = €81.39$ (say €81.00).

Mr Halpin stated that the validity of the revision was not raised at first appeal stage and that he was unaware of the nature of the revision request. In raising the issue at Tribunal appeal stage he sought to rely on the “exceptional circumstances” provision as previously allowed by the Tribunal in relation to earlier appeals, which, if allowed could fundamentally change the validity of this case.

Mr Halpin described the location of the subject property, highlighting the fact that the development is on the periphery of Cork city, is not on a main road and has no passing trade, as there is no population density.

Because of the subject property's moderate location, the purchase price of €750,000 was extremely moderate as were rents in the immediate area which are set at €21-€22 per sq.ft.

Mr Halpin stated that in the revision of properties, it was usual for the local authority to attach a specific list of occupiers and details of properties to the revision officer.

It was the appellant's contention that the revision listing was very general and non-specific and that the unit or owner was not identified as is standard practise by local authorities around the country.

Regarding quantum, Mr Halpin said that the comparisons presented by the Commissioner were not comparable to the subject property in that some were in Cork city, others in the county and were not of comparable value.

Mr Halpin maintained that the major contention between the appellant and the Commissioner was that the properties cited by the Commissioner were not comparable and that there was no tone of the list prior to revision.

He also maintained that the Commissioner factored in future developments and under *rebus sic stantibus* he cannot do so at valuation date, particularly as the development may take years to complete.

Mr Halpin offered the Wilton Shopping Centre, Cork as an example in establishing a fair NAV based on rental values. He estimated the NAV for the subject property as at 1st November 1988 as €16,278.58 and based on the agreed areas should be RV €81.

Mr Halpin was cross-examined by Mr Dineen and was questioned regarding his proposal that the valuation should be struck out under the "exceptional circumstances" provision.

Mr Halpin repeated that his argument was based on the grounds of the appellant being unaware of a deficiency in the listing at first appeal stage and that the property was not identified or occupied and as a result there was a lack of clarity in the revision listing of the property. It should therefore be excluded from the valuation list.

In his evidence for the respondent, Mr Dineen stated that all of his comparisons are comparable with the subject premises and that his comparison O'Donovan, The Grove, Broadale was the most comparable. However the subject was in better condition. Mr Dineen maintained that his comparison established the tone of the list for Mount Oval Village.

He stated that the traditional way of preparing a valuation was that on receipt of instructions from the local authority and having a valuation office map indicating the Lot No. and Townland, he carried out the valuation.

At the time of the valuation of the subject property, he had no knowledge of the Video Shop, mentioned by Mr Halpin.

On being cross-examined by Mr Halpin whether he had considered rental values as comparisons in his valuation, Mr Dineen stated that he did consider them but decided not to base his valuation on comparable current rental values. He also said that he was not influenced by the fact that the estate had a larger projection of units, as compared to the number at time of valuation.

Determination

The Tribunal has considered all the evidence and all the circumstances of the case and has noted that both valuers agreed that the property included in Lot No. 5ABCH – referred to in the form R2B (Application to the Commissioner for Revision of Valuation) was clearly identifiable.

The Tribunal further noted that Mr Halpin acted at 1st Appeal stage and could have obtained a copy of the Application to the Commissioner for Revision of Valuation at that stage if he so wished.

The Tribunal decide that no exceptional circumstances exist which would allow it to permit the appellant to raise the ground of the alleged lack of clarity in the revision listing

The Tribunal consider that the valuation as set out at Page 4 of Mr Dineen's précis to be fair and reasonable and that the rateable valuation of €15 should be affirmed.

Rateable valuation of €15 affirmed.

And the Tribunal so determines.