

Appeal No. VA07/1/009

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

Lemac Retailing Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Supermarket at Lot No. 13A/8, Ballincollig, Ballincollig, Cork Lower, County Cork.

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Brian Larkin - Barrister

Member

Patrick Riney - FSCS FRICS FIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17TH DAY OF JULY, 2007

By Notice of Appeal dated the 8th day of March, 2007 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €1,070.00 on the above described relevant property.

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

"The Valuation is excessive and inequitable, the valuation level applied does not reflect the tone of the list."

1. This appeal proceeded by way of an oral hearing held on the 27th day of April, 2007 at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7.
2. At the hearing the Appellant was represented by Ms. Sheelagh O Buachalla, BA, ASCS, of GVA Donal O Buachalla and the Respondent by Mr. Terence Dineen, B Agr Sc, a District Valuer in the Valuation Office. Mr. Sean Quish, the Managing Director of the appellant property, gave evidence relating to car parking and other matters at the property concerned.

The Property Concerned

3. The property concerned is a recently extended and upgraded supermarket located in a small neighbourhood shopping centre on the western edge of Ballincollig at a roundabout on the N22 close to the White Horse Inn.
4. Ballincollig is a rapidly expanding town in South Cork with a population of 16,339 according to the preliminary figures for the 2006 census. Historically a Garrison town, Ballincollig is now well established as a dormitory town for Cork City. In recent times there has been an upsurge in development activity in the town and a new shopping centre, anchored by Dunnes Stores, has been built on part of the site of the former Murphy Barracks.
5. The subject property is a supermarket within a small neighbourhood shopping centre development built about thirty years ago. In addition to the supermarket the centre provides a small parade of seven unit shops, together with off-street car parking facilities for 110 cars and a service yard at the rear.
6. At the hearing the parties agreed the accommodation measured on a gross external area basis to be as follows:

Supermarket Sales Area	1,944 sq. metres
Stores	564 sq. metres
Offices (First Floor)	257 sq. metres
Plantroom etc.	55 sq. metres

Rating History

7. On the 3rd day of July, 2006 the Revision Officer issued a certificate to the effect that the rateable valuation of the property concerned had been assessed at €1,070. No change was made on foot of an appeal to the Commissioner of Valuation and it is against this determination by the Commissioner that the appeal to this Tribunal lies.

The Appellant's Evidence

8. Mr. Sean Quish, the Managing Director of the appellant company, in his evidence outlined his widespread experience in various aspects of the food retailing business and drew the Tribunal's attention to a number of factors which he felt adversely affected the subject property from a trading point of view. In particular, he referred to the location of the centre, the tenant mix in the shopping parade and the inadequate off-street car parking facilities.
9. In relation to the location, Mr. Quish said that the centre was located on the periphery of the town about 2 km from its centre. The surrounding area was predominately residential in nature and there were no other commercial properties in the vicinity which would give rise to extra business activity. Furthermore, there had been a significant level of development within the town centre in recent times, including a new Dunnes supermarket and Aldi Store, which were in direct competition with the property concerned.
10. Adjoining the subject supermarket property and forming part of the centre there is a parade of seven unit shops most of which, Mr. Quish said, were used for service purposes as distinct from retailing in the accepted sense. This poor tenant mix, said Mr. Quish, did little to enhance business in the centre. Mr. Quish also said that, generally speaking, the occupiers of these shops appeared to be not interested in upgrading their properties and this lack of investment was detrimental to the appearance of the centre.
11. Mr. Quish said that the centre provided 110 off-street car parking spaces with about 15 extra spaces in the service area at the rear. This number of spaces, Mr. Quish said, was inadequate for the centre and this underlying situation was exacerbated by the use of the car park by persons who were not customers of the centre itself, but patrons of

the adjoining licensed premises. In an effort to improve the car parking situation for customers, Mr. Quish said he had at his own expense engaged car park attendants to control the use of the car park. This service, he said, was costing over €30,000 a year and whilst the position was improved, the problem was not eradicated. Mr. Quish said that he had attempted to purchase adjoining lands in order to expand the car park to a size necessary for the centre but had not been successful in acquiring the land in question. Mr. Quish said that there were no separate car parking facilities for staff working in the centre and in his opinion about 40 spaces were occupied by staff. Within his own company he had attempted to curtail the use of the car parking by his staff by the introduction of various financial incentives but to no avail.

12. Ms. O Buachalla, having taken the oath, adopted her précis which had previously been received by the Tribunal as being her evidence-in-chief. Before doing so she sought leave to amend her valuation to the following effect.

Supermarket	1,944 sq. metres @ €61.50 per sq. metre =	€19,556
Stores	564 sq. metres @ €27.00 per sq. metre =	€15,228
Offices (First Floor)	257 sq. metres @ €34.00 per sq. metre =	€8,738
NAV		€43,522
RV @ 0.5% =	€717	

In support of her opinion of Net Annual Value, Ms. O Buachalla introduced three comparisons, details of which are set out in Appendix 1 attached to this judgment.

13. Ms. O Buachalla said the two supermarkets in Ballincollig (Aldi and Downs) were her prime comparators and that lesser weight should be attached to her third comparison (Collins Supermarket) as it was situated in Carrigaline. This view, Ms. O Buachalla said, was in line with the findings of this Tribunal in **VA03/2/028 - Lidl Ireland GmbH**.
14. In her evidence, Ms. O Buachalla referred to the car parking problems at the centre already mentioned by Mr. Quish, and also to the fact that the property concerned occupies an out of town location where there are no other developments complementary to the appellant's business. These were factors that had to be taken

into account when arriving at an opinion of appropriate net annual value of the property concerned. Ms. O Buachalla said that a 10% reduction in the square metre rate applicable to the Aldi unit was warranted because of the differences in location, size and build quality. Similarly, a 30% reduction was reasonable in the square metre rate applicable to the Downs unit for location (10%), size (15%) and better car parking facilities (5%). Ms. O Buachalla also was critical of Mr. Dineen's decision to attribute a separate value to the plantroom. In her opinion various mechanical services available within the supermarket should be reflected in the overall rate per square metre applied to the supermarket area and other sectors of the building. This practice, she said, was also one which found favour in previous decisions of this Tribunal.

15. On her cross examination, Ms. O Buachalla conceded that her devaluation of the Aldi unit was incorrect and that the rateable valuation of €482.50 (i.e. £380) equated to an overall rate of €9 as against €9.68 per square metre stated in her précis.
16. In response to questions posed by Mr. Dineen, Ms. O Buachalla agreed that the Aldi unit was located in a retail park development which had no profile on to the main street. She also agreed that the Aldi unit had been valued at an overall rate per square metre with no allowance being made for the fact that part of the building was being used for storage and other ancillary purposes.

The Respondent's Evidence

17. Mr. Terence Dineen, having taken the oath, adopted his précis of evidence which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence, Mr. Dineen contended for a rateable valuation of €1,070 calculated as set out below:

Sales area	1,944 sq. metres @ €88.84 per sq. metre =	€172,704
Stores	564 sq. metres @ €44.42 per sq. metre =	€25,053
Plantroom/Generator	55 sq. metres @ €34.17 per sq. metre =	€1,879
First Floor Offices	257 sq. metres @ €54.67 per sq. metre =	<u>€14,050</u>
NAV		€13,686
RV @ 0.5% =	€1,068.43	
Say	€1,070.00	

In support of his opinion of net annual value Mr. Dineen introduced four comparisons, details of which are set out in Appendix 2 attached to this judgment.

18. In his evidence Mr. Dineen said the centre, including the supermarket, was first developed in or about 1977. The subject property was enlarged and substantially upgraded in 2005 and now provided retail space to modern expected norms. Mr. Dineen said that he was aware of the fact that the car park was used by persons other than customers but not to an extent that would cause undue problems.
19. Mr. Dineen said that he could not agree with Mr. Quish's comments regarding the location of the subject property. In his (Mr. Dineen's) experience supermarket operators preferred locations on the outskirts of town over town centre locations. The fact that the subject was located adjoining an established residential area was a bonus insofar as it was close to a strong customer base.
20. Mr. Dineen said that in valuing the property concerned he had looked at prevailing levels of values for supermarkets in other towns of a size similar to Ballincollig in the Cork rating authority area. Downs Supermarket (a common comparison) was a useful comparison insofar as it was located in Ballincollig.
21. In regard to the Aldi unit introduced by Ms. O Buachalla, Mr. Dineen said that this property devalued at an overall rate of €9 per square metre. His valuation of the property concerned devalued on a similar basis, indicating a figure of €75.70 per sq. metre.
22. Under cross examination Mr. Dineen agreed that Downs Supermarket occupied a main street location and was much smaller than the subject property. He also agreed that it had no dedicated car parking facilities but pointed out that there was ample car parking in the immediate vicinity. He also expressed the opinion that the Downs property was inferior from a supermarket operating point of view, by virtue of its layout, restricted area and ceiling height. Once again, he reiterated his opinion that supermarket operators preferred large modern premises on the outer fringes over town centre premises.

Findings

The Tribunal has carefully considered all of the evidence submitted and arguments adduced by the parties and finds as follows:

- (1) The Tribunal accepts Mr. Quish's evidence in relation to the car parking and the difficulties associated with the use of the car park by persons who are not necessarily customers of the centre or the supermarket. However, it should be said that a sizable percentage of the available car parking is used by staff and this too severely restricts the number of spaces free for use by intending customers. The lack of adequate car parking provisions is something that a prospective tenant would have regard to in forming an opinion of rental value.
- (2) The Tribunal notes Mr. Quish's opinion that the poor tenant mix in the shopping parade does little to bolster the business in the supermarket but does not altogether agree with it. In normal circumstances, the unit shop holders hope to derive benefit from the draw of the anchor supermarket occupier and not the other way around.
- (3) The Tribunal agrees with Mr. Dineen's opinion that larger supermarkets tend to prefer out of town locations similar to that occupied by the appellant. Nonetheless, there has been a trend towards town centre locations in recent times and in towns the size of Ballincollig the imperative would not be as significant as in the larger conurbations.
- (4) In all of the comparisons introduced by the valuers (save for the Aldi premises at Westwood Retail Park, Ballincollig) different square metre rates are attributed to the retail area, offices and stores with no reference being made to the plantroom. Mr. Dineen in his valuation of the property concerned valued the plantroom whilst Ms. O Buachalla did not and claimed that her action in so doing was in line with the findings of the Tribunal in the appeal **VA03/2/028 - Lidl Ireland GmbH**. In the circumstances of this appeal the Tribunal prefers Ms. O Buachalla's methodology particularly in view of the fact that all the comparisons (except for the Aldi store in Ballincollig) were devalued on a basis similar to hers.
- (5) The comparisons introduced by the parties varied greatly in size and location. On balance, the Tribunal places greater weight on those situated in Ballincollig – i.e. the Aldi unit and Downs. Whilst neither of these are of a size similar to the

property concerned it is nonetheless possible to draw some conclusions from their assessments in order to arrive at a valuation of the subject property that is fair, reasonable and consistent with other assessments in the area and taking into account the inherent car parking difficulties at the centre.

Determination

Having regard to the foregoing the Tribunal determines the rateable valuation of the property concerned to be as follows:

Supermarket	1,944 sq. metres @ €80 per sq. metre =	€155,520
Stores	564 sq. metres @ €40 per sq. metre =	€22,560
Offices (First Floor)	257 sq. metres @ €48 per sq. metre =	<u>€12,336</u>
Net Annual Value		€190,416
Say	€190,000	
RV @ 0.5%	=	€950

And the Tribunal so determines.