

Appeal No. VA08/2/014

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

Dr. John Dineen

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Surgery at Lot No.16B/Unit 2A, Cork Road, Kingsmeadow, South, County Borough of Waterford

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Damian Wallace - QFA, MIPAV, Valuer

Member

Mairéad Hughes - Hotelier

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 27TH DAY OF AUGUST, 2008

By Notice of Appeal received on the 6th day of June, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €60.00 on the above described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal and pages attached thereto, copies of which are at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on 18th July, 2008. At the hearing the appellant, Dr. John Dineen, represented himself and Mr. Edward Hickey, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation. Each representative, having taken the oath, adopted his précis and valuation, which had previously been received by the Tribunal and exchanged with the other party, as his evidence-in-chief.

Issue

Quantum

Valuation History

Manor Village is a new scheme of four large retail units and apartments fronting the Cork Road, Waterford. The appellant purchased Unit 2 and subsequently divided the unit and sought an amended planning permission for the rear section and it is this property which is the subject of this appeal. The property was the subject of a revision valuation in August, 2007 and a valuation certificate was issued proposing an RV of €75. The appellant made representations to the Revision Officer on 17th October, 2007 and following consideration of the representations the valuation was reduced to €60. The appellant then appealed this valuation on 28th November, 2007 and the Commissioner of Valuation issued the result of the first appeal, with the valuation remaining unchanged. On 6th June, 2008 the appellant appealed the Commissioner's decision to the Valuation Tribunal.

Location

The subject property is located at the rear of the Manor Village retail and apartment complex. Manor Village is a new scheme of four large retail units and apartments located on the Cork Road, Waterford, adjacent to Government Buildings.

The Property

The subject property is comprised of a ground floor commercial unit which has been converted to consultancy rooms and has a net internal area of 123.83 sq. metres. The appellant purchased Unit 2 in the Manor Village scheme in late 2006 and subsequently divided the unit. The subject property relates to the rear section only. The unit is used as treatment rooms for a chiropractic practice and the property is well finished with a shop front,

however it has no external signage. There is non designated parking in the immediate vicinity.

Appellant's Evidence

Dr. Dineen referred to his précis of evidence and indicated that the following issues should justify a lower valuation:

1. The distance from the city centre.
2. There is no designated parking attaching to the unit.
3. There is no road frontage, the subject property is not visible from the Cork Road and is not located in a prime area.
4. There is no potential for passing trade as the subject property is located at the rear of the Manor Village complex, adjacent to the delivery access for Spar and in a cul-de-sac.
5. Planning Permission for the unit was downgraded from retail to consultant's practice.

Dr. Dineen introduced a number of comparisons, attached at Appendix 2 to this judgment, including a list of the 82 GP practices in Waterford City. However, he added that it was difficult to provide comparative evidence as there is no other chiropractor in the area and he argued that his unit is very different from a GP practice. He said that having considered the list of all GPs in Waterford his property has the fourth highest valuation out of 82 units valued.

Dr. Dineen suggested that the only relevant comparison is his former practice in Catherine Street which has a higher property value, better visibility and is closer to the city centre. He added that even though his current property has a larger floor space he believes that this only balances out the advantages offered by the Catherine Street property and he cannot understand how his rates bill in the new property is almost treble that of Catherine Street. He confirmed that there is no parking associated with the subject property, no potential for walk-in business and no retail aspect to the business. However, when he reviewed the comparisons he saw he was being valued on a par with larger retail businesses. He indicated that he had a concern about the statement in Mr. Hickey's précis that "*the division of the unit does not necessarily downgrade the letting value.....I presume that it can revert back to a single unit if necessary.*" Dr. Dineen said that the unit had been sub-divided with a concrete block wall and that the front portion of the unit is now let on a long term lease. Dr. Dineen added that he

wished to clarify that the building is not on Cork Road and he feels he is being penalised for having presented the building to a very high standard. He added that Mr. Hickey had advised him that the valuation would likely be lower if the building was not so well presented. Finally in concluding his evidence, Dr. Dineen indicated that his main comparison is the Catherine Street property.

Cross Examination

In cross examination Mr. Hickey queried the issue of parking and he also asked questions about Dr. Dineen's comparisons. Dr. Dineen confirmed that he has no specific rights to any specified parking spaces and that he has been asked by the owner to remove the signs stating that parking was for the use of the clinic. He added that there was disc parking available in the Catherine Street area and patients would also use designated parking on the quays. Mr. Hickey asked whether Dr. Dineen felt that a property (Catherine Street) with a ground floor of 21 sq. metres should be valued at the same rate as the subject property, which has a ground floor of 124 sq. metres. Dr. Dineen acknowledged that he had a smaller floor area in the Catherine Street property but it had advantages such as visibility, passing trade and location and that the valuation of the building was comparable and that the actual business is the same in the subject property. He added that the main reason for moving was to allow him purchase his own building and to have a building without stairs to make access easier for his clients, many of whom would have difficulty negotiating the stairs. Mr. Hickey advised that properties are valued on a floor area basis and not on the nature of the business located there. In reply to a question from the Tribunal Mr. Dineen said there were some 50 – 60 car spaces in the Manor Village area.

Respondent's Evidence

Mr. Hickey said that when visiting the unit he has had no problem with parking at any stage, but acknowledged that it has been during the summer months when students are less likely to be around. He introduced three comparisons, the details of which are set out at Appendix 3 to this judgment as follows:

1. Dynamic Chiropractic, 20 Catherine Street.
2. Rowe Creavin Practice, 223 Lismore Park.
3. The Keogh Practice, Dunmore East Road.

Mr. Hickey said that there is no comparison from a parking point of view between the Catherine Street premises and the subject property, but he did acknowledge that Catherine Street is closer to town. He added that Catherine Street, Dr. Dineen's main comparison, is an old property which was formerly a private house that had obtained planning permission for a change of use. He confirmed that he reduced the valuation from €75 to €60 at representations stage and Mr. Hickey said he believed that €60 is fair in relation to the size of the unit and the location. He also added that the original valuation that was discussed with Dr. Dineen was only relevant to the subject property and not to the overall unit. Mr. Hickey confirmed again that having reviewed the valuation he took account of the concerns by Dr. Dineen and the amended valuation of €60 reflects these concerns.

Cross Examination

Under cross examination Mr. Hickey confirmed that he accepts that there are no designated car parking spaces attaching to the unit but he added that it is no different to a shopping centre where there are large car parks without any designated spaces. He confirmed that the tone of the list was set by the GP practices in the area. He said that the list of 82 GP units submitted by Dr. Dineen is meaningless when there is no account taken of area, location, etc. He indicated that he offered to provide comparisons on five or six of these which Dr. Dineen could select but this offer was not taken up. Finally Dr. Dineen indicated that he did not feel that it was fair to be compared to a GP premises as his business is completely different. However, Mr. Hickey confirmed that a chiropractor practice fits within the Valuation Office guidelines as a surgery. Mr. Hickey advised that the Valuation Office do not value the business, they value the property.

Summary

In summarising his case Dr. Dineen indicated that some of the comparisons used by Mr. Hickey were unfair as they were completely different business models. He had a small unit which in no way could be compared to a lucrative GP practice with a walk-in business and a large patient base. He said that he is listed as a surgery, but he is not a GP and it is not a surgery.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing and makes the following findings:

1. The subject property is a modern building finished to a very high standard.
2. The Tribunal notes the location of the subject property in a cul-de-sac off Cork Road but also notes that it is within walking distance of Waterford City Centre and located close to Government Buildings.
3. The Tribunal notes the fact that there are some 50-60 non designated car parking spaces adjacent to the property, versus on-street disc parking in the common comparison, Catherine Street.
4. The Tribunal has considered Dr. Dineen's favoured comparison, Catherine Street, which was a common comparison and the other comparisons and notes that the level of €77 per sq. metre on the subject property is substantially less than that on the ground floor of any of the comparisons offered:
 - Dynamic Chiropractic @ €95 per sq. metre
 - Rowe Creavin Practice @ €95.70 per sq. metre
 - The Keogh Practice @ €136 per sq. metre
5. The Tribunal notes the reduction at representations stage from €75 to €60 in acknowledgement of the points raised by the appellant and considers that this reduction was sufficient to reflect the perceived disadvantages of the subject property.

Determination

In reaching a determination the Tribunal has been required to consider only the evidence submitted and adduced. In so doing the Tribunal has made the foregoing findings and in the light of those findings determines that the valuation of the respondent is fair and reasonable. The Tribunal therefore affirms the valuation of €60.00.

And the Tribunal so determines.