

Appeal No. VA08/3/008

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

**Ivy Books Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2191742, Shop at Unit 1, Parnell Street, Rotunda B, Rotunda, County Borough of Dublin

**B E F O R E**

**Michael P.M. Connellan - Solicitor**

**Deputy Chairperson**

**Brian Larkin - Barrister**

**Member**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 5TH DAY OF JANUARY, 2009**

By Notice of Appeal received on the 11th day of July, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €1,410.00 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 in relation to comparable properties in the area."

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 31<sup>st</sup> day of October, 2008. At the hearing the appellant was represented by Ms. Dawn Holland, BSc (Hons), MIAVI, of GVA Donal O

Buachalla, Property and Rating Consultants. Ms. Orla Lambe, BSc (Surv), a Valuer in the Valuation Office, appeared on behalf of the respondent.

### **The Property**

The subject property is a newly constructed shop within the Ivy Exchange on Parnell Street, Dublin. Internally the property has suspended ceilings, tiled floors, a customer lift, air conditioning and plastered and painted walls. It is used as a bookshop and trades on the ground and mezzanine levels.

### **Location**

The subject property is located on the north side of Parnell Street, Dublin 1 and trades as “Chapters Bookstore”. It is facing the northern end of Moore Street.

### **Areas**

These are agreed as follows:

Ground Floor Retail	1,159.36 sq. metres
Ground Floor Stores	340.64 sq. metres
Mezzanine Retail	875.31 sq. metres
Mezzanine Stores	420.32 sq. metres

### **Tenure**

The property is held on a 25-year lease, with 5 yearly rent reviews – the maximum increase on rent review is 20%. There is no break clause. The lease commenced on 1<sup>st</sup> October, 2006 with 9 months rent free. The landlord made a capital contribution of €250,000. The mezzanine was constructed by the landlord but no rent is payable on it. The annual rent is €430,000 (€286.66 per sq. metre).

### **The Appellant’s Evidence**

Ms. Dawn Holland having taken the oath adopted her précis and valuation, which had previously been received by the Tribunal and exchanged with the other party, as her evidence-in-chief.

She said that the parties had agreed on the description of the premises as set out above. They had also agreed the areas, location and tenure of the said premises.

She said that the landlord had given the appellant the first 9 months of the tenancy free of rent and had also given them a capital contribution of €250,000 as an enticement to take the property. They had also installed the mezzanine floor for the appellant free of charge and free of rent.

She contended that the north side of the street was not as good, trade-wise, as the south side and that the landlord had given these enticements because it was difficult to get tenants. She further said that the tenants had secured a very good deal in this respect. She maintained that there was a reluctance for business people to go on that side of the street.

The annual rent for the premises from October 2006 is €430,000.

Her comparisons are set out at Appendix 1 hereto. They include Aldi in Parnell Street, Lidl in Moore Street, and Centra in Parnell Street. Aldi is on the south side of the street. In fact, she said, all her comparisons were on the south side as there are no comparisons on the north side.

The rent on the subject property is €86.66 per sq. metre. Aldi has a rent of €308.45 per sq. metre, Lidl €322.86 per sq. metre, and Centra €727 per sq. metre. This, she said, backed up her contention that the south side was the superior side of the street and much busier as the pedestrian traffic from O'Connell Street would flow on the south side as well as the traffic from Moore Street and the Ilac Centre. Shoppers, she maintained, would have no reason to cross the street to the north side unless they were going to a particular shop.

She also pointed out that on the south side there were good retailers, big names like Centra, The Bag Shop, Paddy Power's, McDonalds, Burger King, etc. On the north side there are more low profile local shops, e.g. a taxi service, Chinese restaurants, etc. The south side, on the other hand, has been developed. There are a lot of vacant units on the north side and a large unit close to the cinema has been vacant for 2 years or so. There are no vacant premises on the south side at the moment.

Tesco was not there at date of valuation and therefore, she said, could not be taken into consideration.

**Cross Examination**

Ms. Holland said that part of the shop at the back did not have frontage to the street.

There was trading on the north side of the street, but her point was that it was a more localised trade than the big shops on the opposite side. She said that people going to the cinema on the north side of the street were going to see a film and not to shop. She maintained that the cinema complex was not a great success as there were vacant units in it. She reiterated that there was trading on each side of the street but taking into consideration the rental evidence already given in relation to the south side of the street it was apparent that the south side had the greater share of the trading.

Tesco was not there at the date of valuation and accordingly cannot be considered - *rebus sic stantibus*.

In relation to her comparison Lidl in Moore Street, she said that Lidl's retail area had a higher valuation (€50.34 per sq. metre) because it was in Moore Street and would be busier. The subject property is almost opposite the northern end of Moore Street.

She agreed that Centra could not be considered as a comparison as it was valued in 2008 and was not on the Valuation List at the date of valuation of the subject property.

She said that she arrived at her valuation of €16.16 per sq. metre for the ground floor retail area by looking at the comparisons and made a judgement on it. She said she thought it fair and reasonable in the circumstances. She did not, she said, take much heed of Centra as it is a much smaller unit.

She would not agree that Aldi was at the quiet end of the street as it was just beside the car park and close to the Ilac Centre. The subject property was not in a better position than Aldi.

**Respondent's Case**

Ms. Orla Lambe having taken the oath adopted her précis as her evidence-in-chief. She pointed out that the subject property was facing the northern end of Moore Street, and was on

the north side of Parnell Street. She referred to the map in Ms. Holland's précis showing the subject property edged in red therein.

She then referred to Appendix 4 in her submissions which showed photographs of the ground floor, mezzanine floor and first floor of the subject premises and pointed out that the said premises had an excellent frontage to Parnell Street at the northern end of Moore Street.

She then referred to her comparisons which are the same as Ms. Holland's, namely Aldi and Lidl with the addition of WB Peats & Co. Ltd. (See Appendix 2 hereto). She said that the ground floor levels only were in dispute and it was agreed that the common comparisons of Aldi and Lidl should be used for the purposes of this appeal.

Parnell Street in recent years has benefited from major urban renewal projects. It includes new shops, apartments, offices and a multi complex cinema with a multi shared car-park beside the Ilac Centre.

She further said that she arrived at her valuation of €1,410 by reference to the valuations on Aldi, Lidl, and Peats. The ground floor of the subject premises was valued at €36.70 per sq. metre by the respondent, whereas Lidl was valued at €50.34 per sq. metre and Aldi at €36.70 per sq. metre. Peats was valued at €75.00 per sq. metre and was smaller than the appellant's property. Aldi was reduced from €60 per sq. metre to €36.70 per sq. metre at first appeal stage whereas Lidl was agreed at appeal in 2005.

She then read out her conclusions set out at page 12 of her précis (Appendix 3 hereto). In reply to the Chairperson when asked about the enticements given by the landlord, she said that at the date of inspection the market rents were starting to fall.

### **Cross Examined by Ms. Holland**

Ms. Lambe agreed that she could not take into account Tesco in Parnell Street as it was not there at the valuation date. *Rebus sic stantibus* meant that a potential tenant, knowing that it was to be built would take it into consideration. She also agreed that Centra was not on the Valuation List at the time of valuation.

### **Findings**

The Tribunal having considered all the oral and written evidence produced by the parties and the arguments adduced at the hearing make the following findings:

1. In order to let the subject premises the landlord was forced to grant considerable inducements to the appellant namely:
  - (i) To grant nine months free of rent.
  - (ii) Make a capital contribution of €250,000 to the tenants, the appellant herein.
  - (iii) To install a mezzanine floor free of charge and free of rent.
2. The rents are lower on the north side of the street than on the south side.
3. The south side is more attractive to tenants because of the better profiles of the premises and better footfall.
4. Tesco and Centra are not to be considered, as they were not on the Valuation List at the date of valuation.
5. The proximity of premises on the south side to the Ilac Centre and Henry Street is a major factor benefiting premises on the south side of the street.
6. There are many vacant units on the north side of the street and none on the south side.

### **Determination**

Haring regard to the foregoing the Tribunal determines a fair and equitable valuation to be as follows:

Blocks 1-6 Ground Floor Shop	1,159.36 sq. metres @ €125 per sq. metre	€144,920
Block 7-13 Ground Floor Store	340.64 sq. metres @ €41 per sq. metre	€13,966
Blocks 14-20 Mezzanine Shop	875.31 sq. metres @ €45.60 per sq. metre	€39,914
Blocks 21-24 Mezzanine Store	420.32 sq. metres @ €27.33 per sq. metre	<u>€11,487</u>
Total		€210,287
Rateable Value @ 0.63%		€1,324.81
RV Say		€1,324.00

And the Tribunal so determines.