

Appeal No. VA10/2/002

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

**Byte Supermarkets Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property 2200833, Supermarket at Lot No. 1A Pembroke, Monkstown Urban, Cork Lower, County Cork

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

**Fiona Gallagher - BL**

**Member**

**Damian Wallace - QFA, MIPAV, Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 29TH DAY OF SEPTEMBER, 2010**

By Notice of Appeal dated 31st day of March, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €40 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 as assessed is excessive and inequitable. The RV is excessive in view of the actual location and the established tone for comparable property".

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 11<sup>th</sup> day of June, 2010. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), MRICS, MIAVI, Eamonn Halpin & Co. Ltd. and Mr. Don Donovan, BSc (Property Management & Valuation Surveying), Dip FM, MIAVI, a valuer in the Valuation Office, appeared on behalf of the respondent. 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.

### **The Property**

The subject property, formerly a main dealer modern motor garage, has been converted and is now operating as a supermarket/convenience store with deli, bakery, meat counter and ancillary car parking/yard. The overall site includes 4 other small retail units. The accommodation includes storage areas on the ground and first floor and staff locker rooms on the first floor. The retail area has a tiled floor and typical freestanding display shelving. The buildings are finished to a modern standard.

### **Location**

Passage West is approximately 7.5 miles from Cork City Centre and 3.5 miles from the South City suburbs and the subject property is located on the R610, the main road between Rochestown and Monkstown, on the edge of the village of Passage West. It is located on the City side, approximately a mile from the old town centre and adjacent to a lot of the recent housing development in the area. It is removed from the old town properties and does not enjoy the attraction of a main street, a shopping centre or other busy areas.

### **At Issue**

Quantum

### **Tenure**

The property is understood to be held freehold

### **Valuation History**

The property was listed for revision in 2009 following a request by Cork County Council. Following inspection, a Valuation Certificate was issued in July 2009 with a rateable

valuation of €80. On 3<sup>rd</sup> September, 2009 an appeal was lodged on behalf of the appellant by Mr. Eamonn Halpin. On 9<sup>th</sup> March, 2010 the Commissioner of Valuation issued a Valuation Certificate with the rateable valuation reduced to €40. On 31<sup>st</sup> March, 2010 Eamonn Halpin and Co. lodged an appeal to the Valuation Tribunal on behalf of the occupier against this decision by the Commissioner.

### **Appellant's Evidence**

Mr. Halpin, at the commencement of his evidence, said that the key issue for the Tribunal was the relative value of the subject property and whether or not the comparisons relied on by the Commissioner were actually comparable. He said that the location of the subject property was on a road to nowhere and did not enjoy the attraction of a main street location or proximity to a shopping centre. Mr. Halpin introduced CSO population figures for 2006. He drew attention to the figures for Douglas, Carrigaline, Ballincollig and Cobh and its environs, comparing these to the figures for Passage West and its environs. He pointed out that Passage West has a dramatically different population level to these other towns and observed that the bigger the population, the bigger the retail spend, adding that this point is fundamental to the appeal.

In Mr. Halpin's opinion, a crucial point is that the premises itself is removed from the old town centre. There is very little commercial activity in Passage West; it has the appearance of a town that is not thriving and shopping in Passage West has declined over the past number of years. Mr. Halpin said that the NAV tone for a comparable, albeit somewhat superior, property was set by the Commissioner in 2005 when he agreed a level of €8 per sq. metre for the new Supervalu on the outskirts of Cobh, prior to a hearing of the Tribunal appeal, (**VA05/3/060 - O'Sheas Supermarket Ltd.**). Mr. Halpin Stated that the subject property in that appeal was a superior, purpose-built premises in a similar type peripheral site, away from the established historic retail centre of Cobh, but with a larger Aldi also on-site. Mr. Halpin advised that he does not subscribe to the view that there can be only one set of values for a particular category of properties.

Mr. Halpin stated that the subject premises primarily serve the needs of the local community, and that there is little or no potential for passing trade other than from local residents. The buildings are essentially a modern warehouse structure with limited glazed areas. There is a

small store and goods intake area at the back of part of the property. The subject property, Mr. Halpin stated, is not a town centre type building.

Mr. Halpin advised that the level applied by the Commissioner is excessive in view of the established tone of the list for superior properties and it is also excessive in view of the level applied to the above mentioned Cobh premises. While it is accepted by the appellant that with this type of property - as with all others - there is a range of values, this property would definitely be at the lower end of the range, primarily due to its location away from any high street and, to a lesser degree, due to its construction and level of fit-out. He said that the Commissioner does not appear to accept this and now argues that all supermarkets are of the same value, relying heavily on the decisions of the Tribunal in **VA07/1/005 - Aldi Stores (Ireland) Developments Ltd.** and **VA07/1/008 - Frankfield Supermarkets Ltd.** concerning two supermarkets on Grange Road on the outskirts of Douglas Village. Mr. Halpin contended that these properties are not comparable to the subject as they adjoin much denser population areas.

Mr. Halpin advised that there has been a phenomenal input by the occupier in the running of the business. He also stated that the hypothetical tenant would not pay more per sq. metre for this property than for the superior purpose-built Cobh Supervalu premises, due to locational and other drawbacks associated with the subject. He added that great care must be taken when considering the subject against the tone of the list as this type of premises is different from some of the others already assessed. When the actual location and potential for trading is taken fully into account, Mr. Halpin said, it is clear that a simple application of the highest rate per sq. metre throws up too high a figure in respect of the rateable valuation. Mr. Halpin stated that in the interest of fairness this approach should be tempered, as many of the comparisons relied upon are not truly comparable. Mr. Halpin suggested that the rate per sq. metre proposed for the poor quality stores and staff area is also excessive as these areas are vastly inferior to the comparisons cited. He advised that the appellant is seeking a substantial reduction to reflect more fairly their property's relative value against the broader tone of the list of comparable properties.

Mr. Halpin then offered 5 comparisons (attached at Appendix 1 hereto), as set out below:

1. Supervalu, Cobh
2. Supervalu, Kanturk
3. Aldi, Cobh
4. Dairy Gold, Carrigaline
5. Aldi, Ballincollig

Mr. Halpin said that the Supervalu comparison in Cobh is a new purpose-built property on the outskirts of Cobh. He said that it is an excellent property with greater potential due to the larger adjacent population base and that it is valued at a lower level than the subject. Mr. Halpin observed that Aldi, Cobh is slightly smaller and was valued more recently, but with a broadly similar valuation to Supervalu Cobh. With regard to SuperValu, Kanturk, Mr. Halpin stated that Kanturk town has a population of 2,000 and that this property is valued lower, showing that there are other levels of value. Mr Halpin stated that Dairygold Carrigaline is a fine establishment, located on the edge of Carrigaline town, but within proximity of the town-centre. Mr Halpin stated further that the valuation on this property had been appealed to the Tribunal, which had allowed a 30% differential because it was not in the main trading part of the town. (**VA02/3/009 - Dairygold**) (The Tribunal notes, however, that this assertion by Mr Halpin concerning the Tribunal's determination in **VA02/3/009** is inaccurate and factually incorrect.)

Mr. Halpin then referred the Tribunal to the maps in his précis and indicated that the subject property is located approximately 3 miles from the Ring Road, from there which are several alternative options for shoppers within close proximity, including Mahon Point, Douglas and Carrigaline. Mr Halpin observed that the subject property is also close to Cobh via the cross river ferry. He stated that the population of Passage West is not confined to shopping in Passage West, which is one of the reasons why the old town has declined. Mr. Halpin observed that none of the major brands have sought to locate in Passage West and that this was a significant point.

Mr. Halpin concluded his evidence by referring to photographs submitted on behalf of the appellant and emphasised that the subject property was originally a garage and not a custom-built supermarket, as is the case with Supervalu, Cobh, which also has 5 additional internal retail units and a fine car park.

Mr. Halpin contended for a rateable valuation of €400, set out as follows:

Retail Area	1,251 sq. metres @ €8.09 per sq. metre = €72,671
Store and Goods Intake	63 sq. metres @ €27.34 per sq. metre = € 1,722
Store and Basic Office	53 sq. metres @ €41.00 per sq. metre = € 2,173
Mezz Staff Locker Room	48.4 sq. metres @ €27.34 per sq. metre = € 1,323
Mezz Store	139 sq. metres @ €20.50 per sq. metre = <u>€ 2,850</u>
Total NAV	= €80,739
Say	€80,000
@ 0.5%	= RV €400

### **Cross-Examination**

In cross-examination Mr. Donovan raised two questions regarding Mr. Halpin's assertion that it is the view of the Commissioner of Valuation that all supermarkets are valued at the same level, and a finding by the Tribunal in Frankfield that Grange road is a secondary road.

Mr. Halpin said that in his experience over the years there was a range of values, depending on the circumstances of the case, stating that it appears the Commissioner is now of the view that the Tribunal's decision in **Frankfield** is the basis for all future decisions. In response to the second question Mr Halpin stated that, notwithstanding the Tribunal's finding, Grange Road is built-up and is a busy traffic route, especially at the points where Frankfield and Aldi supermarkets are located.

### **Respondent's Case**

Mr. Donovan, having taken the oath, adopted his précis. He confirmed that he agreed with the description of the property and location as set out by Mr. Halpin in his presentation to the Tribunal and did not feel it necessary to go over this again.

Mr. Donovan indicated that he had relied heavily on the Tribunal judgment in **Frankfield** and pointed out that when there is such a decision he takes account of it. He stated that this judgement was extremely relevant in considering the valuation of the subject, but that he did not rely on it solely, maintaining that the other comparisons bear this out. Mr. Donovan accepted that the centre of Passage West town is falling slowly into dereliction, but observed

that there has been significant residential development as one moves towards the city and that the subject property is located in an area adjacent to, and designed to cater for, these recent developments.

Mr. Donovan then introduced details of his 6 comparisons (attached at Appendix 2 hereto) as follows:

**1. Frankfield Supermarkets Ltd - VA07/1/008**

Mr. Donovan referred to the 7 findings in the Tribunal judgment, stating that it is an excellent comparison for the purposes of valuing the subject property. He stated that some of the findings are extremely relevant, particularly the first 3 findings which note that the property is in a residential area on a secondary road. The judgment also points to the fact that the area lacks commercial demand and interest and that the unit is isolated from other businesses. In Mr. Donovan's opinion, these were facts equally relevant to the subject property. Mr. Donovan added that it is notable that all traffic leaving Passage West for Cork City must pass the subject property, whereas this was not the case with the subject in the Frankfield appeal.

**2. Collins Supermarket, Carrigaline. Property No. 936449**

This property is twice as large as the subject. It is located in the centre of Carrigaline and is, Mr. Donovan said, is in a better location than the subject. Despite the reverse quantum issue, the retail area of the subject property is valued a rate per sq. metre which is at just 87.8% of that applied to this comparison.

**3. Ryans Supervalu, Glanmire. Property No. 2144644**

This property is also in a town centre location but is closer in size to the subject. It is located in a large residential area within a short drive of Cork City. The reduction applied is adequate to reflect the location of the subject outside of the town centre but on a busy road. Mr. Donovan pointed out that this is a first floor store, which is not ideal for a supermarket.

**4. Downs, Ballincollig. Property No. 933012**

This property has a town centre location and is smaller than the subject and is valued at higher rates than the subject. At the time of the valuation it was the dominant shop in Ballincollig and the subject is at a significant discount.

### 5. Supervalu, Kanturk. Property No. 1023587

Mr. Donovan said that this comparison had been suggested by the Appellant's agent. Mr. Donovan said that, in his opinion, it was not directly comparable to the subject.

Mr. Donovan stated that this is not a relevant comparison.

### 6. Supervalu, Cobh. Property No. 2175513

Mr. Donovan said that this comparison was also suggested by the Appellant's agent.

Mr. Donovan agreed that this property is a valid comparison. It is located on the edge of Cobh, approx 25km from the city. He stated that Cobh is a much bigger town than having Passage West. However, in addition to having a bigger population, there is also greater competition, since Cobh also has Aldi, Lidl and a number of other stores.

Mr. Donovan stated that he accepted that there is significant competition in Douglas, Carrigaline and other nearby areas, but pointed out that the subject property is a convenience store and not a supermarket complex. He referred to Mr. Halpin's comparisons and said that the location of Dairygold was significant because it is on the south side of Carrigaline while all the developments have taken place on the north side. Mr. Donovan stated that Dairygold in Carrigaline is isolated and it lacks profile. Mr. Donovan also mentioned that one of the major impediments to retail in Passage West is parking but added that the subject property has ample parking.

Mr. Donovan concluded his evidence by contending for a valuation of €40, calculated as follows:

	Area	€psm	NAV
Retail	1,251.00	78.00	€7,578.00
Ground Floor Store	116.00	39.00	€4,524.00
First Floor Store	139.00	27.34	€3,800.26
Staff Rooms	48.40	48.00	<u>€2,323.20</u>
		Total NAV	€108,225.46
RV	€41.13		
Say	€40		

### **Cross-Examination**

Mr. Halpin raised a number of questions and in response Mr. Donovan stated that, even though his comparison in Glanmire is surrounded by retail units and is superior, he believed it to be an appropriate comparison as he felt that the reduction in the valuation of the subject, taking into account the property in Glanmire and all the other comparisons, is appropriate. In response to questions from Mr. Halpin, Mr. Donovan said that he was unable to comment on comparisons put forward by the appellant's agent in the **Frankfield** case as he did not know the detail of the properties. Finally, in response to the question of Cobh being a better location than Passage West, Mr. Donovan stated that Cobh is a better town but that SuperValu, Cobh is not a better property than the subject, mainly due to nearby competition from Aldi and Lidl.

### **Findings**

The Tribunal having carefully considered all the evidence and arguments adduced by the parties makes the following findings:

1. The Tribunal has noted the 2006 CSO population figures for Passage West, relative to the surrounding towns, and believes the variance between the population in Passage West and those in the locations of the comparisons to be a significant factor.
2. The Tribunal notes the fact that both parties acknowledged that Passage West is a location that has not benefited in recent years from the same level of improvement as the other locations cited in evidence.
3. Frankfield supermarket is in a superior location by virtue of its suburban location, and therefore not directly comparable with the subject property.
4. The Tribunal accepts that a significant disadvantage of the subject property is that it is not purpose-built.
5. The Tribunal believes that the comparisons presented in evidence are superior properties to the subject, but finds that SuperValu, Cobh is the closest comparison.

**Determination**

Having regard to the foregoing the Tribunal considers the following to be a fair and reasonable valuation on the subject property:

Retail	1,251.00 sq. metres @ €60.00 per sq. metre	€75,060.00
Ground Floor Store	116.00 sq. metres @ €34.17 per sq. metre	€3,963.72
First Floor Store	139.00 sq. metres @ €21.85 per sq. metre	€3,037.15
Staff Rooms	48.40 sq. metres @ €36.00 per sq. metre	<u>€1,742.40</u>
	Total NAV	€3,803.27
RV @ 0.5%	€419.01	
Say	€419	

And the Tribunal so determines.