

Appeal No. VA11/2/011

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

Seannico Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2206060, Supermarket at Lot No. 14/3 - Unit 2-3, Loughtee Business Park, Drumalee, Cavan Rural, Cavan, County Cavan.

B E F O R E

John F Kerr - BBS, FSCSI, FRICS, ACI Arb

Deputy Chairperson

Tony Taaffe - Solicitor

Member

Veronica Gates - Barrister-at-Law

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 08TH DAY OF NOVEMBER, 2011

By Notice of Appeal dated the 9th day of May, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €527 on the above described relevant property.

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

"The valuation is excessive as the comparisons used by the Valuation Office are in a vastly superior location to the subject property."

The appeal proceeded by way of an oral hearing which took place at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 6th day of July, 2011. The appellant was represented by Mr. Declan Bagnall, MRICS, MSCS, a Chartered Surveyor and the Respondent was represented by Ms. Ciara Marron, MIAVI, BSc (Property Valuation & Management), a District Valuer in the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted the same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given directly. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

The Property

The subject property is located to the north side of Cootehill Road in the area of Drumalee, approximately one mile north east of Cavan Town Centre. The Cootehill Road is a secondary road linking Cavan Town to the town of Cootehill. This is a mixed use area with offices, pub, restaurants, shops, a surgery and a large mix of residential accommodation. The subject is a three-storey supermarket comprising basement stores, ground floor retail and first floor offices and stores. The property is finished to a high standard with approximately €2,000,000 spent on refurbishment. Part of the premises is let to a value pharmacy and this unit is rated separately. In addition, there is an in-house café to the left of the main entrance at the front of the store. The property has two lifts. One lift accesses the basement car park and there is a service lift to the basement chill store and external stores and enclosed delivery yard. The property has a large surface car park and a shared 53-space basement car park. The shop has two entrances, one from the Cootehill Road and one from the surface car park.

Floor Areas

The floor areas were agreed by the parties, as follows:-

Ground Floor Retail:	1,552.12 sq. metres
First Floor Office:	170.74 sq. metres
First Floor Store:	181.90 sq. metres
Basement Store:	25.34 sq. metres
Basement external Stores:	<u>131.98</u> sq. metres
Total Floor area:	2,606.11 sq. metres

Tenure

Leased for a term of 35 years, commenced July 2008 with an annual rent of €20,000.

The Appellant

Mr. Bagnall formally adopted his précis of evidence and gave oral evidence that the appellant's main issue with the valuation of the Valuation Office is that no account has been taken of the location which he is of the opinion is an inferior location and the surrounding shops are very local in nature. Given the inferior location of the subject property, Mr. Bagnall is of the opinion that the Valuation Office has failed to give sufficient discount when reaching a valuation. In response to a question from the Tribunal, Mr. Bagnall confirmed that he felt he had applied Section 49(1) of the Act in reaching his valuation. Mr. Bagnall confirmed that his reference to turnover was based on the subject property's two sister stores which are of the same size, operated by the same company and within the same Local Authority area. Mr. Bagnall gave evidence that the subject is trading at 50% less than the other two sister stores and confirmed that whilst he is not using turnover as a basis, he is taking it into account to demonstrate that location is a relevant factor in reaching a fair valuation on the subject property. Mr. Bagnall emphasised that the subject is situated within a small commercial development and a vast majority of the units remain unlet and are vacant. Mr. Bagnall said that the most significant element of the development after the supermarket is a large office block which also remains vacant.

Appellant's Comparisons

The Appellant relied upon five comparison properties, details of which are set out in Appendix 1 hereto. The properties include the following:- SuperValu, Lakeland Retail Park; Heaton's, Lakeland Retail Park; Woodies, Lakeland Retail Park; Aldi, Dublin Road and Lidl, Ballinagh Road. The Consultant Valuer argued that the Net Annual Values established on the foregoing and in particular the first three comparison properties, would suggest that the rates applied by the Commissioner of Valuation on the subject did not take into account the benefits derived by those three retailers in Lakeland Retail Park with respect to access, profile, agglomeration of occupiers, and footfall. Net Annual Values established in the first two locations range from €0.18 to €1.52 per sq. metre. Mr. Bagnall also noted that Comparison No. 3 retail was assessed at €1.26 per sq. metre and the two grocery discount retailers were assessed on their ground floor retail areas at €7.87 and €7.85 per sq. metre respectively. Mr. Bagnall also noted that in addition to the foregoing advantages enjoyed by the operators of the five comparison properties, the Commissioner had failed to consider the practice of providing for quantum allowance on large

retail floor areas and failed to adequately reflect appropriate adjustments on storage and office floor area levels in the foregoing properties to make them properly relative to the subject.

Mr. Bagnall sought to reduce the rate per sq. metre on the foregoing, as follows:-

Ground Floor Retail:	1,552.12 sq. metres	@ €38 per sq. metre
First Floor Office:	170.74 sq. metres	@ €24 per sq. metre
First Floor Store:	181.90 sq. metres	@ €20 per sq. metre
Basement Store:	25.34 sq. metres	@ €20 per sq. metre
Basement external Stores:	<u>131.98 sq. metres</u>	<u>@ €20 per sq. metre</u>
Total Floor Area:	2,606.11 sq. metres	
Total requested NAV:	€69,863	
Requested RV:	Say €350	

Respondent

Ms. Marron formally adopted her précis of evidence and gave oral evidence describing the subject property as being in the Cootehill area which is a nothern route in to and out of Cavan town. Ms. Marron said that the subject is a high profile unit in a mixed use area development in a large residential catchment area and some 18 retail units. Ms. Marron emphasised that the Cavan Institute (an institute of further education) is situate in close proximity to the subject as is the Health Service Executive Child Care Unit. Ms. Marron said that the subject is located in a good retail and residential area and the shop is open until 10pm, whereas comparisons on the Dublin Road are only open until 8pm. She said that the Dublin Road comparisons are more commercial and not so residential. Ms. Marron said that in her opinion the Valuation Office had given sufficient allowance for any trading deficiencies which a tenant might consider when comparing the location of the subject to the locations of the comparison properties, four of which were common in the instant case.

Respondent's Comparisons

The Respondent also introduced four comparisons which were common to the Appellant's case, namely; SuperValu and Woodies at Lakeland Retail Park, with Aldi and Lidl on the Dublin and Ballinagh Road, details of which are contained in Appendix 2 hereto. Having regard to the foregoing and Section 49(1) of the Valuation Act 2001, the Respondent calculated the Rateable Valuation on the subject property as follows:-

Ground Floor Retail:	1,552.12 sq. metres	@ €38.09 per sq. metre
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First Floor Office:	170.74 sq. metres	@ €37.59 per sq. metre
First Floor Store:	181.90 sq. metres	@ €30.75 per sq. metre
Basement Store:	25.34 sq. metres	@ €20.50 per sq. metre
Basement external Stores:	<u>131.98 sq. metres</u>	@ <u>€20.50 per sq. metre</u>
Total Floor Area:	2,606.11 sq. metres	

Total NAV: €105,398.95

= RV €526.99

Say €527

Summations

In summary, Mr. Bagnall said the main differences between the valuation of the appellant and the valuation of the Valuation Office relate to location, access and profile of the subject property. In his opinion, a 6% allowance for this location is not sufficient. Mr. Bagnall said that while he accepted that there a tone of the list on the Dublin Road, this tone should have been discounted further because of the location of the subject property.

Ms. Marron said the subject property is in a good location on the Cootehill Road with mixed use tenants. There is easy access to Cavan Town, good car-parking and a good finish to the property. In Ms. Marron's opinion, the Lidl and Aldi Stores are inferior in fit out and the allowance which she has given for an inferior location is fair and reasonable.

Determination

The Tribunal has carefully considered the evidence adduced by both parties, both in their oral and written evidence.

The task of a Consultant Valuer is to provide evidence to support his/her argument that the valuation as noted on the Valuation List is incorrect in accordance with Section 63(1) of the 2001 Act,

“The statement of the value of property as appearing on a valuation list shall be deemed to be a correct statement of that value until it has been altered in accordance with the provisions of this Act.”

In this case, both parties acknowledge and agree that Section 49(1) of the 2001 Act applies. Both parties agree that the “tone of the list” is the appropriate reference. However, in this case, the “tone” was selected by both parties exclusively from the southern area of Cavan in the area known as Lakelands which contains the nearby Aldi and Lidl Stores, whereas no “tone” or comparisons were cited in the area of the subject located north of Cavan Town in the Cootehill area.

It would appear from the evidence that the subject is a neighbourhood retail centre and draws from a large residential neighbourhood and from the Cavan Institute and the Health Service Executive and other commercial services established in the Cootehill Road area. The Tribunal notes that in support of this contention the subject grocery retailer avails of extended trading hours until 10.00 p.m. The primary comparison property chosen by both parties was Supervalu, Lakelands where the rates per square metre are set at a higher level than the subject, reflecting the opinion of both parties with respect to the advantage of the latter over the subject in terms of location, access and profile.

The appellant sought the direction of the Tribunal to increase the foregoing allowance but did not provide support or quantify such consideration. Accordingly, having considered all of the evidence submitted and adduced, the Tribunal is satisfied that the Commissioner of Valuation discharged his duties correctly and affirms the valuation at €527.

And the Tribunal so determines.