

Appeal No. VA11/3/033

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

The Barry Group

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2208227, Supermarket at Lot No. 65b/1. 2/a, Boherboy, Tralee Urban, Tralee UD, County Kerry.

B E F O R E

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

Deputy Chairperson

Joseph Murray - BL

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF FEBRUARY, 2012

By Notice of Appeal received on the 15th day of August, 2011 the appellant appealed against the determination of the Commission of Valuation in fixing a rateable valuation of €290 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal and attached schedule are attached at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 1st day of February, 2012. At the hearing the appellant was represented by Mr. Brendan Harty and the respondent was represented by Mr. David Molony, BSc, MRICS, a district valuer in the Valuation Office. Both parties, having taken the oath, adopted their respective précis which had previously been received by the Tribunal as their evidence-in-chief. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal.

The Property Concerned

The subject property, trading as Buy Lo Supermarket, is located on the eastern side of Tralee town, Co. Kerry, with frontage onto John Sheehy Road and accessed at the rear from Boherboy Road. Across the road and fronting the subject is the Austin Stack GAA park. The relevant property is approximately a ½ kilometre from the town centre.

The relevant property comprises a low cost supermarket contained in a new detached five-storey development. The upper floors of the building were developed as apartments. There is one tenant present overhead in the building.

Valuation History

This is a revision valuation under Section 49(3) of the Valuation Act, 2001. At Representations Stage the revision officer made no change to the valuation of €350. At First Appeal Stage the valuation was reduced to €290 specifically having regard to its location. Mr. Brendan Harty lodged an appeal on behalf of the appellant with the Valuation Tribunal on 15th August, 2011. The hearing was adjourned on two previous occasions before being heard on 1st February, 2012.

Accommodation

Supermarket 708.79 sq. metres

Offices /Canteen 42.3 sq. metres

These areas were not in dispute.

Condition

The property is in good condition and contained in a recent modern development. Internal specifications were described as basic with fair faced concrete block walls, exposed concrete ceilings and concrete floors.

Tenure

Tenure is held under an FRI lease.

Valuation

The subject property was reduced at First Appeal from €350 to €290 to reflect its location. NAV was calculated as follows:

Supermarket	708.79 sq. metres	@ €78.55 per sq. metre	= €55,675.45
Office/Canteen	42.3 sq. metres	@ €61.48	= <u>€ 2,600.60</u>
Total NAV			= €58,276.05
NAV @ 0.5% = €291.38			
RV say = €290			

Appellant's Case

Mr. Brendan Harty took the oath and adopted his précis as his evidence-in-chief. Mr. Harty stated that the subject property is too highly rated when compared with similar properties in the town of Tralee. He said that there is only one other tenant in the five-storey building, and stated that the location of the subject property was not adequately factored into the valuation and that the current economic conditions were not considered. He repeated that the subject was of basic construction.

Appellant's Comparisons

Mr. Harty stated that the nearby premises of O'Donoghue Brothers Car Sales and Walters Lyons Furniture Store carry RVs of €108 and €102 respectively.

He also added that Aldi bears an RV of €330 and that there is an €8 difference in the rate per sq. metre between that premises and the subject. This he challenged as an 11% loading on the subject which he felt is unjustified. He also noted that surface parking spaces provided at Aldi are twice as many as at the subject property.

Cross-Examination

In response to questions raised by Mr. Molony and the Tribunal, Mr Harty (1) agreed that Buy Lo is closer to the centre of town than Aldi; (2) said he was familiar with the Valuation Act, 2001; (3) stated that he could not see why a comparison property from outside the rating authority area could not be considered in this case or see why a car showroom could not be considered as comparable with a supermarket; (4) disputed Mr. Moloney's assertion that customers exiting Aldi's parking lot could turn right into traffic approaching the town centre.

Respondent's Case

Mr. David Molony took the oath and adopted his précis as his evidence-in-chief. Mr. Molony advanced two comparison properties as set out below:

1. Aldi Stores Ireland Ltd. – a supermarket. Located further out from town than the subject. It is a single-storey structure. It is similar in size to the subject property at 763.3 sq. metres and was valued at @ €70.39 per sq. metre. Mr. Molony noted that the subject has a better trading profile.
2. Kaga Supermarket Limited, Caher Anne Village, Tralee. Area 140.3 sq. metres at €109.34 per sq. metre. Much smaller floor than the subject property, well removed from the centre of the town and valued much higher than the subject.

Repondent's Submissions

Mr. Molony stated that the appellant was not comparing "like with like," O'Donoghue Brothers being a car sales unit and Walter Lyons a furniture store. The subject property is a supermarket and should be compared with other supermarkets in Tralee. Buy Lo has a better location and profile than Aldi, as Aldi is recessed from the public road. He said the rate per sq. metre applied to Buy Lo was fair and reasonable. Mr Molony also stated that the subject is accessed from two roads and that Aldi is disadvantaged by being set behind an old garage. He also noted that the eaves height of the subject are higher than those at the Aldi store.

Cross-Examination

Mr Harty asked Mr. Molony if he thought Aldi was of a higher standard of specification than the subject and Mr Molony did not think so. He was also asked by Mr. Harty as to why the

same rate is not applied to the supermarket area as to the office/canteen. Mr. Molony replied that it was not rating practice to do so.

Findings

1. This is a revision valuation and the Tribunal notes that the appellant was not very familiar with the Valuation Act, 2001, particularly Section 49 and the comparative evidence applicable. The appellant provided RVs of €108 and €102 on his two comparison properties without analysing same to provide value levels per sq. metre.
2. The most suitable comparison to the subject property was Comparison Number 1 submitted by the respondent, Aldi Stores Limited, which bears a lower value rate per metre than the subject. Both are modern buildings of similar purpose.
3. The subject has a better profile than Aldi and can be assessed from both the John Joe Sheehy and Boherboy roads. Aldi is recessed from the main road and set back behind a dated, industrial structure, impairing its profile.
4. The subject has a better location and is much closer to the town centre of Tralee than Aldi.
5. The parties disagreed as to whether or not a customer driving his vehicle could take a right turn on leaving the Aldi parking lot. Accordingly, the Tribunal leaves the question on this matter open.
6. The Austin Stack GAA Park opposite the subject generates some footfall for the trading benefit of the subject.
7. The Tribunal was satisfied that ingress and egress to/from John Sheehy Road is challenged by the existence of a centre road median and a road traffic management system providing for two-way traffic flows at each side of the said median and median cuts set back east and west of the entrance/exit to the parking lot of the subject.
8. The onus is on the appellant to prove that the value of the property appearing on the valuation list namely, RV €290 applied to the subject is incorrect. The appellant has not discharged this onus to the satisfaction of the Tribunal by showing grounds to justify a reduction.

Determination

Accordingly, the appeal is dismissed and the rateable valuation of €290 fixed by the respondent is affirmed.

And the Tribunal so determines.