

Appeal No. VA95/1/129

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**Spar**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Map Ref: 67/Unit 18, Townland: Tallaght Village, ED: Tallaght-Glenview, Co. Dublin

Quantum - Agreed valuations in SC best comparisons

**B E F O R E**

**Fred Devlin**

**FRICS.ACI Arb. (Acting Chairman)**

**Con Guiney**

**Barrister**

**Marie Connellan**

**Solicitor**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 26TH DAY OF JULY, 1996**

By Notice of Appeal dated the 26th day of April 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £190 on the above described hereditament.

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

"the rateable valuation is excessive and inequitable having regard to the provisions of the Valuation Acts and on other grounds also."

**The Property:**

The property comprises part of the Village Green Shopping Centre located within old Tallaght village, on the east side of Old Bawn Road at its intersection with the Tallaght by-pass. The subject property forms part of a neighbourhood centre known locally as the Village Green Retail and Leisure Centre. The premises comprise the ground floor section of a detached two storey modern retail office building. The building is constructed of concrete walls, cement rendered externally, aluminium framed shop front and windows, tiled floor, suspended ceiling and pitched asbestos slated roof.

Internally, the walls of the retail area are plastered and painted whilst the storage area has concrete block walls unplastered, no suspended ceiling and bare concrete floor.

**Accommodation:**

The agreed floor areas are as follows:-

<i>Description</i>	<i>Sq.ft.</i>
Retail area	1,630
Store	273
Cash Office	<u>47</u>
<b>Total net lettable floor area</b>	<b><u>1,950</u></b>

**Title:**

The property is owned by Southside Taverns Limited and held under a 9 year 9 month lease from November 1992. The rent is based on a percentage of the annual turnover and is subject to a minimum of £30,000 per annum exclusive.

**Valuation History:**

The premises was first valued at 1993 revision stage when the rateable valuation was fixed at £220. At 1993 first appeal stage the rateable valuation was reduced to £190. It is against this determination of the Commissioner of Valuation that an appeal lies to the Tribunal.

**Written Submissions:**

A written submission was received on the 26th day of January 1996 from Mr. Thomas Davenport ARICS, Chartered Surveyor, Lisney, Surveyors and Estate Agents on behalf of the appellant.

In his written submission, Mr. Davenport described the subject premises and set out his valuation considerations. Mr. Davenport estimated the net annual value on the subject premises as follows:-

***Ground floor***

Retail	1,630 sq.ft. @ £10 psf
Stores/Cash Office	320 sq.ft. @ £ 4 psf
Total net annual value	£17,500 (Equates to £9 psf overall)
<b>Rateable valuation</b>	<b>£110.</b>

In support of his rateable valuation, Mr. Davenport gave details of seven comparisons within the area. The details of which are summarised below. He also gave details of other Spar shops located throughout the city and recently revised.

**1) SuperValu**

Unit 49 Ailesbury Shopping Centre Tallaght, Dublin 24.  
1991/4 Appeal - RV £180.

***Breakdown:***

Supermarket 4,394 sq.ft. @ £5.70 psf.

**2) Londis**

Unit 1, Old Bawn Shopping Centre, Tallaght, Dublin 24.  
1991/3/ Appeal and 1994/4 Revision - RV £125.

***Analysis:***

Floor area approx. 3,000 sq.ft. @ £6.30 psf.

**3) Centra Foodmarket**

178 Whitehall Road West, Dublin 12.  
1987 Appeal - RV £110.

***Analysis:***

Retail 2,153 sq.ft. @ £7 psf.

**4) Spar**

Unit 5, Dutch Village, Monksfield, Clondalkin, Dublin 22.  
1990/2 Appeal - RV £100.

***Analysis:***

Retail 2,197 sq.ft. @ £7 psf.

**5) Super Saver**

Main Street, Clondalkin, Dublin 22.  
1995/4 Revision - RV £85.

***Breakdown:***

Floor area 1,162 sq.ft. @ £11.60 psf.

**6) The Village Square**  
Tallaght, Dublin 24.

***Unit 1 - Analysis:***

1,200 sq.ft. @ £15.80 psf.

***Unit 2 - Analysis:***

785 sq.ft. @ £16 psf rental value.

***Unit 3 - Analysis:***

Quoting a rent of £13,000 (£16 psf)

***Unit 4 - Analysis:***

£1,302 sq.ft. @ £16.50 psf.

*General Comments:* - The above properties are immediately facing the subject unit.

**7) Spar - Eight till late**  
110 Nutgrove Avenue, Dublin 14.  
1991 Revision - RV £90.

***Analysis:***

Shop/Stores 1,430 sq.ft. @ £10.50 psf.

A written submission was received on the 22nd day of January 1996 from Mr. Patrick F. Berkery, B.Comm., Grad.Dip.Pl. and Dev.Econ., a District Valuer with 19 years experience in the Valuation Office on behalf of the respondent.

In his written submission, Mr. Berkery described the subject premises, its valuation history, tenure and construction. He set out his valuation considerations. Mr. Berkery estimated the rateable valuation on the subject premises as follows:-

***Valuation***

Shop and store	1,950 sq.ft. @ £16 psf - £31,200
NAV Nov '88	Say £30,000

RV            £30,000 x 0.63%  
                  £189. **Say £190.**

Mr. Berkery offered four comparisons within the area which are summarised below.

- 1)    **Xtra-Vision (also located in Village Green Centre in Tallaght)**  
       Shop 2,625 sq.ft. @ £14 psf = £36,750 net annual value @ 11/88  
       RV £36,752 x 0.63% = £230. Agreed with agents.
- 2)    **Unit 9.10 Village Green Centre**  
       RV 140. 1,463 sq.ft @ £15.
- 3)    **VA92/2/048 - Reginald Tuthill**  
       Unit 20, Kilnarnagh Shopping Centre.  
       1,924 sq.ft. @ £13 psf. RV £157.
- 4)    **Unit 19, Kilnarnagh Shopping Centre**  
       1,159 sq.ft. @ £18.43 psf.  
       Agreed with Consultant at RV £135.

**Oral Hearing:**

At the oral hearing held in Dublin on the 2nd day of February 1996 the appellant was represented by Mr. Thomas Davenport and the respondent by Mr. Patrick Berkery. Mr. Kevin Molloy, Managing Director of the Molloy Group and Mr. Patrick Kelly, the Financial Controller of the Molloy Group were also in attendance and gave evidence.

Prior to the oral hearing the Tribunal received written submissions from Messrs. Davenport and Berkery and by mutual consent these were admitted by them as being their evidence in chief given under oath.

At the oral hearing Mr. Davenport referred extensively to the evidence contained in his written submission and in particular drew the Tribunal's attention to the following:-

- 1)    During the 1970's and 1980's Tallaght was a depressed area with few amenities and very limited shopping facilities.
- 2)    The Square Shopping Centre development which opened in late 1990 has now become the recognised village centre and as a consequence the former main street has become somewhat run down and neglected.

- 3) Whilst the Square Shopping Centre afforded a wide range of retail outlets the planners were anxious to encourage the development of small neighbourhood centres nearby which would not be in direct competition with The Square but would provide mainly convenience type shopping facilities. The Village Green retail and leisure centre was built to meet this perceived demand.
- 4) The Village Green Centre is located just off Main Street and provides a total of 20 retail units including the subject property.
- 5) Access to the Village Green Centre is off the Old Bawn Road but individual shops have no direct frontage onto this road.

Mr. Davenport referred to each of his comparisons in turn and expressed the view that each of them enjoyed better trading locations than the subject. An examination of the valuation of these various properties indicated to him that the valuation of the subject was excessive.

Mr. Davenport called Mr. Kelly to give evidence regarding the rent of £45,000 for the adjoining property occupied by the Molloy Group as an off-licence. Mr. Kelly said that the lease containing the rent of £45,000 per annum had not been executed and indeed the transaction was an inter-company arrangement for financial resource purposes.

Mr. Kevin Molloy gave evidence of how Tallaght had developed in recent times. In his opinion the County Council was more interested in promoting development outside the old village centre on land in their own ownership than elsewhere in the Tallaght area. This policy had culminated in The Square Shopping Centre development and as a result the former village area was now in the process of decline and long established traders were moving out. The new road system in the area had also militated against the survival of the Village Centre and it was proposed that the new LUAS link to Tallaght would terminate at The Square.

In response to questions from the Tribunal, Mr. Molloy said that the Village Green Centre development was somewhat less than a mile from The Square. In the main, trading in the Village Green Centre took place in the evening after The Square was closed. In effect it was there to serve a need for convenience shopping.

Mr. Berkery in oral evidence to the Tribunal said that Tallaght was still a population growth area. The Village Green Centre in his opinion was well located and was in a designated area where occupiers and investors benefit from the various tax concessions.

Mr. Berkery pointed out that a number of valuations in the Village Green Centre had been agreed at first appeal stage and that Lisney had acted for a number of the appellants. In response to a question from the Tribunal, Mr. Davenport indicated that he had indeed advised some of the occupiers at first appeal stage and had recommended agreement.

Mr. Berkery further pointed out that he had agreed the valuation of the first floor office accommodation at the Village Green Centre on the basis of £8 psf with Lisney. That being the case it seemed inconsistent of Mr. Davenport to be valuing the subject property at £10 psf.

With regard to Mr. Davenport's comparisons, Mr. Berkery said that these were outside the Tallaght area whereas he had drawn his comparisons from the immediate locality. Under the circumstances therefore he considered his evidence to the Tribunal to be more reliable and reflected better the pattern of values in the general vicinity.

In response to questions from Mr. Davenport, Mr. Berkery said that he was not aware that some of the rents originally obtained in the centre when it opened had been reduced due to disappointing levels of trading due to the impact of The Square Centre.

**Determination:**

Having considered all the evidence adduced at the oral hearing the Tribunal makes the following preliminary findings of fact:-

- 1) Over the past ten years Tallaght has undergone major change and the focal point of the town has shifted from the old Main Street to The Square Shopping Centre location.
- 2) As a consequence commercial activity in the old Main Street has gone into decline and it is unlikely that this trend will be arrested. The revised road layout in the area has exacerbated this situation.
- 3) The Square Shopping Centre is the largest enclosed shopping centre in the Dublin area and draws its customer base from a wide catchment area. By virtue of its design and management philosophy The Square Shopping Centre is open mainly during normal

trading hours. The Village Green Centre on the other hand is an open arcade type development acting as a small neighbourhood centre and is occupied by a range of mainly convenience type traders offering late night shopping facilities throughout the week. As such it is not in direct competition with The Square and is there to serve a particular customer base and demand.

- 4) The Tribunal accepts Mr. Kelly's evidence in regard to Unit 17 to the effect that the rent referred to by Mr. Berkery is not an arms length transaction.
- 5) In relation to the comparative evidence submitted by the valuers the Tribunal considers that put forward by the respondent to be of more assistance than that introduced by the appellant.
- 6) The Tribunal further finds the evidence submitted by the respondent in respect of other units in the Village Green Centre development agreed at first appeal stage to be the most helpful. The Tribunal notes that there is only a £1 difference in the square foot rate applied to the Xtra-Vision unit and Unit 9.10 which have areas of 2,625 and 1,463 square feet respectively.

The Tribunal would like to compliment Mr. Molloy for the evidence he gave at the hearing, drawn as it was from his personal knowledge of Tallaght and which was of great assistance.

Having regard to the foregoing the Tribunal has come to the conclusion that the subject property by virtue of its size and other characteristics should be valued at the same square foot rate as the Xtra-Vision unit. Accordingly, therefore, the Tribunal determines the rateable valuation to be £172 calculated as set out hereunder.

Net annual value	1,950 sq.ft. @ £14.00 psf = £27,300
Rateable valuation	@ 0.63% = <b>Say £172.</b>