

Appeal No. VA 14/5/939

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

Fresh Opportunities Ltd

APPELLANT

And

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

Property No. 2195083, Retail (Shops) at Floors -1,0, 5 Northern Cross Retail Boulevard,
Coolock, County Borough of Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF AUGUST, 2017**

BEFORE:

Barry Smyth – FRICS, FSCSI, MCI Arb

Deputy Chairperson

Liam Daly – MSCSI, MRICS

Member

Hugh Markey – FSCSI, FRICS

Member

By Notice of Appeal received on the 4th day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a Net Annual Value (NAV) of €196,000 on the above described relevant property on the grounds as set out in the Notice of Appeal as in Appendix 1.

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 6th day of July, 2017 adduced by Mr. Eamonn Halpin of Eamonn Halpin and Co. Ltd on behalf of the Appellant, who contended for a NAV of €95,800 (in the Notice of Appeal), and Mr. Ian Power of the Valuation Office on behalf of the Respondent to the appeal, The Commissioner of Valuation,

DETERMINES

That the net annual value of the subject property be as set out below on the basis of the agreed floor areas:

Level 0 Supermarket	1,341sq.m.	@ €100 per sq. m.	€134,100.00
Level 0 Loading Bay	70 sq. m.	@ €0	€ 0
Level -1 Store	224.55sq. m.	@ €50 per sq. m.	€11,227.50
Level -1 Car Spaces - 3		@ €800	€2,400.00
Off Licence			€10,000.00
Shop Fit out 7%			€9,387.00

Total NAV €167,114.50 say €167,000 (Decrease)

The reasoning being:

1. The Property:

The property comprises a purpose built ground floor retail unit with loading bay; storage and 3 car spaces at basement level. It forms part of the Northern Cross commercial and residential development constructed c. 2008/9. The complex is located at the junction of the Malahide Road and the N32. Adjacent occupiers include Bank of Ireland and Meadows and Byrne.

The property which is the subject of this appeal is operated as a convenience store/supermarket and off licence.

Evidence was given that much of the retail element of the Northern Cross development remained vacant in 2011.

2. Basis of Valuation

The valuation of the subject property is to be conducted according to the provisions of the Valuation Act 2001. The NAV of the property is to be estimated in accordance with Section 48 of that Act. The actual rent for any individual property may be material in deriving estimate, but is not in itself conclusive of NAV in the context of Section 48. The estimate of value is what a hypothetical tenant would pay by way of rent in accordance with Section 48, not necessarily what any particular tenant is paying.

3. The Appellant's Case

The Appellant's case as put forward by Mr. Eamonn Halpin was twofold viz:

1. Part of the property had been surrendered and was no longer in use by the occupier. He attributed this to difficult trading conditions
2. The Commissioner's estimate of NAV was excessive and did not reflect the type, nature and poor location of the property.

He adduced evidence of several supermarkets/discount stores in the general vicinity and also in Dublin City Centre to support his opinion. The local comparators were valued at between

€70 and €100 per sq. m. - the lowest level being Iceland at Greenhills Parade, which he accepted could be characterised as an industrial neighbourhood.

He opined that there was a correlation between the Zone A rates set by the Commissioner for shops and the overall rate used for supermarkets and he demonstrated this by his choice of city centre comparators. This led him to believe that an appropriate rate to apply to the retail space was €85 per sq. m. He did not adduce any comparators to support his contended rate of €40 per sq. m. for the basement stores. He accepted the Respondent's opinion in respect of the car spaces; the fit out element and the off licence. He suggested that the loading bay should not fall to be valued.

In relation to the vacant unit, Mr. Halpin accepted that this unit was not held on a separate lease and as such was not capable of 'surrender'.

4. The Respondent's Case

Mr. Ian Power, representing the Commissioner of Valuation contended for a NAV of €194,200, based on the revised agreed areas as recited above. He introduced evidence of the letting of the subject in January 2009 at a rent of €200,400 pa as being evidence of correctness.

He adduced evidence of the NAV of the Meadows & Byrne store and the Bank of Ireland branch, both in Northern Cross, to support his contention that a rate of €115 per sq. m was appropriate. This level had been agreed in these cases following representations.

He introduced 5 further comparators to the Tribunal. One of these was the Tesco store at nearby Clare Hall Shopping Centre and the others were Lidl, Aldi and Super Valu stores in the adjacent suburbs. These analysed at rates of €100 per sq m. (Lidl, Aldi, Coolock) to €120 per sq. m. (Tesco Clare Hall). Valued at €115 per sq. m. were SuperValu (Ballymun) and Aldi/Lidl (Finglas).

5. Reasoning:

- (a) Mr. Halpin's evidence that part of the unit had been surrendered was not supported.
- (b) No evidence was adduced by the Appellant's valuer to support his opinion of value of the stores area and the Tribunal accepts Mr. Power's figure.
- (c) The Tribunal found Mr. Halpin's evidence in respect of the loading bay at the subject to be compelling, particularly as none of the other comparators, with the exception of Tesco Clare Hall, a different property in scale and character, had values attributed to their service yards.
- (d) The Tribunal considered the evidence of the NAV levels attributed to the various discount supermarkets and SuperValu in Ballymun to be compelling evidence. Indeed, these are all better circumstanced than the subject; the closest, in nature, to the subject is the SuperValu unit in Ballymun. Some adjustment needs to be made to allow for that property's superior location. The Tribunal is of the view that an appropriate rate to adopt is €100 per sq. m., on the retail space as applied by the Commissioner in the cases of the discount stores in the immediate vicinity (Lidl & Aldi, Coolock).
- (e) The figure to be applied to the off licence (€10,000) and the allowance for fit out of 7% of the NAV of the retail floor space were not disputed and the Tribunal affirms these figures.

And the Tribunal so determines.