

Appeal No. VA14/5/946

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. 2174685, Retail (Shops), Floors -1,0, 2 IFSC Mayor Street Lower, 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

Hugh Markey- FRICS, FSCSI

Member

Liam Daly –MSCSI, MRICS

Member

By Notice of Appeal received on the day of 4th day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a Net Annual Value (NAV) of €117,100 on the above described relevant property on the grounds as set out in the Notice of Appeal attached at 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 9th day of March, 2017 adduced by Mr. Eamonn Halpin on behalf of the Appellant, who contended for a net annual value of €77,600 on an overall retail

basis or €80,800 on a zoned basis, and Mr. Patrick Murphy on behalf of the Respondent to the appeal,

DETERMINES

That the net annual value of the subject property be as set out below:

Level	Use	Area (sq. m.)	NAV (€ per sq. m)	NAV (€)
-1	Store	48.64	80.00	3,891.20
-1	Canteen	5.4	80.00	432.00
-1	Office	6.21	80.00	496.80
0	Store	15.12	45.00	680.40
0	Goods Inwards	15.30	45.00	688.50
0	Retail Zone A	139.89	400	55,956.00
0	Retail Zone B	107.97	200.00	21,594.00
0	Retail Zone C	107.97	100.00	10,797.00
0	Retail Zone Remainder	1.77	50.00	88.50
Additional Items (Off Licence)				10,000.00
Total				104,624.40
Valuation				104,600.00

Total NAV €104,624.40 say €104,600.00 (Decrease)

The reasoning being

1. The Property:

The subject property is located in the IFSC on Mayor Street Lower, Dublin 1. The property comprises a ground floor shop and basement store/canteen/office which is part of a five storey terraced building. The floor areas have been agreed between the parties. The property which is the subject of this appeal is operated as a convenience store/supermarket and off licence. The property is held on a 20 year lease from January 2009 with an annual rent of €198,000.00.

2. Basis of Valuation

The valuation of the subject property is to be conducted according to the provisions of the Valuation Act 2001. The Net Annual Value (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 Net Annual Value 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 was put forward by Mr. Eamonn Halpin. It was suggested that the subject property's estimate of net annual value was excessive and inequitable. The Valuation Office utilised the zoning method in arriving at the NAV. Mr Halpin contended this was inappropriate for the subject property. Mr. Halpin was of the opinion that the property's characteristics required another more suitable method of valuation to be applied. Mr. Halpin maintained the property should be compared with large convenient stores/supermarkets and valued on an overall basis. Mr. Halpin also highlighted that although the subject property is located within the city centre it has characteristics more closely associated with suburban locations.

4 The Respondent's Case

Mr Patrick Murphy, represented the Commissioner of Valuation. Mr Murphy stated there were 40 retail properties valued in the IFSC. Ten of these properties were appealed to the Commissioner of Valuations. The Retail Zone A on the ten appealed properties was reduced to €450 psm. The subject property is one of 3 appealed to the Valuation Tribunal. Two of the Tribunals have been concluded. The details were outlined as follows:

- VA 14/5/984 (Property number 2182374) is located on Mayor Street beside the subject property. The valuation was agreed prior to the Tribunal Hearing at a Zone A rate of €450 psm. The same rate as was applied to the subject property.
- VA 14/ 952 (Property number 2174665) is located on Excise Walk close to the subject property. The Valuation Tribunal decision affirmed the Zone A rate applied of €450 psm.

In regard to the methodology used by the Valuation Office in determining the Net Annual Value, Mr Murphy said the subject property and comparisons all have a ground floor area of under 500 sqm. The subject property has a ground floor area of 388.02 sqm. Mr. Murphy contended that in accordance with the Society of Chartered Surveyors guidance on zoning, this property is within the threshold. Mr. Murphy also referred to a recent Tribunal judgment in Dublin City Council (VA 14/5/538) where this interpretation of the Guidance was acknowledged and therefore the methodology utilised by the Valuation Office was appropriate.

5 Reasoning:

The Commissioner has applied the process of adopting the zoning method and applied it to retail units of less than 500 sqm. This methodology has been accepted in previous Valuation Tribunal decisions.

It is the Tribunals view, however, that attention should always been given to the existence of variations. Quantum, frontage and depth needs to be correctly interpreted and reflected in the zoning rate applied. The Valuation Office included in their Precis of Evidence the Society of Chartered Surveyors Zoning Guidance Notes – May 2009. The Guidance Notes were referenced during the course of Mr. Murphy's evidence. The Valuation Office's contention was that by utilising the Guidance Notes they were adopting a 'best practice' approach. The Tribunal acknowledged the Valuation Offices' intentions, however consider they had deviated somewhat in their application. The Tribunal notes the Society of Chartered Surveyors guidance suggested that "*greater weight be applied to evidence derived from units which are closer in*

size to the premises being valued. A guideline of +/- 50% is suggested". It was the opinion of the Tribunal that the comparable evidence presented was considerably outside the 50% guideline. The Tribunal is of the opinion that quantum, frontage and depth were not interpreted correctly when reflected in the zoning. Therefore the Tribunal has reduced the Zone A rate applied by 10% to acknowledge the quantum and frontage to depth ratio in the zoning of this unit.

Furthermore, to ensure uniformity and fairness, the Tribunal has reduced the rents applied to the basement level to the same level as was applied by the Commissioner to Block C, Castleforbes Square, Castleforbes Road, Dublin (as included in the Precis of Evidence).

And the Tribunal so determines.