

Appeal No. VA15/5/069

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

Cloonreask Supermarkets Ltd

APPELLANT

And

Commissioner of Valuation

RESPONDENT

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

Property No. 1268459, Fuel/Depot, Floor 0, 14A Cloonreask, Askeaton, County Limerick.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF FEBRUARY, 2017

BEFORE:

John Stewart – FSCSI, FRICS, MCI Arb

Deputy Chairperson

Orla Coyne - Solicitor

Member

Liam Daly – MSCSI, MRICS

Member

By Notice of Appeal received on the 10th day of September, 2015 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €69,200 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

"The Appellants do not believe that the Commissioner's turnover based formula approach to Filling Stations is universally correct. The formula can be effective in dealing with highly trafficked areas on the edge of Limerick City or along main roads such as the N20 and N21, however, it fails in the face of local 'filling stations' which are really just shops with pumps who derive the majority of the turnover from the shop."

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 20/09/2016 adduced before us by Mr. Eamonn Halpin on behalf of the Appellant, who contended for a net annual value of €36,500 in his written submission (€31,000 in the Notice of Appeal), and Mr. Peter Gilsenan on behalf of the Respondent to the appeal who sought to have the valuation of €69,200 confirmed as representing the Net Annual Value.

The parties exchanged their respective precis of evidence prior to the hearing and both parties having taken the oath adopted their precis as being their evidence-in-chief, copies of which had been submitted to the Tribunal. This evidence was supplemented by additional evidence provided directly and via cross-examination.

DETERMINES

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

€51,000 (Fifty-one thousand euro - a decrease from €69,200)

Fuel/litres	1,000,000 litres	@	0.0055	€5,500
Shop	€1,300,000	@	0.035	€45,500
				€51,000

Location: The subject property is located on the western side of Askeaton on the R518. The town is south of the Limerick to Foynes Road and is by-passed by the N69. It had a population of 1,150 according to the 2011 census.

Description: The subject property comprises a service station with a fuel forecourt, convenience shop and stores. The shop trades under the Centra brand and includes a convenience store with a delicatessen, wine sales area and ATM facility. The walls are of concrete block finished externally with cut stone and internally they are generally plastered and painted. The shop which has an irregular shape has a suspended tiled ceiling, inset lighting, and an air-conditioning unit. The main storage area located to the rear of the shop has a tiled floor and plastered and painted walls and ceilings. The second part of the store is in a separate adjacent building. The filling station is branded as Topaz and has two in line fuel islands with double sided pumps under an open-ended canopy.

Accommodation: The floor areas were agreed on a gross internal basis and comprised Shop-182.85sqm and stores 365.03sqm.

Tenure: Freehold.

Financial information: The Commissioner requested financial information for the subject property for the years 2011/2012 and 2013. No figures were provided for 2011 and 2012.

YEAR	SHOP €	FUEL LITRES
2011		
2012		
2013	€2,170,000	1,090,000

This formed the basis of the valuation which is the subject of this appeal:

TRADE	FMT	Rate	NAV
Fuel/litres	1,000,000	@ 0.0055	€5,500
Shop	€1,700,000	@ 3.75%	€63,750
			€69,250
Total		Say	€69,200

Issue: It was agreed that the only issue in dispute in this appeal was the quantum of the valuation of the property concerned.

Appellant's case:

The Appellant Mr Halpin contended that the NAV was excessive in view of the location on the R518 and the nature of the subject property. That the subject property was an independently owned convenience store and filling station that catered for a mainly local trade. That the valuation attributed to the subject property was inconsistent with the only other comparison in Askeaton -Twohig's as this shop had not been valued on turnover but had been valued on a floor area basis. Further, as the subject shop provided the most significant part of the business and the fuel sales were subsidiary that the valuation should be calculated on a rate per square metre with reference to all other supermarkets and convenience stores in Limerick. The Appellant also contended that as another premises called White's at the edge of Rathkeale also on the R518 with a fuel throughput of 800,000litres and a shop FMT of €700,000 and Dromkeen Stores with 900,000litres and a shop with FMT of €600,000 the FMT attributable to the subject property by comparison was inconsistent with an FMT of €1,900,000. (This may have been a typographical error as the FMT basis was €1,700,000.) He also maintained that chain operators such as Applegreen would not consider filling stations with less than 3.0m litres and that his 3rd comparison - Applegreen had in fact a turnover of 3.5m litres with a shop turnover of €900,000 consistent with an industry ratio of 85:15 fuel to sales whereas the subject property had a ratio of 40:60. He also insisted that the current operator of the subject property is an exceptional retailer whose skill and experience have led to the high turnover in the shop and that the Commissioner has sought to tax the individual and not to value the property. He argued that the Commissioner's approach had been inequitable as he had adopted an alternative method of valuation to the only other retail and fuel sales operator in Askeaton and the Appellant sought a similar methodology adopted for the subject property.

The Appellant submitted 10 comparisons and the first referred to Twohig's Church Street Askeaton PN 1273824- €128,000. This was analysed as a supermarket based on floor areas and fuel sales at an agreed rate of €0.0055/litre. The appellant submitted that the Commissioner had varied his formula system and valued the buildings without reference to the turnover therein and the appellant sought to have this methodology adopted in the subject property.

NAV Analysis

Description	Litres or floor area	€/litre or Per M²
Fuel/litres	1,300,000/litres	@€0.0055/litre
Supermarket	1,306m ²	@ €75.00/m ²
Store	100.5m ²	@ €35.00/ m ²

Offices 1 st floor	68m ²	@ €37.50/ m ²
+ Off licence		€10,000
+ Fit out addition		7%

The Appellant also stated that the valuation relating to the retail aspect of the buildings at €97,500 was twice the rate for the buildings in the subject property but they were seven times larger than the subject property.

In relation to his second comparison White's Rathkeale Co. Limerick PN 1269945 he provided the following analysis:

Description	Litres or Shop Sales	€/litre or %
Fuel/litres	800,000/litres	@ €0.005/litre
Shop sales	€700,000	@ 3.00%

He concluded that this was a conventional filling station and contended that the shop in the subject property was overtrading. No floor areas were provided as none were noted on the Valuation Office file.

In relation to his third comparison Dromkeen Stores Limited Dromkeen Co. Limerick PN 1247249 NAV €22,500 he provided the following analysis:

Description	Litres or Shop Sales	€/litre or %
Fuel/litres	900,000/litres	@ €0.0055/litre
Shop sales	€600,000	@ 3.00%

He stated that this was a conventional filling station on the N24 Limerick/Tipperary Road with a passing trade of 16,000 cars per day and contended that the shop which comprised 223.6m² when compared to the subject property showed that the turnover in the shop at Cloonreask was overtrading.

Comparison 4 referred to Applegreen Newcastle West PN 1266864 NAV €53,700. The appellant referred to this as possibly the strongest trading position in Newcastle West on the N21 Limerick/Tralee Road and had a large volume of passing trade-12,000 cars per day and fuel sales of 3,500,000litres. He asserted that the shop turnover in this instance at 320.6m² when compared to the subject property clearly showed that the shop in the subject property was overtrading. NAV Analysis:

Description	Litres or Shop Sales	€/litre or %
Fuel/litres	3,500,000/litres	@ €0.007/litre
Shop sales	€900,000	@ 3.25%

Comparison 5 referred to Campus Oil Adare PN 1217862 with an NAV €35,000. It was located on the N21 Limerick/Tralee Road and comprised a smaller shop of 143.89m² and was the only filling station in the Village. NAV Analysis:

Description	Litres or Shop Sales	€/litre or %
Fuel/litres	1,500,000/litres	@ €0.006/litre
Shop sales	€800,000	@ 3.25%

The Appellant's 6th comparison PN 2212410 NAV €26,000 referred to Noel Kearney Dublin Road PN2212410 with an NAV of €26,600. This comprised a shop of 88.52m² and was located on the Limerick/M7 link road. He asserted that this location had superior trade potential and much higher fuel sales but that the subject property had a valuation 2.6 times larger even though it had lower fuel sales.

The Appellant's 7th comparison PN 1240671 NAV €50,000 referred to Tara Oil in Limerick City which had no shop and an estimated throughput of 10.0m litres.

Applegreen on the Ennis Road PN 1048867 NAV €47,000 comprised the appellant's 8th comparison and comprised a filling station and shop which was let from 2012 at €40,000 and had an NAV of €47,000, but no details on turnover or sales or size were provided.

The appellant's 9th comparison PN 2108592 NAV 6,230 referred to a vacant shop in Askeaton of 65.76m² located next door to the subject property and had a Zone A rent of €120/m². It had no pumps.

The final and 10th comparison PN 1271042 NAV €20,200 was a Costcutter convenience store in Foynes with a retail area of 249.56m² with a zone Z of €100/m² and associated cold rooms stores and offices. The Appellant argued that the analysis of this and other convenience stores which did not take account of the turnover made for an unequal and unfair analysis for convenience stores with filling stations.

The Appellant contended primarily that the subject property should be valued on a rate per square metre on the basis and rates adopted in Twohig's giving a valuation of €36,500; or secondly by adopting zoning methodology for the shop as utilised in PN 2108592 a vacant shop in Askeaton and giving a valuation of €36,700 or thirdly if neither of the above applied - based on an adjusted valuation of Fair Maintainable Trade with a valuation of €30,500.

Following cross-examination, the appellant maintained that the analysis of the Commissioner's valuation was not in line with the industry standard of 85:15 ratio. He agreed that the shop had been refurbished but had poor storage accommodation. He maintained that the best comparison was Twohig's in Askeaton and did not accept that different methodologies should have been accepted for two similar properties. He was not able to confirm if any of his comparisons complied with the ideal ration of 85:15. He did not agree that the Applegreen station on the N21 was 'in the middle of nowhere' nor that the emphasis was on fuel over retail sales.

Respondent's Case:

The Respondent Mr Gilsean provided seven comparisons. He explained the background to establishing Fair Maintainable Trade, starting with 1st March 2012, and taking account of likely future trading performance. He agreed that the FMT was lower than the actual trading figures supplied as it took account of competing stations.

He relied on the Limerick City & County valuation scheme which would have valued fuel at **€5.50** 1,000litre and shop turnover at 3.75% based on FMT values determined by the Commissioner. He referred to the financial information supplied by the occupier which was only for 2013. This calculation provided a NAV of €69,200.

The Respondent's 1st comparison referred to Adare PN 1217862 and was the same as the Appellant's comparison no. 5. Following representations, the NAV had been reduced from

€38,200 to €35,000 which was the basis of the analysis. The passing rent was €50,000pa based on a 2009 agreement for 4 years and 9 months.

The 2nd comparison related to TOP Oil at Croagh, Rathkeale PN 1273314 on the N21 Limerick/Newcastle West road which comprised a TOP filling station with four fuel islands and double pumps under a canopy as well as a car-wash and MACE shop 133.58 m² which provided general groceries, deli/café, and wine sales. This property was let for 10 years from May 2013 at €85,000pa and the shop was licensed at €45,000pa for 4 years and 9 months. NAV Analysis:

TRADE	FMT	Rate	NAV
Fuel/litres	2,000,000	@ €0.0065	€13,000
Shop	€1,250,000	@ 3.5%	€43,750
Car Wash	€10,000	@ 7.5%	€750
Total		Say	€57,500

The 3rd comparison comprised an analysis of the O 'Flynn's Centra convenience store and Great Gas filling station at Bruff PN 1230533. This premises was let from February 2012 at €72,800pa on 25-year lease and comprised a shop of 262.48m² and 3 fuel islands with 12 pumps.

NAV Analysis:

TRADE	FMT	Rate	NAV
Fuel/litres	1,500,000	@ €0.006	€9,000
Shop	€1,400,000	@ 3.5%	€49,000
Total			€58,000

Following representations, the NAV was reduced from €65,200 to €58,000.

The 4th comparison was Reidy's Centra and Topaz unit in Foynes on the N69 PN 1270894 which comprised a shop of 514m² for general groceries, deli, off-licence and an ATM. The filling station comprised 2 fuel islands and 8 pumps under a branded canopy. This premises has a Jet wash and machine brush wash. Opening hours were 7am to 10pm. There were no representations or first appeals. NAV analysis:

TRADE	FMT	Rate	NAV
Fuel/litres	1,900,000	@ €0.006	€11,400
Shop	€1,500,000	@ 3.75%	€56,250
Car Wash	€25,000	@ 10.0%	€2,500
			€70,150
Total			€70,100

The 5th comparison was located on the Bruff Road R512 Kilmallock and comprised a SPAR convenience store 469.99m² with 10 pumps, four partially covered, and two fuel islands PN 1221996. The shop provided general groceries, a deli, wine sales and an ATM. The buildings comprise a ground floor retail area, stores, and a first-floor office. No breakdown of the floor areas was provided. The NAV was reduced on first appeal from €62,000 to €56,500.

NAV analysis:

TRADE	FMT	Rate	NAV
Fuel/litres	2,200,000	@ €0.0065	€14,300
Shop	€1,500,000	@ 3.5%	€42,000
Car Wash	€5,000	@ 5.0%	€250
			€56,550
Total			€56,500

Michael Dee's Topaz filling station and convenience store in Newcastle West PN 1263767 comprised the 6th comparison. This property is located on the N21 Limerick/Tralelee road 1km west of the town. The filling station has a branded canopy and 8 pumps and 4 fuel islands. The shop which has an area of 245m² operates under the Daybreak brand and services include general groceries, deli, and a sit-down restaurant. Following representations, the NAV was reduced from €65,000 to €58,000. NAV analysis:

TRADE	FMT	Rate	NAV
Fuel/litres	2,000,000	@ €0.0065	€13,000
Shop	€1,300,000	@ 3.25%*	€45,500
Total			€58,500

- This was a typographical error and should read 3.5%.

The final comparison was also in Newcastle West and referred to Michael Sheahan's unbranded convenience store and a TOP filling station PN 1259116. It has four pumps under a TOP canopy with two fuel islands. The floor area extends to 309.39m² and was adjacent to Garvey's Centra and filling station. The property was subject to first appeal but remained unchanged at €53,000. NAV analysis:

TRADE	FMT	Rate	NAV
Fuel/litres	800,000	@ €0.005	€4,000
Shop	€1,500,000	@ 3.5%	€49,000
			€53,000

The respondent's evidence concluded with his request that the valuation of €69,200 be affirmed.

Following cross-examination, the Respondent confirmed that the application of the rate per square metre for Twohig's was not discriminatory when assessing the value for the subject property. He did not agree that the fuel sales in White's at 800,000/litres and Dromkeen at 900,000 litres the 1st and 2nd appellant comparisons should have provided a reduced FMT for the subject property shop which only had 1,000,000 litres of fuel. He did not accept the contention that a shop of 223m² in Dromkeen should have resulted in a comparable retail FMT for the subject property with its retail area of 182.85m². He agreed with the statement that in his first 6 comparisons the relationship of fuel to turnover was weighted in favour of fuel and the only exception was Sheahan's in Newcastle West. He also agreed that the formula was originally from the UK and had been used initially in the Dun Laoghaire /Rathdown Dublin area and while it was not adaptable to all circumstances it was nevertheless generally an accepted methodology when accessing filling stations with convenience stores.

Both Appellant and Respondent provided short summaries and sought to have the valuation reduced to €31,000 (as per the Notice of Appeal) or affirmed at €69,200 respectively.

The Tribunal **DETERMINES**

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

€51,000 (Fifty-one thousand euro - a decrease from €69,200).

Fuel/litres	1,000,000 litres	@	€0.0055	€5,500
Shop	€1,300,000	@	0.035	€45,500
				€51,000

Reasons:

- 1.0 There was no disagreement between the parties on the valuation of the fuel at 1,000,000litres @ €0.0055/l and agreed at €5,500.
- 2.0 The Tribunal finds that the formula methodology adopted for the assessment of the NAV for filling stations with convenience stores by the Commissioner is a fair method but it must be conditioned to take account of the size of the various premises as well as their locations.
- 3.0 Having carefully reviewed the evidence provided to the Tribunal and the cross-examinations the Tribunal finds that the FMT of €1,700,000 was excessive taking account of the size of the shop in the subject property. The shop in the subject property was agreed at 182.85m². This finding was also supported by the location of the subject property in a small town with a population 1,150 when compared to Adare 143.99m², Rathkeale 133.58m² and Bruff 262.48m² which had shop FMT values of €800,000, €1,250,000, and €1,400,000 respectively. The floor areas in Foynes and Kilmallock at 514m² and 469.99m² had retail FMT values of €1.5m and €1.2m respectively. Michael Dee's in Newcastle West with a floor area of 245m² had a shop FMT of €1.3m. We find therefore that the FMT as provided by the Commissioner for the subject property did not take sufficient account of the personal skill and experience of the operator and we have reduced the shop FMT to €1,300,000 with a consequent multiplier of €0.0035.
- 4.0 The Tribunal did not accept that the Appellant had proved the suggested ratio of 80/85: 20/15 was generally applicable.
- 5.0 The Tribunal did not accept the Appellant's submission that the subject property should be valued on a rate per square metre basis.
- 6.0 The Tribunal also finds that the application of a zoning methodology is not appropriate to the subject property.

And the Tribunal so determines.