

Appeal No: VA17/5/401

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

BUSHGROVE LIMITED T/A EUROGIANT

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2187008, Retail (Shops) at Unit 11 Whitewater Shopping Centre, Newbridge, County Kildare.

B E F O R E

Barry Smyth – FRICS, FSCSI, MCI Arb

Deputy Chairperson

Pat Riney – FSCSI, FRICS, ACI Arb, FIABCI, PC

Member

Kenneth Enright - Solicitor

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF JULY, 2019.**

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th day of October, 2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV’) of the above relevant Property was fixed in the sum of €192,200.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- The valuation as assessed is excessive and inequitable.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €154,000.

2. REVALUATION HISTORY

2.1 On the 10th day of March, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €220,000.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €192,200.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €192,200.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th day of October, 2015.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 5th day of November, 2018. At the hearing the Appellant was represented by the Mr Donal O’Donoghue BSc (Hons) Estate Management, DipVals, ASCSI, ARICS of OMK Property Advisors and Rating Consultants and the Respondent was represented by Mr Ian Power BSc Property Management and Valuations, MIAVI of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

4.1 The property is situated at ground floor level in Whitewater Shopping Centre, Newbridge, County Kildare. This Centre is fronted onto the Main Street in Newbridge, with the Newbridge Silverware Showrooms located to the rear. The subject property is a single storey retail unit in the centre of the development, next to the main entrance to Debenhams and directly across from the stairs to the first floor Mall. The agreed GIA is 512.22 sq. mtrs. The unit has

pedestrian access from the ground floor only. A large glazed display fronts the Mall and the rear of the unit is in use as stockrooms.

5. RELEVANT STATUTORY PROVISIONS:

5.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

5.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

6. APPELLANT’S CASE

6.1 The occupier holds the property under a 10 year lease from the 13th of Sept. 2013 with a 16 Mth. and two weeks rent free period, a break clause in favour of the Tenant in year 6, and a current passing of €110,000 p.a.

6.2 Mr. O’Donoghue referred to his precis of evidence in some detail and pointed out there is a significant amount of shadow space in the floor area of the subject. He stated approx. 8M of the 24.7 m width is shadow space as it is hidden behind Debenham’s shop unit.

6.3 Mr. O’Donoghue referred to the SCSI Guidance notes of May 2009 to support his arguments regarding shadow space, an overall approach to valuing the subject, and a quantum discount for frontage to depth ratio.

6.4 In his opinion, a fair valuation of the subject property was €154,000, as calculated in his submission and supported by his floor plan and 5 Comparisons i.e. Units 11, Units 19/20, Unit 21, Units 41/42 & Unit 44 all in Whitewater Shopping Centre.

7. RESPONDENT'S CASE

7.1 Mr. Power referred to his Precis of evidence in some detail and pointed out the subject was located within the primary shopping centre in Kildare, which was also one of the largest regional shopping centres outside of Dublin containing a tenant mix that Grafton Street would envy. The key anchor tenants of the Centre included Debenhams, H & M, Marks & Spencer's, Zara.

7.2 He emphasised the fact that the subject property had good frontage to the main mall, was directly next to the main entrance to Debenhams' opposite one of the main entrances to the centre.

7.3 He principally relied on, and referred to, his 3 Comparisons within the centre as follows:

- 1 Comparison 1, Eason Ltd/ T/a Easons PN 2186986, Units 19/20 Whitewater Shopping Centre – This Unit is located in the middle of the centre, was L shaped with full height display windows to the mall elevation. This unit had a GIA of c.641.85 sq. mtrs., had been subject to representations, and the Valuation had been reduced from €183,000 to €155,900.
- 2 Comparison 2, PN 2186984, Boots Retail Ireland Ltd T/A Boots, Whitewater Shopping Centre - This is a standard retail unit, and located adjacent to the cutlery road entrance. It has an irregular -shaped unit with full height display windows to the mall elevation and a dual frontage. It has a GIA of c.1389 sq. mtrs., had been subject to representations, and the Valuation had been reduced from €244,000 to €208,000.
- 3 Comparison 3, PN 21988873, Optical Express, Unit 10 Whitewater Shopping Centre - This is a standard regular shaped retail unit located next to the subject property, with full height display windows to the mall elevation. There were no representations made, the GIA is c.1463 sq. mtrs., and the Valuation was assessed at €71,000

8. FINDINGS AND CONCLUSIONS

8.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Kildare County Council.

8.2 The Tribunal accepts the point made by the Appellant that the Respondent has not taken sufficient account of the layout of the subject property, and the quantity of shadow space therein. In this case because of the configuration and proportions of the floor plate the shadow effect is most relevant in zone A. The Tribunal finds that the negative effect of the shadow area is eliminated for the other zones. The Tribunal therefore treats the Zone A shadow area as equivalent to Zone B and makes no allowance for shadow areas in the other zones.

8.3 It is also considered that the Respondent has not given due consideration to the frontage to depth ratio which in this case is approximately 1 : 1.15. Accordingly, also having regard to the SCSi Guidance Notes of May 2009, it is considered that a discount of 5% of the established Zone A rate in the centre to a level of €740 should apply.

8.4 The Tribunal considers Comparison 1A of the Respondent and Comparison 2 of the Appellant PN 2186986 Eason Limited T/A Easons, to be of most assistance. This property is on the same Mall, near to the subject property, and is assessed at a Zone A rate of €780 psm

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €165,000, which is calculated as follows:

Retail Zone A : 96.06 sq. mtrs @ €740 psm = €71084.40

 Zone A Shadow 48.98 sq mtrs @ €370 psm = €18122.60

Retail Zone B : 119.56 sq. mtrs @ €370 psm = €44,237.20

Retail Zone C : 97.89 sq. mtrs. @ €185 psm = €18,109.65

Retail Zone Remainder 52.92 sq. mtrs. @ €92.50 psm = €4,895.10

Stores/Office 102.83 sq.mtrs. @ €85.00 psm = €8740.55

TOTAL NAV = €165,189.50

SAY NAV €165,000

And the Tribunal so determines.