

Appeal No. VA09/2/016

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

Arzac Developments Ltd. t/a Pamela Scott

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2196625, Shop at Lot No. Unit 16 & 17 floor 0 & 1, Johnston Court Shopping Centre, Knappagh Beg, Sligo West, Sligo Borough, County Sligo.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Veronica Gates - Barrister

Member

Michael F. Lyng - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF DECEMBER, 2009

By Notice of Appeal dated the 10th day of June, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €387.00 on the above described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal, a copy of which is attached at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 22nd day of October, 2009. The appellant, Arzac Developments Ltd. t/a Pamela Scott, was represented by Mr. Patrick Hennigan BSc. (Surv), DipEnv.Econ., ASCS, MRICS, and Mr. Briain Ó'Floinn, District Valuer in the Valuation Office represented the respondent. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief.

Location

The property is located in a new retail development in the centre of Sligo town.

Description

The subject property is two shopping units, nos. 16 & 17 at Johnston Court Shopping Centre, O'Connell Street, Sligo.

Floor Area

Ground Floor: 338.90 sq. metres

First Floor: 219.32 sq. metres

Appellant's Case

Having taken the oath Mr. Hennigan referred the Tribunal to a map in his précis which shows the existing proposals of the central area of the Sligo town draft plan which is divided into different blocks for development.

Mr. Hennigan stated that, one of these blocks, Johnston Court is a new enclosed mall-type development. He stated also that it had failed to develop as a successful shopping centre by comparison with its main competitor, the Quayside Shopping Centre. This is due principally to the fact that Johnston Court was never designed to be a stand-alone, self-contained shopping centre. Under the National Building Agency's Centre Block Masterplan for Sligo, the area between O'Connell Street and Adelaide Street - known as the Centre Block - was identified for large-scale retail development with a town centre block, with multi-storey car-parking at its core. An important element of the Plan was the development of two covered pedestrian malls between O'Connell Street and the centre of the block (one of these being Johnston Court). To date the other parts of the overall re-development of the centre block have not taken place and has left Johnston Court isolated without any proper parking

facilities. Effectively, the logic behind the Johnston Court development was that it would be a link mall connecting the centre block retail development, parking and public space with O'Connell Street. It now stands alone as the only section of an incomplete re-development of the area. Some of the critical factors specified in the National Building Agency's Master plan include:

- The elimination of all surface car parking within the block in tandem with the development of a multi-storey car parking facility for the accommodation of circa 1,000 cars.
- A new network of pedestrianised urban spaces.
- The development of two covered pedestrian malls between O'Connell Street and the centre of the block.

The importance of the car parking cannot be overstated. The developer of Johnston Court had to pay the local authority in the order of €3 million in contributions in lieu of parking. Furthermore, Johnston Court development extends over some of the original public car-parking in the Wine Street car-park which serviced the area and this has also diminished the area from a retail perspective.

Quayside Shopping Centre on the other hand has 375 covered car parking spaces incorporated within the development with easy access thereto via the Sligo Inner Relief Road. It is the public car-park of choice for anyone coming to the town centre for event shopping and the key driver of footfall for Quayside Shopping Centre. A sizeable number of retail units in Johnston Court have never been fitted out or let since trading commenced in October 2007. They remain either boarded up or have been opened on a temporary basis in shell state. At present eleven of the twenty-eight units are either vacant or, in the case of two units, are being occupied in shell state.

The difficulty in attracting tenants is exacerbated by a number of other factors:

- The lack of any anchor tenant(s).
- The poor tenant mix.
- Some of the main tenants are no longer trading (e.g. Zavvi – Unit 14; Tom Tailor Unit 11/12; The Sony Centre – Unit 22).
- The absence of any dedicated car-parking.

- The fact that there is already direct pedestrian access from O'Connell Street to the Wine Street car-park through the nearby Tesco Shopping Arcade.

Mr. Hennigan stated that he assessed the valuation in accordance with the provisions of Section 48 and 49 of the Valuation Act, 2001. In his opinion a fair and reasonable net annual value for the subject premises would be €9,653 assessed per square metre as follows:

Ground Floor

Retail Area

Zone A:	88.88 sq. metres	@ €273.35 per sq. metres	= €24,295
Zone B:	93.37 sq. metres	@ €136.67 per sq. metres	= €12,761
Zone C:	95.77 sq. metres	@ €68.34 per sq. metres	= €6,545
Balance:	49.99 sq. metres	@ €34.17 per sq. metres	= €1,708
Offices:	6.60 sq. metres	@ €68.34 per sq. metres	= €451
Passage:	4.29 sq. metres	@ €41.00 per sq. metres	= €176

(Or assessed on overall basis of 338.90 sq. metres @ €135.54 per sq. metre.)

First Floor

Retail Area:	166.77 sq. metres	@ €68.34 per sq. metre	= €11,397
Stores/Kitchenette:	48.49 sq. metres	@ €47.84 per sq. metre	= €2,320

(Or assessed on overall basis of 215.26 sq. metres @ €63.72 per sq. meter.) _____

NAV = €9,653

NAV €9,653 @ 0.5% = €298.26

Say €298

In regard to his comparisons, Mr. Hennigan stated that the Quayside Shopping Centre covers 3.5 acres. It has 40 retail units focusing on fashion and leisure-related activities. There is office and residential accommodation overhead, and a twelve-screen cinema complex. There is pedestrian access to the centre from Wine Street and Quay Street. Quayside has 375 car-parking spaces. The footfall in December 2008 was 2.7 million as against Johnston Court with a footfall of 2.4 million. The rateable valuations assessed on the retail units in the Wine

Street Mall of Quayside are calculated on net annual values based on Zone A levels of €273.35 per sq. metre, e.g. River Island(Units 5/6), Monsoon(Unit 15) and Oasis(Unit 18).

Mr Hennigan also referred to the Tesco Shopping Arcade where Unit 7 was assessed on 1990 Revision/First Appeal on the following basis:

Shop:	37.4 sq. metres	@ €273.35 per sq. metre	= €10,223
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Cross-Examination

Mr. Hennigan confirmed to the Tribunal that the population of Sligo town is approximately 20,000. In reply to Mr. Ó'Floinn regarding dedicated car parking for customers or staff in Johnston Court basement, Mr. Hennigan stated he did not check the basement. In reply to the Tribunal, Mr. Ó'Floinn stated that he was not sure if the basement car-parking spaces were for the shopping centre. Mr. Hennigan agreed with Mr. Ó'Floinn that O'Connell Street is the main street and most of the units there are for either retail or high street uses. Mr. Hennigan would not agree that the same would apply to Wine Street where there are some offices. Mr. Hennigan agreed with Mr. Ó'Floinn that as regards Quayside Shopping Centre itself, there is a continuous mall through the centre and you can enter and exit Quay Street without entering a shop at the same level, the same as in Johnston Court.

Respondent's Case

Mr. Ó'Floinn stated that the subject property is located in the heart of Sligo in a new development connecting O'Connell Street with Wine Street car-park. The centre has a trade area of more than 70,000 households. Johnston Court is expected to generate footfall of more than 5 million visits per year. Mr. Ó'Floinn stated that the shopping centre has magnificent glass ceilings which provide shoppers with a bright modern shopping environment. Units 16 & 17 (Pamela Scott) is a well fitted shop, with suspended ceilings of variable levels, recessed lights and air conditioning. He stated that the first floor is used as retail. There was an expenditure of €890,000 on fit-out in early 2008. Mr. Ó'Floinn told the Tribunal that in addition to comparing the property with O'Connell Street retail units, he also had regard to the shops in the Wine Street Mall of the Quayside Centre. He also stated that the Johnston Court Centre is close to Tesco and the mall of Johnston Court connects the prime O'Connell Street with the Wine Street car-park. The units in Wine Street mall of Quayside Shopping Centre are valued at €273.35 per sq. metre for Zone A. He said that the entrance to the better mall of Quayside Centre is from a secondary location at Wine Street whilst the other entrance

from Quay Street is from an even more inferior retail location. The entrance to the Quayside Shopping Centre car-park is obscure and the centre does not have a food retailing anchor tenant. Dunnes Stores, with additional car parking, is adjacent to the Wine Street car-park. Quayside Shopping Centre has retail units at various levels served by stairs, escalators and lifts, with car-parking at three levels. In contrast, retailing in the subject shopping centre is on just two levels, parking is at ground floor level and the retail space layout is simpler and is far more legible to shoppers.

Mr. Ó'Floinn contended for a valuation of €75,281.52 on the subject property as follows:

Shop Floor 0, Zone A	88.88 sq. metres	@ €340 per sq. metre	= €30,219.20
Shop Floor 0, Zone B	93.37 sq. metres	@ €170 per sq. metre	= €15,872.90
Shop Floor 0, Zone C	95.77 sq. metres	@ €85 per sq. metre	= € 8,140.45
Shop Floor 0 Balance	50 sq. metres	@ €42.50 per sq. metre	= € 2,125.00
Offices Floor 0 rear	6.60 sq. metres	@ €68.33 per sq. metre	= € 450.98
Passage Floor 0 rear	4.29 sq. metres	@ €41 per sq. metre	= € 175.89
Shop Floor 1	166.77 sq. metres	@ €85 per sq. metre	= €14,175.45
Stock Room Floor 1	48.49 sq. metres	@ €85 per sq. metre	= € 4,121.65
WC Floor 1	4.06 sq. metres	Nil	
NAV €75,281.52 @ 0.5% = €376.41			
Say €376			

Cross-Examination

Mr. Ó'Floinn agreed with Mr. Hennigan that there is no direct access from Tesco Supermarket into Johnston Court. Mr. Ó'Floinn also agreed that there are no dedicated car parking spaces in Johnston Court.

Findings

The Tribunal, after careful consideration of the evidence and arguments adduced, finds as set out below. It should be noted that the Tribunal was greatly assisted by the written and oral presentation made by Mr. Hennigan and Mr. Ó'Floinn, both of whom presented their evidence and arguments in a very professional manner:

- This appeal came before the Tribunal as a result of a request for a revision of valuation pursuant to section 28 of the Valuation Act, 2001.

- The method for valuing property under section 28(4) is set down in section 49(1) of the Act which states *“If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property”* In other words, the value of the property concerned is to be determined by reference to “the tone of the list”.
- The property concerned in this appeal are retail units 16 and 17 in Johnston Court, which is a new enclosed mall-type development running from O’Connell Street to the Wine Street car-park.
- It is common case that O’Connell Street is the premier retailing street in Sligo.
- It is common case that under the National Building Agency’s Centre Block Masterplan for Sligo the area between O’Connell Street and Adelaide Street has been identified for integrated retail development to include a town centre block and multi-storey car park at its core. Johnston Court is an integral part of this overall scheme.
- A short distance north of Johnston Court is a Tesco Supermarket which is accessed off O’Connell Street by an arcade containing a number of small retail outlets and kiosk-type units.
- In his précis Mr. Hennigan had devalued the net annual value of units 16 and 17 at €298, valuing both on the overall and zoned method.
- Johnston Court is designed and constructed to a higher specification and finish than Tesco Arcade. It is accepted that a number of units are no longer trading i.e. units 14, 11, 12 and 22.
- The Quayside Shopping Centre is located on the north side of Wine Street some distance from Johnston Court but close to Dunnes Stores complex. Quayside, which opened in 2005, is a mixed-use development with 40 retail units, office and residential accommodation together with a 375 space multi-storey car park. The retail element is primarily fashion and ancillary uses. The shopping centre has no food supermarket.
- It is true that Quayside is not located in a prime retail area but Mr. Hennigan contended that any locational disadvantages by comparison with Johnston Court are off set by the provision of two anchor stores in Quayside (Next and T.K. Maxx) and on-site parking.

Determination

Having regard to the foregoing, the Tribunal determines the value of the property concerned to be as set out below:

Shop Floor 0, Zone A:	88.88 sq. metres	@ €320 per sq. metre	= €28,441.60
Shop Floor 0, Zone B:	93.37 sq. metres	@ €160 per sq. metre	= €14,939.20
Shop Floor 0, Zone C:	95.77 sq. metres	@ €80 per sq. metre	= € 7,661.60
Shop Floor 0, Balance:	50 sq. metres	@ €42.50 per sq. metre	= € 2,125.00
Offices Floor 0:	6.60 sq. metres	@ €68.33 per sq. metre	= € 450.98
Passage Floor 0:	4.29 sq. metres	@ €41 per sq. metre	= € 175.89
Shop Floor 1:	166.77 sq. metres	@ €85 per sq. metre	= €14,175.45
Stock Room Floor 1:	48.49 sq. metres	@ €48 per sq. metre	= € 2,327.52
WC Floor 1:	4.06 sq. metres	Nil	
NAV €70,297.24 @ 0.5% = €351.49			
Say €351			

And the Tribunal so determines.