

Appeal No. VA10/5/055

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

**RFG Ireland Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2164110, Coffee Shop at Unit G12, Pavilions Shopping Centre, Swords, County Dublin.

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

**Frank O'Donnell - B. Agr. Sc. FIAVI.**

**Member**

**Michael Connellan Jr - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 24TH DAY OF FEBRUARY, 2011**

By Notice of Appeal dated the 25th day of August, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €164,200 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:

"The valuation is excessive having regard to the nature and location of the property together with the passing rent payable."

The appeal proceeded by way of an oral hearing in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 14th day of December, 2010. At the hearing the appellant was represented by Mr. Conor Ó Cléirigh, FIAVI, ASCS, MRICS, Conor Ó Cléirigh & Company, and the respondent by Ms. Triona McPartlan, BSc (Hons) Estate Management, a Valuer in the Valuation Office. At the hearing, both parties having taken the oath, adopted their respective précis as their evidence-in-chief. Ms Sarah Lynch of Conor Ó Cléirigh & Company and Mr Pat Kyne of the Valuation Office were also in attendance.

### **The Issue**

Quantum only.

### **Description**

The property is rectangular in shape with an average width of 8.3 metres and trades as BB's coffee shop. The internal finish consists of plastered walls and ceilings, polished timber floors and insert spot lighting at ceiling level. Air handling units are fixed at ceiling level. The unit is fitted with a timber and marble topped service counter and the balance of the space is given over to tables and chairs.

### **Location**

Swords is located adjacent to the M1, approximately 15 kilometres north of Dublin City Centre and 5 kilometres from Dublin Airport. Swords is an established residential and commercial suburb in North County Dublin with a population of 37, 806 (2006 Census). The Pavilions Shopping Centre is a two-storey centre with two supermarket anchor tenants, Dunnes Stores and Superquinn, together with 83 unit shops and an 11-screen multiplex cinema. There are over 2,000 car spaces with 1,000 situated in the multi-story car park which is accessible from both shopping levels.

### **Accommodation**

The accommodation was agreed between the parties as follows:

Retail Zone A:	50.63 sq. metres
Retail Zone B:	50.60 sq. metres
Retail Zone C:	9.13 sq. metres

Total : 110.36 sq. metres

### **Terms/Tenure**

The subject property is held under a lease dated 7<sup>th</sup> February 2005 between the landlords and the tenant to provide for the following terms:-

Commencement Date: 1<sup>st</sup> July 2004.

Term: 20 years and 318 days.

Rent: €17,000.

Reviews: 5 yearly intervals.

### **Valuation History**

A Valuation Certificate (proposed) was issued on the 16<sup>th</sup> June, 2009. with a valuation of €199,200. Representations were lodged by GVA Donal O’Buachalla on behalf of the occupier for the subject property on 14<sup>th</sup> July, 2009 and there was no change to the valuation. An appeal was lodged by the appellant (occupier James O’Brien) to the Commissioner of Valuation on 8<sup>th</sup> February, 2010. The appeal indicated that the kiosk and shop were held under two separate leases and, therefore, should be valued separately. A new property number was created for the kiosk. The properties were then valued separately. There was no change at this stage to the levels applied to the kiosk and shop. The valuation was amended and was issued on 29<sup>th</sup> July, 2010 at €164,200 after this First Appeal. An appeal was lodged to the Valuation Tribunal on the 25<sup>th</sup> August, 2010.

### **Appellant’s Evidence**

Mr. Conor Ó Cléirigh, having taken the affirmation, adopted his précis of evidence as being his evidence-in-chief. Mr Ó Cléirigh maintained that:

- The relevant valuation date for the assessment of the net annual value is 30<sup>th</sup> September, 2005 and the passing rent on the subject property was €17,000 per annum payable under a new lease from July 2004.
- In arriving at his opinion of net annual rent, he researched the rents payable in the Swords Pavilions Centre covering the period April 2001 to December 2008. This research comprised the original commencement rents from Phase 1 in April 2001,

subsequent lettings in Phase 1 in July 2003 (unit G9, i.e. his comparison no.2) and July 2004 (unit G12, i.e. his comparison no.3), the rent review settlements in Phase 1 in April 2006, the new lettings in phase 2 in October 2007 and the commencement rents in 2008 for retail units in phase 1.

- In order to arrive at his opinion of the NAV, he had regard to rental evidence up to the valuation date of 30<sup>th</sup> September, 2005 together with market sentiment at September 2005 towards future retail trends.

Having regard to Section 48 (3) of the Valuation Act, 2001 together with the contents of his précis of evidence, Mr. Ó Cléirigh's opinion of the net annual value of the subject property as at 30<sup>th</sup> September, 2005 is €125,000, calculated as follows:

Zone A:	€1,600 x ITZA 78.12 sq. metres = €124,992
Say:	<u>€125,000</u>

Mr. Conor Ó Cléirigh in his evidence gave 6 comparisons in support of his submission, attached at Appendix 1 hereto.

Mr. Conor Ó Cléirigh also submitted an analysis of Zone A rents for his 6 comparison properties, attached at Appendix 2 hereto.

### **Respondent's Evidence**

Ms. Triona McPartlan, for the respondent, contended for a valuation of €164,200, calculated as below:

Retail Zone A: 50.63 sq. metre @ €100 per sq. metre = €106,323

Retail Zone B: 50.60 sq. metre @ €1050 per sq. metre = €53,130

Retail Zone C: 9.13 sq. metre @ €525 per sq. metre = €4,793.25

Valuation Office Estimate of NAV (Rounded to) €164,200

## **Basis of Valuation**

In paragraph 2.1 of her précis, Ms. McPartland outlined the basis of her valuation in the following terms:

*“The property was the subject of a Revaluation as one of all rateable properties in the Fingal County council Area. The Valuation Order for Fingal County Council specifies 30<sup>th</sup> September 2005 as the Valuation Date. Valuation levels were derived from the analysis of available open market rental information of comparable properties and applied to the subject property, in line with the following revaluation principle:*

*What is required in rating is to find the rent which the hypothetical tenant might reasonably be expected to pay for the property. The actual rent for any property is of significance, but is not conclusive of value. What has to be established is “a general level of value” which is derived from a summary of all rents in a particular area for the class of property being considered.*

*The adjustment of rents for the revaluation must therefore provide the evidence to achieve a general level of value as required. All available rents were analysed in the first instance.*

### *Post Draft Cert Stage:*

*The valuation of this property, on Appeal to the Commissioner of Valuation, was determined by reference to the values of comparable properties stated in the Valuation List in which the property appears.”*

Ms. McPartland gave 5 comparisons in support of her opinion of net annual value.

## **Comparison 1.**

Unit G13, The Pavilions, Swords.

Vodafone Ireland Retail Ltd t/a Vodafone.

No representations were submitted and no appeal to the Commissioner of Valuation was submitted. The property is located next door to the subject property, similar in size and frontage to the subject property and same Zone A level as the subject.

**Comparison 2.**

Unit G14, The Pavilions, Swords.

Hi Fi Corner Group Ltd t/a Sony Centre.

No representations were received on this property and no appeal was submitted.

It is located across the mall from the subject property, similar size and frontage to the subject property and same Zone A level as the subject property.

**Comparison 3**

Unit G10, The Pavilions Swords.

H.Samuel.

Representations were submitted for this property and there was no change to the valuation and no appeal was submitted. It is located next door to the subject property and same Zone A level as the subject property.

**Comparison 4.**

Unit G16, The Pavilions, Swords.

Fields Jewellers.

No representations were submitted on this property and no appeal was submitted. It is located in the same mall as the subject property and same Zone A level as the subject property.

**Comparison 5.**

Unit G09, The Pavilions Swords.

La Croissanterie.

Representations were received for this unit. The valuation was reduced due to an error in measurements. There was no change to the Zone A level applied. An appeal was submitted, however there was no change at appeal stage. No appeal to the Tribunal was submitted. It is located on the ground floor of the shopping centre and same Zone A level as the subject property.

**Comparison 6.**

Unit G15, The Pavilions, Swords.

Vacant - Previously Budget Travel.

No representations were received on this property and no appeal was submitted. It is located across the road from the subject property, similar in size to the subject property and same Zone A level as the subject property.

The respondent also gave an analysis of the subject property and the comparisons with each NAV of the comparison properties.

### **Findings**

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and finds as follows:

1. The respondent's Comparison No. 1, Unit G13, Pavilions Shopping Centre (Vodafone Ireland Retail Ltd t/a Vodafone), is the most appropriate comparison as it is located next door to the subject property and is similar in size to the subject property.
2. The rates per square metre applied to the respondent's Comparison No. 1 are identical to those applied to the subject property by the respondent, namely: Zone A €2,100 per sq. metre; Zone B €1,050 per sq. metre; Zone C €525 per sq. metre.

### **Determination**

Having regard to the foregoing, the Tribunal affirms the decision of the Commissioner of Valuation and determines that the valuation on the subject property should be €164,200.

And the Tribunal so determines.