

Appeal No. VA11/5/106

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

**David Bourke**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 319252, Convenience Store [<200 SQ. M.] at 1 Beaumont Avenue,  
Churchtown, County Dublin.

**B E F O R E**

**Fred Devlin - FSCSI, FRICS**

**Deputy Chairperson**

**Veronica Gates - Barrister-at-Law**

**Member**

**Patricia O'Connor - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF JANUARY, 2012**

By Notice of Appeal received on the 29th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €9,500 on the above described relevant property.

The grounds of appeal are contained in a separate letter accompanying the Notice of Appeal, copies of which are attached at Appendix 1 attached to this judgment.

This appeal came before the Tribunal by way of an oral hearing, held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 17<sup>th</sup> day of November, 2011. At the hearing the appellant was represented by Mr. Mervyn Feely, MSCSI, MRICS, of Mervyn Feely & Associates. Ms. Olga Harney, BSc (Hons) Property Studies, a Valuer in the Valuation Office appeared on behalf of the respondent, the Commissioner of Valuation.

In accordance with the rules of the Tribunal, Mr. Feely and Ms. Harney forwarded to the Tribunal and exchanged a copy of the evidence and submission they proposed to advance at the oral hearing. From the evidence so tendered and additional evidence received orally at the hearing, the following facts material and relevant to the determination of the appeal emerged or are so found.

### **The Property Concerned**

The property concerned is an end of terrace retail shop in a short parade which includes a take-away, pharmacy, hair salon and a financial services/solicitor's office. The parade is two storey and accommodation at first floor level is in a mix of retail and commercial use.

The property is located on Beaumont Avenue in a mainly suburban residential area just over 1km from the Nutgrove Shopping Centre. Beaumont Avenue is a busy thoroughfare linking Barton Avenue and Nutgrove Avenue.

### **Accommodation**

The accommodation measured on a net internal area basis is as follows:

Retail Zone A	– 63.40 sq. metres
Retail Zone B	– 63.40 sq. metres
Retail Zone C	– 4.40 sq. metres
Office	– 7.00 sq. metres
Store	– <u>5.40</u> sq. metres
Total area	143.60 sq. metres

## **Tenure**

The property is currently occupied under a 10 year lease from April, 2011 at an initial yearly rent of €35,000 per annum. The lease provides for a review of the rent after five years and the tenant was granted a rent free period of six months at the commencement of the lease period.

## **Valuation History**

Arising out of the revaluation of relevant property in the Dun Laoghaire Rathdown rating authority area, the net annual value of the property concerned was determined at €9,500 by the Commissioner of Valuation, following an appeal made to him under Section 30 of the Valuation Act, 2001. The appellant being dissatisfied with the outcome of this appeal lodged a further appeal to this Tribunal under Section 34 of the Act.

## **The Appellant's Evidence**

Mr. Feely, having taken the oath, adopted his précis which had previously been received by the Tribunal and the respondent as being his evidence-in-chief.

In evidence Mr. Feely put forward the following estimate of net annual value of the property concerned in accordance with Section 48 of the Act as follows:

Zone A Retail – 63.40 sq. metres @ €300 per sq. metre =	€19,020
Zone B Retail – 63.40 sq. metres @ €150 per sq. metre =	€9,510
Zone C Retail – 4.40 sq. metres @ €75 per sq. metre =	€330
Office – 7.00 sq. metres @ €150 per sq. metre =	€1,050
Store - <u>5.40</u> sq. metres @ €100 per sq. metre =	<u>€540</u>
Total 143.60	€30,450
Say	€30,500
Estimate of net annual value, Say €30,500	

In support of his opinion of net annual value, Mr. Feely introduced three comparisons, details of which are set out in Appendix 2 attached to this judgment.

In his evidence Mr. Feely said the subject property formed part of a short parade of shops which was set back from Beaumont Avenue and hence was hidden from passing traffic. As a result the traders on the parade depended mainly on local custom and the subject property

was in fact a local convenience store in competition with other larger stores in other established retailing areas nearby and the Nutgrove Shopping Centre.

Mr. Feely said he was well experienced in valuation matters generally and had specialist knowledge in the retail sector and had acted on behalf of several Spar operators. Accordingly, therefore, he felt he was well qualified to comment on the comparisons introduced by him and to make comparative judgments between them and the subject property. In this regard, he made the following observations:

#### Comparison No. 1

110 Nutgrove Avenue, Rathfarnham.

- Actual rent in 2005, €32,000 per annum
- Net annual value (on the basis of Zone A rate of €600 per sq. metre) = €46,800
- Overall rate per sq. metre €239.83
- Similar size to subject
- Better location by approximately 20%
- Zone A rate of €600
- Zone A level of €600 per sq. metre unsustainable in light of actual rent being paid

#### Comparison No. 2

5a Ballinteer Business Centre

- Actual rent (2007) €62,500
- Net annual value (on the basis of Zone A rate of €10 per sq. metre) = €60,700
- Overall rate per sq. metre €328.98
- Valuation Office rate per sq. metre €19.50
- Better location than subject by 40%-60%

#### Comparison No. 3

Spar, Main Street, Dundrum

- No information on passing rent
- Net annual value (on the basis of Zone A rate of €700 per sq. metre) = €5,600
- Overall rate per sq. metre €446.33

- 50% size of subject
- Situated in the centre of Dundrum Village
- Much better location than subject
- Small area would attract premium rent

Mr. Feely said that the Zone A rate applied to the retail units in the Beaumont Avenue parade were unsustainable, by virtue of actual rental evidence and Zone A rates applied by the Valuation Office elsewhere. In his opinion a Zone A rate of €300 per sq. metre was more appropriate.

### **The Respondent's Evidence**

Ms. Harney, having taken the oath, adopted her written précis and valuation which had previously been received by the Tribunal and the appellant as being her evidence-in-chief.

In her evidence, Ms. Harney contended for a net annual value of €9,500 calculated as set out below:

Zone A Retail – 63.40 sq. metres @ €600 per sq. metre =	€38,040
Zone B Retail – 63.40 sq. metres @ €300 per sq. metre =	€19,020
Zone C Retail – 4.40 sq. metres @ €150 per sq. metre =	€660
Store – 5.40 sq. metres @ €100 per sq. metre =	€540
Office – 7.00 sq. metres @ €180 per sq. metre =	<u>€1,260</u>
Total	€9,520
Valuation Office Estimate of NAV (rounded to)	€9,500

In support of her evidence, Ms. Harney introduced four comparisons, details of which are set out in Appendix 3 attached to this judgment. Ms. Harney said that, her opinion of net annual value was derived from an analysis of available open market rental evidence in the rating authority area. As a result of this analysis, she considered a Zone A rate of €600 per sq. metre to be appropriate.

Under examination by Mr. Feely, Ms. Harney agreed that the subject property was located in a residential area and that there are no schools or other retail outlets in the immediate vicinity. When questioned about her Comparison No. 1, (Gormley Medicare Ireland Ltd.), Ms. Harney confirmed that it was a pharmacy in the same parade as the subject property and that it had a much smaller area. When asked by Mr. Feely if pharmacies usually attract premium rents, Ms. Harney said that while this might be so in an open market situation, it did not apply in a rating situation where it was the property that had to be valued and not the business. Mr. Feely suggested to her that, in his experience, market rents for suburban retail outlets were based on rents calculated on an overall rate per sq. metre rather than on a zoning basis. Ms. Harney acknowledged that this might be so, but in the revaluation programme for the Dun Laoghaire Rathdown rating authority area, the Valuation Office had valued all retail units in a parade such as the unit concerned using the zoning method. Ms. Harney said that in her opinion, the zoning method was better when trying to arrive at a uniform level of values when the amount of rental evidence available was somewhat limited.

### **Findings**

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

1. It is common case that the subject property is located in a short parade of retail outlets in a predominantly residential location. It is also common case that the parade benefits little from passing traffic and relies on locally based custom.
2. The Tribunal accepts that the location of the parade on Beaumont Avenue is inferior to that of the comparisons introduced by both parties save for Ms. Harney's Comparison No. 1, (Gormley Pharmacy) which is on the same parade.
3. The Tribunal in this instance prefers the zoning method, in as much as both valuers put forward their valuations using the zoning method. To that extent, therefore, it is a better method for comparison purposes.

4. On the basis of the comparisons put forward the Tribunal is of the opinion that Nutgrove Avenue is a better location than Beaumont Avenue from a trading point of view. Similarly, the Tribunal considers Ballinteer Business Centre to be better. The Tribunal is of the opinion that these are the most reliable comparisons in order to arrive at the valuation of the property concerned. The other comparisons are of lesser weight.

### **Determination**

Having regard to the foregoing, the Tribunal determines the net annual value of the property concerned in accordance with Section 48 of the Valuation Act, 2001 to be as follows:

Retail Zone A – 63.40 sq. metres	@ €500 per sq. metre	= €31,700
Retail Zone B – 63.40 sq. metres	@ €250 per sq. metre	= €15,850
Retail Zone C – 4.40 sq. metres	@ €125 per sq. metre	= €550
Office – 7.00 sq. metres	@ €150 per sq. metre	= €1,050
Store – 5.40 sq. metres	@ €100 per sq. metre	= <u>€540</u>
Total		€49,690

Net Annual Value, Say €49,600

And the Tribunal so determines.