

Appeal No. VA02/2/009

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

Reprocentre Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse/Warerooms at Map Reference Unit B1 Nangor Road Business Park,
Gallanstown, Monastery, Clondalkin, County Dublin

Quantum - tone of the list

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Michael F. Lyng - Valuer

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF MARCH, 2003

By Notice of Appeal dated the 15th April 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €97.00 on the above described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are that the R.V. is excessive having regard to the tone of the list, the original assessment of Nangor Road Business Park of the Valuation Office in the November 2000 revision (see VA01/1/032).

1. This appeal proceeded by way of an oral hearing held in the Arbitration Centre, Distillery Building, Church Street, Dublin, on the 27th September 2002. At the hearing the appellant was represented by Mr. Conor O’Cleirigh MIAVI, ARICS, ASCS, Rating Consultant for McCormick Estate Agents. Mr. Joseph McBride, a District Valuer in the Valuation Office represented the respondent.
2. At the hearing the valuers having taken the oath adopted as their evidence in chief their submissions, which had previously been exchanged and forwarded to the Tribunal before the commencement of the hearing.
3. The subject property is a typical modern end of terrace light industrial unit with office accommodation on two levels. The accommodation and areas measured on a gross external area basis has been agreed to be as follows:

Offices	821m ²
Showroom/Workshop	224m ²
Warehouse	704m ²
Total Area	1749m ²

4. The subject property was first valued at the 1999/4 revision and the rateable valuation determined at £440. At First Appeal the areas were adjusted to the agreed areas and no change was made to the RV. The matter was referred to this Tribunal, which reduced the assessment to £370 (~~€~~469.80) in line with the other assessments in the estate, by judgment dated the 26th February 2002. In May 2001 the property was again listed for revision and the rateable valuation of £440 (~~€~~558.68) left unaltered. Following an appeal this figure was increased to £470 (~~€~~597) and it is against this decision of the Commissioner of Valuation that the appeal to this Tribunal now lies.
5. Arising from the evidence tendered and the submissions made the following are the material facts either agreed or so found which in the opinion of the Tribunal are relevant to the issues, which are the subject matter of this appeal.
 - a. No material change has taken place to the property since it was first valued at the 1999/4 revision.
 - b. The respondent’s case is that the basis of valuation at the 1999/4 revision was incorrect in that it was too low and as a consequence the net annual

value determined was out of line with the assessment for other buildings of a similar type and nature located in other new industrial estates in the immediate area. The purpose of the 2000/2 revision was to rectify this error and so maintain the tone of list established for the area.

- c. The appellant's case is twofold. Firstly since no material change in circumstance has occurred there was no valid reason for the 2000/2 revision. Secondly the arguments put forward by the respondent in support of the valuation of £470 (~~€~~597) are broadly the same as that in the previous appeal to this Tribunal referred to. On that occasion the Tribunal accepted that the tone of the list for the Nangor Road Business Park was £29.60 (~~€~~37.58) and £37.67(~~€~~47.83) per sq.m. for the warehouse and office space respectively. In arriving at their decision the Tribunal was aware of the outcome of the 2000/2 revision but nonetheless proceeded to determine the rateable valuation of the property concerned at £370 (~~€~~469.80).

Determination

1. This appeal raises issues of *fundamental importance* some of which have already been addressed by this Tribunal. Reference was made to the case ***Allied Irish Bank Ballincollig v Commissioner of Valuation (VA96/4/027)*** wherein the following comments were made; "If there has been no material change of circumstances which could affect valuation principles and thus the valuation itself the Tribunal can see no merit or benefit in properties being listed for revision at a period in time closer than five years from the valuation last fixed". In the instant case it is a fact that no material change has occurred so unless there is some other valid reason for the 2000/2 revision then it is only fair and reasonable that the rateable valuation of £370 (~~€~~469.80) be restored.
2. Rates are a form of taxation based on the beneficial occupation of property. Like all other forms of taxation it is imperative that it is fair and equitable in operation and no ratepayer ought to pay more or less than is their due and the Commissioner of

Valuation has the responsibility of ensuring that the valuation lists are fair and uniform in construction and application. The rating system provides procedures to take account of any material changes to a property appearing in the valuation list and also affords interested parties a procedure whereby errors or omissions that might occur can be rectified; indeed the revision, first appeal and appeal to this Tribunal are so designed for this purpose. It follows therefore that where the Commissioner in compiling the lists makes an error either to the benefit or detriment of individual ratepayers and that the error can be identified, then it is fair and reasonable that the Commissioner or any other interested parties be permitted to rectify the situation by the use of the revision or appeal procedures contained in the Valuation Acts including an appeal to this Tribunal.

3. In this appeal the essence of the Commissioner's case is that the level of values used at the 1999/4 revision were too low and out of line with the levels applying in nearby industrial estates to buildings of a similar design, specification, mode or category of occupation, whose valuations were already in the Valuation List at the valuation date. In other words the level of values applied to buildings in the Nangor Road Business Park was below the general tone of the list for buildings of a similar mode in the locality.
4. During the 1999/4 first appeal stage the Commissioner of Valuation decided to list all of the buildings in Nangor Road Business Park for revision and this exercise was carried out at the 2000/2 revision and as a consequence the then existing valuations were on average increased by between 35% and 40%.
5. The respondent in support of his contention introduced nine comparisons four of which (1 to 4) are located in the Nangor Road Business Park and valued at the 2000/2 revision. The Tribunal attaches no weight to this evidence whatsoever as they are all similarly circumstanced to the subject property. The remaining comparisons

are located in nearby developments on the south side of Nangor Road close to the subject property. These buildings were, with the exception of comparison No.9, also valued at the 1999/4 revision and are of a similar nature to the subject property.

Comparison No. 9 was first valued at the 1997/4 revision. An examination of these comparisons indicates levels of value sufficient to sustain the Commissioner's contention that the level of value applied in the Nangor Road Business Park at the 1999/4 revision was indeed low, by comparison with the tone of the list established in the general vicinity. A schedule of these comparisons are attached as Appendix 1 to this judgement.

6. The appellant introduced four comparisons three of which (1 to 3) are located in the Nangor Road Business Park. All three of these properties were originally valued at the 1999/4 revision and subsequently revalued at the 2000/2 revision.

The Tribunal attaches no weight to these comparisons for the same reason that it rejected the respondent's comparisons 1-4. The appellant's comparison No. 4 is located in the functional area of Dublin City Council, and whilst it is a new building it is located in an older industrial estate in a different rating area. Accordingly the Tribunal attaches little weight to this comparison.

7. Tone of the list is a concept widely understood by all engaged in the rating process and in circumstances where a valuation list is long established it is not surprising that more weight is attached to evidence based on comparable assessments than to rents *per se*. Accordingly therefore when a new development - be it office retail or industrial – is being valued for the first time it is right and proper that regard be had to the levels of value already established in the general vicinity for properties of a similar nature and mode, making such adjustments as may be necessary or appropriate to reflect all intrinsic and extrinsic qualities and circumstances that would have a bearing on the net annual value of the property being valued. Such an exercise properly executed will ensure the uniformity of assessment that is the primary essential of the rating system. Tone of the list must be viewed in the context

of a wide basket of comparable properties and not confined solely to properties within a specific estate in isolation.

In the circumstances of this appeal the Tribunal has come to the conclusion that the original levels of assessment in the Nangor Road Business Park were out of line with the tone of the list already established in other nearby industrial estates and business parks. Hence the Valuation Tribunal finds that the Commissioner of Valuation was entitled to and indeed correct in carrying out the 2000/2 Revision in order to rectify the inconsistency and ensure a uniform level of assessment in the general area in which the Nangor Road Business Park is situate.

8. Having regard to the foregoing and all the evidence and argument adduced at the hearing the Tribunal finds for the respondent and determines that the rateable valuation of €597 be affirmed.