

Appeal No. VA02/2/033

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

**Liam Lynch (Lynch & Co. Auctioneers).**                      **APPELLANT**

**and**

**Commissioner of Valuation**                                      **RESPONDENT**

RE: RE: Office(s) at Map Reference 10 G.F., Street : George's Quay, ED / Ward : South Gate  
A, O / S Reference : 638215, RD / UD : City Hall, County Borough of Cork

**B E F O R E**

**Frank Malone**

**Deputy Chairperson**

**John Kerr -BBS. ASCS. ARICS. FIAVI**

**Deputy Chairperson**

**Maurice Ahern - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 1ST DAY OF DECEMBER, 2004**

By Notice of Appeal dated the 22nd day of April, 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €70.00 on the above described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are:

"The premises have been reviewed on a number of occasions over the past few years & we reluctantly agreed on a RV of €39.40 with Mr. Stapleton in the Valuation Dept. in Dublin. This premises has only one window on Georges Quay and & is very dark throughout"

1. This Appeal proceeded by way of oral hearing which took place on the 1<sup>st</sup> day of November 2002 at the County Hall, Cork. The Appellant Liam Lynch of Lynch & Co. Auctioneers appeared in person unrepresented. He was accompanied by his brother Mr Sean Lynch who made a number of interventions, in exactly what capacity it is not quite clear, and on being invited formally by the Tribunal to give evidence he stated that he did not wish to do so. Mr Terence Dineen B Agr Sc a District Valuer with 28 years experience in the Valuation Office was the Appeal Valuer. Both parties prepared written summaries of their evidence which they exchanged with each other and gave to the Tribunal in advance of the hearing. At the oral hearing the Appellant and Mr Dineen took the oath. Before taking the oath the Appellant questioned the reason for taking same. The Appellant gave evidence in chief and Mr Dineen adopted his précis as being and constituting his evidence in chief. This evidence was supplemented by additional evidence obtained either directly or via the cross – examination process. Closing submissions then followed. From the evidence so tendered the following relevant facts either agreed or so found emerged as being material to this appeal.

## 2. **LOCATION AND DESCRIPTION OF PROPERTY**

The subject property is located in Cork city centre on a quay on the Lee's south channel and this is a secondary location and consists of the ground floor of a four storey terraced building used as offices. Space is L shaped and stretches from George's Quay to a small private laneway in the rear. Mr Dineen conceded at the hearing that car parking spaces were not included in the R.V. and that he was not looking for rates on car parking spaces. Internally there is one large office stretching from front door to access door to laneway plus a small offset office at rear. There are toilets off a passageway. The net lettable space is 111.2 sq. m. The ceiling height is approx 2.8 m. There is one window at the front of the property and three small windows at the rear of the property.

## 3. **TENURE**

Leasehold. Taken by the OPW as an office for the Central Statistics Office in connection with the 2002 census. Taken on a four year nine month IRI lease from 18<sup>th</sup> January 2001 at €33,013 per annum. Occupation commenced 23<sup>rd</sup> January 2002 – the census was delayed by the foot – and – mouth crisis.

## 4. **SERVICES**

Mains services water, sewerage, telephone and electricity. Heating by electric storage heaters.

## 5. VALUATION HISTORY

An agreed valuation of €79.99 was fixed on the entire of 10 George's Quay by settlement after Tribunal hearings in 1988. As part of that settlement a separate valuation of €39.36 was agreed on the ground floor. This case came before the Tribunal on 4<sup>th</sup> January 1989 clearly predating the introduction of November 1988 as the base valuation date in October 1989 and the system of calculation used at the time was different to the system applicable to the present appeal.

The Valuation date is 9<sup>th</sup> August 2001 the subject property being revised at an RV of €5.23. An Appeal was lodged against this valuation following which the valuation of €70 issued and it is against this decision of the Commissioner that this appeal lies to the Tribunal by the Appellant who is the lessor of the property.

## 6. APPELLANT'S CASE

Mr Liam Lynch made the following points in his evidence in chief :-

- George's Quay is a run down area.
- The subject property was empty for he thought six years and he was negotiating a long lease with some people when the OPW came along and they were caught for space which they wanted in an emergency. For him to exit out of the negotiations he was in, the OPW paid over the odds.
- The subject property had been an old bakery.
- The roof at the back is corrugated and leaking.
- He owned 13 and 14 George's Quay and he couldn't let them.
- There were five properties empty in George's Quay.
- He went through his written submission of 15<sup>th</sup> October 2002 and gave sworn evidence in accordance therewith.
- Number 9 George's Quay was occupied by the City Sheriff Martin Harvey and it had an RV of €11. This premises was to the left in the relevant photograph attached to his written submission. The entire building was in excellent condition and it had four storeys with rear conservatory and glass domed roof.

In cross – examination by Mr Dineen the Appellant stated the following :-

- The OPW were caught for premises which they wanted short term and he thought they only had a couple of days in which to get a ground floor premises. The premises the OPW required had to be in the centre of the city and he didn't think they had any other options except the subject property. The OPW paid a bit over the odds for the subject property. He had to exit his negotiations on a long lease with another party. These negotiations were for a twenty five year lease and the rent was about half that paid by the OPW. The premises was used for taking the census and were currently vacant.
- He had a "To Let" sign on Number 13 George's Quay. The asking rent was €35,000 per annum for the entire building which was about 232.26 sq. m. Mr Dineen put it to Mr Lynch that he Mr Dineen phoned Mr Lynch's office and the person who answered the telephone stated the area was 111.48 sq. m. and that the asking price for the premises was €1,000 a week and Mr Lynch stated in reply that it might have been a new girl who dealt with the query.
- When Mr Dineen put it to Mr Lynch that he gave no sizes for his comparisons Mr Lynch stated that if you looked at Mr Dineen's map you could see that the ground floor of Number 17 George's Quay was bigger than the ground floor of Number 10 a contention with which Mr Dineen did not agree – nor did he agree that they were the same size. Mr Lynch stated that Number 17 was away wider than Number 10 and it was nearly as long, and the RV of the entire of Number 17 George's Quay was €25. In reply Mr Dineen stated that the valuation of €25 was on the ground floor only of Number 17 which was a shop, that the upper floors were valued as a house and were not rateable and that the ground floor of Number 17 was roughly 25 square metres whereas the ground floor of the subject was 111 square metres.
- Mr Lynch stated that the ground floor of Number 9 and the subject were the same size with the exception of a little leg out the back and he did not accept that the areas of the ground floor front and ground floor rear of Number 9 George's Quay were those set out at page 5 of Mr Dineen's précis.
- It was very hard to rent property in George's Quay and most of them were owner occupied.
- The OPW were gone and the subject was empty but the OPW were still paying the rent and looking to put somebody else in there.

The Appellant was invited by the Tribunal to make a closing submission and in the course of this Mr Lynch stated that he was telephoned by somebody from the Valuation

Office who offered to settle the case at a valuation of €50. He said the person who telephoned him was not Mr Dineen. Mr Lynch then gave all of this as sworn evidence. Mr Dineen interrupted Mr Lynch to state that the only person who could make an offer would be himself (Mr Dineen) and that under no circumstances would he have made an offer in this case. Mr Dineen then gave it as his sworn evidence that there was no such offer in this case.

## **7. RESPONDENT'S CASE**

Mr Terence Dineen made the following points in his evidence in chief :-

- Mr Dineen stated that the Certificate of Valuation in error stated the RV as IR£70 which should be €70 and he undertook to lodge with the Tribunal a correct Valuation Certificate.
- He based his Valuation on the three comparisons in his précis and the rent passing. He adjusted the rent on the Irish Property Databank Index and he said this was very generous to the Appellant because in his experience offices in Cork would not have moved at the rate of prime offices in Dublin on which the Irish Property Databank Index is based on.
- Mr Dineen stated that his Comparison Number 2 namely Number 13 George's Quay was currently on the market and he was quoted on the telephone by the Appellant's office its size as he stated earlier in cross – examination as 111.48 sq. m. and the asking rent of €1000 a week. These figures were given to him by the lady who answered the phone in the Appellant's office. That corresponded to €466 per square metre. The total size of Number 13 George's Quay added up to 175.5 sq. m.
- Numbers 7 and 8 George's Quay were not valued on the basis of rent and were not valued on what is called the NAV system.
- Number 16 George's Quay was valued as a house only and it wasn't valued on the NAV system.
- Number 17 George's Quay was valued on the NAV system and this was a shop on the ground floor comprising 26.2 sq. m. which was valued at €153.6 per sq. m. giving an NAV of €4025 and that gave an RV of €25.35. He said in that valuation there was a written down store no value.
- He said the Appellant claimed that from looking at the Map attached to the Valuation Office précis that the size of Number 17 George's Quay was the same

as the subject property or larger and he Mr Dineen disagreed with that. All that was valued on the ground floor of Number 17 Georges Quay is a shop of 26.2 square metres.

Mr Dineen's Valuation is set out in the Schedule to this Judgment.

In cross – examination by the Appellant Mr Dineen stated the following :-

- He did not measure Number 17 George's Quay and the measurements he gave were from the Valuation Office records. He had looked at Number 17.
- Mr Lynch put it to Dineen that the ground floor of Number 6 George's Quay was bigger than the ground floor of Number 10 George's Quay and Mr Dineen disagreed stating the ground floor of Number 6 comprised 37.6 sq. m. and that was all that was valued.
- Mr Dineen agreed that George's Quay was second rate property.
- The Revision took place because there was an application for exemption. The subject property is an exempt property. When the Valuation Office go in to a property they look at everything.
- Mr Lynch put it to Mr Dineen that a lot more money had been spent on Number 9 Georges Quay than on Number 10 George's Quay in getting Number 9 correct air wise and light wise and in everything else and in reply Mr Dineen stated that he was in Number 9 and the amount of money Mr Lynch was talking about was not obvious to him. There was not a glass roof on Number 9.

In answer to questions from the Tribunal Mr Dineen replied as follows :-

- Mr Dineen was asked why the ground floor of Number 9 Georges Quay in comparison number 3 in his précis was divided between front and rear and in reply he stated that he guessed the reason was that the rear offices in Number 9 were very dark and he also stated that in this stretch of street you have a lot more retail than office.
- Number 13 George's Quay was vacant and it was made up to be a shop on the ground floor.
- Asked if he made any allowance for the IRI nature of the Lease Mr Dineen stated he did not and he didn't think it necessary.
- Asked if the OPW were not involved if his valuation would be different Mr Dineen replied that it would not and that the valuation would be the same and that

it had nothing to do with the exemption. His valuation had two bases namely rent and the three comparisons. If there was no rental evidence the three comparisons would stand supporting the figure that was on the subject property.

- When it was pointed out by the Tribunal that a photograph of the subject property had not been supplied Mr Dineen handed in what he described as an old photograph of the said property which was first shown to the Appellant who agreed that the photograph showed the subject property.
- The ground floor of Number 10 George's Quay was exempt from rates.
- Asked by the Tribunal which comparison he was relying on most Mr Dineen replied that he was relying on Number 9 George's Quay most as a comparison and that this was a common comparison.

## **FINDINGS**

8. In view of the failure of Mr Sean Lynch to give formal sworn evidence the Tribunal has decided to ignore everything he said at the hearing it being the practice of the Tribunal for a number of years now to take evidence on oath or by way of affirmation only.
9. The Appellant's written submission of 15<sup>th</sup> October 2002 contains five comparisons which can not be relied upon as the usual comparative data of area and rate per square metre is not supplied. Numbers 7, 8 and 16 George's Quay were not valued on what is called the NAV system making these comparisons of the Appellant further unfit to be relied on for this reason.
10. We do not accept the evidence proffered by the Appellant that the rent paid by the OPW was over the odds and that the rent in the negotiations with the other proposed tenant was about half that paid by the OPW. The rent paid by the OPW was the market rent and the rent which a hypothetical tenant contemplated by the rating legislation would pay.
11. The Tribunal accept the evidence of Mr Dineen given in cross – examination by the Appellant in relation to Number 9 George's Quay set out at page 6 of this Judgment.
12. The Tribunal accepts Mr Dineen's evidence in relation to Number 17 George's Quay viz., that it was valued on the NAV system, that this was a shop on the ground floor comprising 26.2 sq.m. which was valued at €153.6 per sq.m. giving an NAV of €4025 and that gave an RV of €25.35 and that in that valuation there was a written down store no value.
13. We do not accept the evidence of the Appellant in relation to the offer he states was made to settle this case at a Rateable Valuation of €50 and we are satisfied that an offer to settle this case at a valuation of €50 as described by the Appellant was never made. The

Tribunal further find that there was no offer made by or on behalf of the Respondent to settle this case.

14. Prior to the hearing of this appeal Mr Dineen telephoned the Appellant's office in relation to Number 13 George's Quay which the Appellant was trying to let and the asking rent quoted by a member of the Appellant's staff was a €1000 a week and the size quoted by a member of the Appellant's staff was 111.48 sq.m.
15. The net lettable area of the subject property is 111.2 sq.m. and all the information set out at page 5 of Mr Dineen's précis is correct.
16. The Valuation set out in Mr Dineen's précis is fair and reasonable.

## **17. DETERMINATION**

In view of the foregoing and having taken all the evidence in to consideration the Tribunal considers the Rateable Valuation of €70 as determined by the Commissioner of Valuation is fair and reasonable and should be affirmed.

**Rateable Valuation of €70 affirmed.**



**SCHEDULE**