Appeal No. VA04/3/026

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 2001

VALUATION ACT, 2001

Lease Plan Fleet Management **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Offices at Lot No. Block C/Flr 1, Carmanhall, Glencullen, Rathmichael, County Dublin.

B E F O R E

Fred Devlin - FSCS.FRICS	**Deputy Chairperson**
Michael F. Lyng - Valuer	**Member**
Michael McWey - Valuer	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF JANUARY, 2005

By Notice of Appeal dated the 30th day of July, 2004 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €790.00 on the above described relevant property.

The grounds of Appeal as set out in the Notice of Appeal are:
"The RV is excessive in comparison to the level arising from the reduction secured on Vodafone, also in Central Park."

Introduction

This appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 3rd of November, 2004. At the hearing the appellant was represented by Mr. Joseph Bardon, F.S.C.S., F.R.I.C.S. of Bardon & Co. The respondent was represented by Mr. Tomás Cassidy B.Sc (Property Management & Valuations), MIAVI, a Valuer in the Valuation Office. At the hearing it was agreed that this appeal would be in the nature of a test case for 2 other appeals - **VA04/3/036 – Esso Ireland Ltd.** and **VA04/3/016 – Tullow Oil Plc** - and that the rate per sq. metre derived from this appeal would apply to the other assessments.

The Property Concerned

1. The property concerned comprises the first floor of a new six-storey detached office building situated on the south side of Leopardstown Road close to the junction with the Brewery Road and Leopardstown Road roundabout. The building is situated within the Central Park development which contains a number of office buildings including those occupied by Vodafone Plc and First Active Plc. There is also a Bewley's hotel within the development.
2. The Central Park development is located convenient to Sandyford Industrial Estate where a number of large office developments have been constructed over the past several years.
3. The subject property is at first floor level in a new office building of brick and concrete wall construction, double-glazed windows, flat-roof, raised access floors, air-conditioning and acoustic tiled ceilings. The building is occupied on a floor-by-floor basis and there is a common reception area at ground floor level. All floors are served by lifts.
4. The agreed area of the subject property measured on a nett internal area basis is 897.38 sq. metres. There are also 23 car parking spaces.
5. The subject property including the car parking spaces is occupied under a lease for a term of 24 years, 7 months and 18 days from the 1st of May 2003 at an initial yearly rent of €328,101.08. The lease is on a full-repairing and insuring basis with

rent reviews at five-yearly intervals and with a break clause in favour of the tenant after 15 years.

6. A Valuation Certificate pursuant to Section 28 of the Valuation Act, 2001 was issued on the 5th of December, 2003 which is the relevant date for valuation purposes. No change was made at first appeal stage and it is against this decision by the Commissioner of Valuation that the appeal to this Tribunal lies. The only matter in dispute is the quantum of the valuation of €790 as determined at the revision stage.

The Appellant's Evidence

7. Mr. Bardon having taken the oath adopted his written précis and valuation which had previously been received by the Tribunal prior to the oral hearing as being his evidence-in-chief. In his evidence Mr. Bardon contended for a rateable valuation of €735 calculated as set out below.

Offices	897.38 sq. metres @ €120.59 per sq. metre	= €108,215
Car Parking	23 spaces @ €381.00 each	= € 8,763
Net Annual Value		= €116,978
Rateable Valuation @ 0.63%		= €736.96
Say		**€735**

8. In support of his opinion of Net Annual Value Mr. Bardon introduced one comparison, details of which are set out in Appendix 1 attached to this judgment. In his evidence Mr. Bardon said that the assessments in respect of the buildings in the Central Park development occupied by Vodafone Plc and First Active Plc were crucial to the outcome of this appeal. It was important therefore that these assessments be considered in detail and regard be had to the sequence of events in relation to their determination. The facts in relation to these assessments he said were as follows:

a) The First Active Building

This is a new six-storey over basement office building which was valued at 2001/4 revision. This was the first office building valued in the Central Park development and following negotiations with a rating consultant acting for First Active the rateable valuation for this building was agreed at IR £4097 (€5202.12) calculated as set out below.

Offices 5,833.91 sq. metres @ €126.42	= €737,522.90
Stores 44.20 sq. metres @ €68.34	= € 3,020.63
Car Parking 224 spaces @ €380.92	= €85,326.08
	= €825,869.61
Net Annual Value (say)	= €825,733
Rateable Valuation at 0.63%	= **€5,202.12**

Mr. Bardon said that in his report the revising valuer relied upon comparisons drawn from other similar out-of-town office developments.

b) The Vodafone Building

This also is a six-storey over double basement office building adjacent to the First Active building. This property was first valued in September 2002 and its rateable valuation at revision stage was assessed at €18,301 calculated as set out below:

Offices 20,602 sq. metres @ €126.41	= €2,604,298.80
Car Parking 789 spaces @ €380.90	= € 300,545.88
Net Annual Value	= €2,904,844.68
R.V. at 0.63% Say	= **€18,301**

9. Mr. Bardon said that the revising valuer in his report relied upon one comparison only i.e. the First Active building nearby. Vodafone lodged an appeal against this assessment and in due course the matter was referred to the Valuation Tribunal. At a hearing of the Tribunal on the 4th of January, 2004 at which Mr. Bardon

appeared on behalf of Vodafone and Mr. John Connolly, a Valuer in the Valuation Office, appeared on behalf of the Commissioner of Valuation, the rateable valuation of the Vodafone building was agreed at €15,750 and in due course the Tribunal issued an Order to this effect.

10. Mr. Bardon said that although the rateable valuation was agreed the actual breakdown of the valuation was not. However, in his opinion the agreed rateable valuation of €15,750 could and should be analysed as follows:

Offices 19,823 sq. metres @ €109.63	= €2,173,263.00
Stores 388 sq. metres @ €68.34	= € 26,516.00
Car Parking 789 spaces @ €381	= € 300,609.00
Net Annual Value	= €2,500,388.00
Rateable Valuation @ 0 .63%	= €15,752.44
Say	**€15,750**

11. Mr. Bardon said that the effect of the Vodafone agreement was to establish a new level of assessment or tone for valuing office buildings in the Central Park development i.e. €109.63 per sq. metre as against the original figure of €126.41 per sq. metre derived from the First Active assessment. Accordingly, he was of the view that Mr. Cassidy's valuation was flawed on two counts. Firstly, it did not reflect the new tone established in Central Park by the Vodafone appeal and secondly, the premium to reflect the differential in size between the First Active building and the subject building i.e. €3.42 per sq. metre (circa 2.7%) was inadequate. When it came to valuing the subject property the correct valuation methodology was to look at the tone established by the Vodafone agreement at €109.63 per sq. metre and to apply to it an adjustment or premium to reflect the differential in size between the two buildings. In his opinion this uplift or premium should be in the order of 15% and this is what he had done in arriving at his opinion of Net Annual Value as set out in paragraph 7 above.

12. Under cross-examination Mr. Bardon agreed that the Vodafone valuation was not the only correct valuation in the list but it was, he said, the most relevant for comparison purposes.

The Respondent's Evidence

13. Mr. Tomás Cassidy having taken the oath adopted his written précis and valuation which had previously been received by the Tribunal prior to the oral hearing as being his evidence-in-chief.
14. In his evidence Mr. Cassidy contended for a rateable valuation of €790 calculated as set out below:

Offices 897.38 sq. metres @ €129.84		= €116,515.81
Car Parking	23 spaces @ €380.92	= €8,761.16
Net Annual Value		= €125,277
R.V.@ 0.63%	Say	= **€790**

15. In support of his opinion of Net Annual Value Mr. Cassidy introduced seven comparisons details of which are set out in Appendix 2 attached to this judgment. Five of Mr. Cassidy's comparisons are situated in the Central Park development whilst the other two are to be found in other nearby office park developments.
16. Under cross-examination Mr. Cassidy agreed that when the Valuation Certificate was issued on the 5th of December 2003 the outcome of the Vodafone agreement was not known. He further agreed that this was also the case in regard to his other comparisons drawn from Central Park with the exception of the First Active building. Mr. Cassidy said that he did not accept the proposition put to him by Mr. Bardon that the Vodafone agreement had established a new tone for offices in Central Park. As far as he was concerned he accepted the Vodafone agreement for what it was. In the absence of any breakdown of the valuation on the Valuation Office file and in the absence of any information as to the rationale for the reduction achieved he was not prepared to accept the argument that the First Active valuation was not a valid comparison nor that it was in any way

undermined by the Vodafone agreement. When invited to put forward his own analysis of the Vodafone agreement Mr. Cassidy proffered the following breakdown.

Offices 19,823 sq. metres @ €110.95		= €2,199,361
Stores 388 sq. metres @ €68.34		= €26,516
Car parking 789 spaces @ €381		= €300,609
Total		= €2,526,486
Net Annual Value	Say	= €2,500,000
Rateable Valuation @ 0.63%		= **€15,750**

Findings

The Tribunal has carefully considered all the evidence and arguments put forward by the parties, including that in relation to comparisons, and makes the following findings:

1. The relevant valuation date for this appeal is 5th of December 2003. Accordingly therefore the Net Annual Value of the property concerned must be determined in accordance with the relevant sections of the Valuation Act, 2001.
2. The first office building valued for rating purposes in the Central Park development was the First Active building. The valuation of this building was agreed at revision stage on the basis of €126.42 per sq. metre. The Tribunal attaches considerable weight to this evidence by virtue of the fact that it was an agreed settlement and was determined by reference to the assessments of other buildings of a similar nature in other office park developments.
3. The next building valued for rating purposes in the Central Park development was the Vodafone building which has an agreed office area of 19,823 sq. metres. This building was initially valued at the same rate per sq. metre as the First Active building but at Valuation Tribunal stage the valuation was reduced by agreement. It is common case that this agreement equates to circa €110 per sq. metre on the office space. The Tribunal attaches considerable weight to this settlement also.
4. The Tribunal attaches lesser weight to Mr. Cassidy’s other comparisons.

5. Mr. Bardon's primary argument in this appeal is that the outcome of the Vodafone appeal established a new tone for valuing office buildings in Central Park. In the absence of any direct evidence as to why the Vodafone building was valued at circa €110 per sq. metre, as against €126.41 per sq. metre as applied to the First Active building, the Tribunal is not prepared to accept Mr. Bardon's assertion. Office buildings by their very nature are not homogenous and there are many reasons why buildings in the same development may be valued at markedly different levels including size, quality of design and specification, building configuration and location within the development itself. In this instance the Vodafone building is approximately 3.4 times the area of the First Active building.
6. The Tribunal accepts as a general principle that when valuing a large building be it a shop, office or a warehouse it may be appropriate to make a quantum allowance. Nonetheless the mere fact that the building being valued is considerably larger or as in this case considerably smaller than the comparisons cited is not of itself sufficient to warrant a quantum reduction or premium as the case may be. It is up to the party claiming such an allowance to adduce evidence to support the claim and in the main this will be rental evidence. It is not sufficient to argue that a building must by virtue of its size alone attract a quantum allowance or premium without supporting evidence of some sort or other. In this appeal both valuers made an upward adjustment to reflect the difference in size between the subject property and the primary comparisons. Mr. Cassidy qualified his adjustment to reflect not just the size differential but also the benefit of a common reception area at ground floor level.
7. In all three instances i.e. the Vodafone building, the First Active building and the property concerned rental evidence was available. Neither party to this appeal appeared to analyse this rental evidence to see whether or to what extent a quantum allowance or premium, as the case may be was sustainable. In the event the Tribunal must look at the evidence put before it i.e. the Vodafone agreement and the First Active agreement both of which in the Tribunal's opinion are of equal weight. In the Tribunal's opinion an uplift or premium of circa 2.7% for the

difference in size between the First Active building i.e. 5,834 sq. metres and the subject building, 897 sq. metres, appears to be if anything on the modest side.

Decision

Having regard to the foregoing the Tribunal does not accept Mr. Bardon's argument that the Vodafone agreement established a new tone for assessment of all other office buildings in Central Park. On balance therefore the Tribunal prefers the respondent's valuation and consequently affirms the valuation as determined at revision stage, that is a rateable valuation of €790.

And the Tribunal so determines.