

Appeal No. VA05/2/011

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

Bright Horizons Family Solutions

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Crèche at Lot No. 5Ca/Block C Unit 7, Nutgrove Office Park, Whitehall,
Churchtown Nutgrove, Churchtown, County Dublin

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Michael McWey - Valuer

Member

Patrick Riney - FSCS FRICS FIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF JULY, 2005

By Notice of Appeal dated the 12th day of April, 2005 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €18.00 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 levels assessed on other crèches in the general area. The first floor level should be lower than the ground floor level given the absence of a lift."

The appeal proceeded by way of oral hearing at the Tribunal Offices at Ormond House, Ormond Quay Upper, Dublin 7 on the 10th June, 2005. At the hearing the appellant was represented by Mr. Joseph Bardon F.S.C.S., F.R.I.C.S and the respondent by Mr. John P. Smiley, a valuer in the Valuation Office.

A proposed Valuation Certificate issued on the 19th October, 2004 proposing a Rateable Valuation of €124.00. No representation was received. A Valuation Certificate was issued on 18th November, 2004 to the occupier.

An appeal to the Commissioner was received in the Valuation Office from Bardon & Co., on behalf of the occupier on 23rd December, 2004.

The issues raised by the appellant were:-

(A) The valuation was excessive because:

- (1) The revision officer had not quoted any comparisons in his report.
- (2) Bardon & Co. felt that the levels assessed were high in comparison to a similar crèche in the Cherrywood Science & Technology Park, Loughlinstown quoted by Mr. Bardon in his submissions.
- (3) A crèche on two floors is not an ideal situation from a fire and safety viewpoint.

(B) “There were no comparisons quoted in the valuer’s report and accordingly the valuation should be struck out.”

The Commissioner’s decision was to reduce the valuation to €118.00 with no other changes. The occupier was notified of this on 3rd March, 2005.

Bardon & Co. on behalf of the occupier appealed to the Tribunal against the Commissioner’s decision.

The Property

The property is situated within the Nutgrove Office Park which is a modern purpose built office development located off Nutgrove Avenue about 7 km south of Dublin city centre. The property under appeal comprises an end of terrace two-storey building used as a crèche. There is no lift in the premises. It is held under lease for 20 years from September 2004 at €29,000 p.a. with 5 yearly reviews. The property is well finished with plaster walls, suspended ceilings and air conditioning. Access between the floors is by stairs. To the front of the building is an open-air play area of circa 193 sq. metres partly surfaced and secured by a wooden fence.

Appellant's Case & Comparisons:-

Mr. Bardon on oath on behalf of the appellant adopted his written submissions already received by the Tribunal.

He produced one comparison (see Appendix 1) and also a copy of a judgment of the Valuation Tribunal, **VA94/3/028 - Temple Bar Properties Ltd. v Commissioner of Valuation** wherein the Valuation submitted by the Commissioner's witness, Mr. Tom Costello, applied different levels to upper floors to reflect the absence of a lift.

Mr. Bardon maintained that a building with a first floor was not ideal for a crèche. He further maintained that the premises had little or no profile from Nutgrove Avenue and that it was located behind a terrace of houses fronting Nutgrove Avenue. In addition he stated that there was no direct access from Nutgrove Avenue and instead access was via a cul-de-sac roadway off Meadow Park Avenue - an access shared with Homebase and the E.S.B. He pointed out that the crèche was located at the back of the office park and is the end unit of a terrace of units and had no profile. Because of this there was little outside business and it was operating below its maximum capacity.

Respondent's Case & Comparisons:

Mr. Smiley on oath on behalf of the Commissioner of Valuation adopted his written submissions already received by the Tribunal.

He gave evidence that the building was finished to a very high standard and that the appellants, who were experienced crèche owners, had taken great care in choosing the premises and in the laying out of the crèche.

He further stated that the appellant's property was in a better location than the property in Loughlinstown referred to in the appellant's submissions as it was nearer to the city centre.

In his direct evidence Mr. Smiley made no reference to his comparisons (see Appendix 2). Under cross-examination by Mr. Bardon he stated that the estate was not yet completed – there was one block to be completed.

In relation to his comparisons he said that No's 1, 4 and 5 were all 2 storey converted premises. No.3, Park Academy was on the ground floor of a 2-storey building. No.2 was no longer used as a crèche.

In relation to No.4 Beacon Court, he stated that it was subject to a valuation appeal **VA04/1/024 – Gerri Cobb & Mary McGibney** in 2004 and that he was familiar with the judgment, in particular the evidence of Mr Hicks, set out on page 5 of the judgment. He would not accept that Beacon Court did not compare with the premises under appeal – he said it was a 3 storey building in a business area and completed to a very high standard but would not accept that it was radically superior to the premises under appeal. Mr. Bardon put it to him that he was not comparing like with like. He rejected this.

Comparison No. 5 – W.M. Tracey t/a Angel's Care was the nearest to the premises under appeal. The front of the premises was old whereas the rear was reasonably new.

It was valued at €65.00. He maintained it was a converted house and had a neglected appearance.

Findings:

The Tribunal has considered all of the submissions and the evidence afforded by the witnesses and finds as follows:

- (1) The appellant's premises are situated in an area with difficult access. There is no direct access from Nutgrove Avenue. Access is via a cul-de-sac road off Meadow Park Avenue. The crèche is at the back of Nutgrove Office Park and is at the very end unit of a terrace of units and has little profile.
- (2) There is no lift in the property. Access is by stairs. In view of the submissions made by Mr. Costello in the appeal **VA94/3/028 – Temple Bar Properties Ltd**, we consider that a similar allowance should be made between the ground floor and the first floor.
- (3) A 2 storey premises is not an ideal premises for a crèche from a fire and safety viewpoint.

Determination:

In view of these findings the Tribunal accepts the valuation as set out by Mr. Bardon in his written submissions namely:

Ground Floor 97.5 sq. metres @ €82.02 per sq. metre	= €7,997
First Floor 99 sq. metres @ €75.18 per sq. metre	= <u>€7,443</u>
Total	= €15,440
NAV €15,440 @ 0.63%	RV = €97.27
	Say RV = €97

as fair and reasonable and accordingly the Tribunal determines the rateable valuation on the property the subject of this appeal to be €97

And the Tribunal so determines.