

Appeal No. VA05/2/020

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

Wyse Property Management

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office(s) at Lot No. Aspen Court, Block 1, Ground Floor, Bray Road (Cabinteely),
Foxrock, Foxrock Carrickmines, County Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 12TH DAY OF OCTOBER, 2005

By Notice of Appeal dated the 26th day of April, 2005 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €175.00 on the above described relevant property.

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

"The rateable valuation is excessive having regard to the tone of the list for office accomodation in the area."

This appeal was held immediately following the oral hearing in Appeal VA05/2/017 – Shaffrey & Co. Solicitors on the 9th June, 2005 at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7.

At the hearing the appellant was represented by Mr. Conor Ó Cléirigh M.R.I.C.S., A.S.C.S., F.I.A.V.I and the respondent, the Commissioner of Valuation by Mr. Christopher Hicks, a valuer in the Valuation Office.

The Property

The property concerned comprises the ground floor of Block 1 in the Aspen Court development at the Old Bray Road, Cornelscourt. The Aspen Court complex comprises four separate 3-storey office buildings, which share a common basement car park.

The property concerned is occupied by a company engaged in property management, sales and lettings. The accommodation measured on a nett internal area basis is agreed to be as follows:

Offices: 103.42 sq. metres

Car Spaces: 6

The facts in relation to the Aspen Court development are the same as those dealt with in the judgment of Appeal VA05/2/017 – Shaffrey & Co. Solicitors.

The Appellant's Evidence

Mr. Ó Cléirigh having affirmed, adopted his written précis and valuation, which had previously been received by the Tribunal as being his evidence-in-chief.

In his evidence Mr. Ó Cléirigh contended for a rateable valuation of €75.00 calculated as set out below:

Ground Floor Offices 103.42 sq. metres @ €105.00 per sq. metre = €10,859.10

Six car park spaces @ €220.00 each	= €1,320.00
Net Annual Value	Say €12,000
RV @ 0.63%	= €75

In evidence Mr. Ó Cléirigh said that the property concerned was used as an estate agent's office and was fitted out to provide an open plan layout with some cellular offices. Mr. Ó Cléirigh said that whilst the premises fronted onto the Old Bray Road, access to it was at the rear via steps from pavement level. Mr. Ó Cléirigh said that in arriving at his opinion of net annual value he had had regard to the assessments of other office buildings in the Dun Laoghaire / Rathdown area. His approach, he said, was fundamentally different from that adopted by Mr. Hicks who had valued the property at levels of valuation applicable to retail outlets. Mr. Hicks, he said, was incorrect in so doing as the property concerned was used purely as office accommodation.

Under cross-examination Mr. Ó Cléirigh agreed that the occupier of the property concerned used the windows facing onto the Old Bray Road for display purposes. Nonetheless Mr. Ó Cléirigh said that this did not alter the fact that the property concerned was an office and hence should be valued as such.

Mr. O'Clairigh's comparisons are at Appendix 1 to this judgment.

The Respondent's Evidence

Mr. Christopher Hicks having taken the oath adopted his written précis and valuation, which had previously received by the Tribunal, as being his evidence-in-chief.

In evidence Mr. Hicks contended for a rateable valuation of €175.00 calculated as set out below:

Office 103.42 sq. metres @ €247.20 per sq. metre	= €25,565.00
Car Spaces 6 @ €381.00 each	= €2,286.00
Net Annual Value	€27,851.00
RV @ 0.63%	= €175.00

Mr. Hicks in evidence said that in his opinion the property concerned was occupied as an estate agent's office to which the public had access. In this regard it was no different from his comparison No. 4 occupied by ReMax Properties Plus, which was located on Main Street Dundrum. This property, he said, was valued at the same levels as shops in the immediate vicinity. Accordingly he was of the opinion that the property concerned should be valued in a similar manner. In arriving at his valuation therefore he had had regard to the valuation of two nearby shops (comparisons No. 1 & 2) and applied an uplift of approximately 10% to reflect the extensive of frontage enjoyed by the subject property.

Under cross-examination, Mr. Hicks agreed that Aspen Court was an office development and that the planning obtained for the development was for such a use. Mr. Hicks further agreed that the description of the property in the Valuation List was offices but said that it could just as easily have been described as a shop. In effect, he said, nothing turned on the description.

When asked if his comparisons were relevant Mr. Hicks affirmed his opinion and said that the influencing factors were the use of the windows along the street for display purposes and that the public had access to the property. Such attributes, he contended, made the use of premises akin to that of a shop and accordingly therefore the property should be valued at the same level as retail properties in the area.

Mr. Hicks' comparisons are at Appendix 2 to this judgment.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and makes the following findings:

1. It is common case that Aspen Court is an office development built in accordance with the relevant planning permissions and other statutory consents.

2. Aspen Court comprises 4 detached buildings each with 3 floors. Mr. Hicks as the designated revision officer valued the entire development with the exception of the property concerned at a uniform rate of €123.00 per sq. metre. His decision to value the property concerned by reference to the levels established for retail premises in the adjoining area was influenced by two factors. Firstly, the appellant used the window space fronting onto the Old Bray Road for displaying particulars of properties either for sale or to let. Secondly, members of the public had access to the premises. The Tribunal has considered Mr. Hicks' contentions in this regard and has come to the conclusion that neither of the factors referred to by him detract from the underlying fact that the property concerned is used for a purpose that is not a retail activity and is located in what is an office development and which has all the appearances and attributes of this use.
3. In regard to the description of the property concerned in the Valuation List as "offices", there is nothing in the Valuation Act, 2001 to suggest that the description has any other purpose than that of identification. In rating law the purpose for which a property is occupied is a key determinant and significant relevant factor in the valuation process. In the circumstances of this appeal the Tribunal is satisfied that the user of the property concerned is essentially the same as that of other premises in the Aspen Court development and hence it follows that it should be valued in a like manner.
4. In its determination in Appeal VA05/2/017 (Shaffrey & Co. Solicitors v Commissioner of Valuation) this Tribunal found that ground floor office accommodation at Aspen Court should be valued on the basis of €123 per sq. metre. However having regard to the fact that the property concerned is located in the only block of four which has frontage on to the Old Bray Road the Tribunal has come to the conclusion that a hypothetical tenant would pay a small premium for this enhanced profile.

Determination

Accordingly therefore the Tribunal determines the rateable valuation of the property concerned to be €99.00 calculated as set out below:

Office 103.42 sq. metres @ €138.00 per sq. metre	= €14,372
Car spaces 6 @ €250.00 each	= €1,500
Net Annual Value €15,772.00	Say €15,800
RV @ 0.63%	Say = €99.00