

Appeal No. VA06/2/090

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

Business Objects Software Ltd. **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Office(s) at Lot No. Block 13 (Fl.2), Park West Office Park, Gallanstown, Cherry Orchard C, Cherry Orchard County Borough of Dublin

B E F O R E

John Kerr - BBS. ASCS. MRICS. FIAVI **Deputy Chairperson**

Leonie Reynolds - Barrister **Member**

Michael F. Lyng - Valuer **Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF DECEMBER, 2006

By Notice of Appeal dated the 23rd day of June, 2006 the appellant appealed against the decision of the Commissioner of Valuation in fixing a rateable valuation of €35.00 on the above described relevant property.

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

"On the basis that the RV is excessive inequitable and bad in law. The NAV applied is excessive when the relative worth of the offices is weighed against comparable properties already in the tone of the list across the Dublin City Council area"

The Appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 27th of September, 2006. At the hearing, the Appellant was represented by Mr. Eamonn Halpin of Eamonn Halpin & Co. Limited, Chartered Valuers and Estate Agents. The Respondent was represented by Mr. Patrick Kyne, M.Sc. Planning & Development, B.E., ASCS, MRICS, a Staff Valuer in the Valuation Office.

The Property

The subject property comprises the second floor of a modern, three storey, multi-tenanted office building in Park West Office Park. The building was constructed in 1999 to a high specification including raised access floors, lift service and air conditioning. There is a common reception area serving the entire building at ground floor level. The building also enjoys the use of eight car parking spaces, adjacent to the property.

Location

The office block is one of a number of office buildings within Park West Office Park. Park West is a 91 hectare business campus located approximately 4.5 kilometres west of Heuston Station on the Nangor Road, close to the junction of the M50 and the Naas Road. It is a well known business park which is well served by local amenities.

Valuation History

The property was the subject of a Revision of Valuation in 2000 when the entire building was valued as one lot at a rateable valuation of €2,044.28. An appeal was lodged and having considered the appeal, the Commissioner reduced the RV to €1,631.61 in line with agreed levels in Park West Office Park. The property was revised in 2005 due to a sub-letting of Lot 13 into two (floor 0, 1 and floor 2). A valuation of €35.00 was fixed on floor 2 which is the subject of this appeal. An appeal was lodged in 2005 and having considered the appeal the Commissioner made no change in the RV. A subsequent appeal to this Tribunal was lodged on the 26th of June, 2006.

Tenure

The property is held under a ten year lease from 1st of July, 2004 at a rent for the first four years of €89,784.50. This rent includes the eight car park spaces. There is a break clause at the end of year four in favour of the tenants.

Area

Second floor offices with agreed revised area of 710.5 Sq. metres.

Revised valuations contended for

Having confirmed agreement of the above revised floor area to the Tribunal the parties revised their estimates of rateable valuation as follows:

Respondent

Offices	710.5sq. m.	@ €109.33 per sq. m.	= €77,678.96
Car spaces	8	@ €17.43 per space	= €2,539.44
Total NAV Nov '88			= €80,218.40
RV @ 0.63%			= €505.37
			Say RV €505

Appellant

Offices	710.5sq. m.	@ €3.18 per sq. m	= €7,784.39
RV @ 0.63%			= €238.04
			Say RV €238

Appellant's Evidence

Having taken the oath, Mr. Halpin adopted his précis of evidence, with some amendments, as his evidence-in-chief. The amendments were in respect of his comparisons (see Appendix 1 hereto), the now agreed floor area and a revised estimate of value based on the agreed floor area. He outlined the valuation history of the said property and stated that it had been assessed as an entire building back in 2000. The recent revisions, he said, arose to reflect different occupations of different floors of the building. After an appeal to the Commissioner of Valuation, the valuation remained unchanged. He described the Park West Office Park as having a mixture of office, industrial and residential properties. In his view, it was regarded as not particularly attractive for workers as the services in the area are not great. This had affected lettings although he accepted that the building is built to a good modern standard. He stated that the location is generally perceived in the market as a very moderate tertiary outer suburban location. He stated that when the property was initially completed, there was a tax incentive scheme in place which had the effect of inflating rental levels. The scheme was

subsequently terminated under an EU Directive, rental values consequently decreased and have not recovered to date. He stated that the level of NAV applied was grossly excessive in view of the relative rental value of the property, compared with the broad level that applies to comparable and superior value offices right across the city. Mr. Halpin stated that he believed that the Commissioner had relied on inappropriate comparisons (including the East Point development in Dublin 3) when establishing the original NAV for the subject property and, as a result, an excessive NAV was applied. He stated that in his opinion East Point was not comparable in that the location was different and rental values were never the same, the rental values being much greater in East Point. Thereafter, Mr. Halpin relied upon his own comparators as set out in his précis of evidence and attached in Appendix 1 to this Judgment. He stated that the Commissioner had failed to fairly discharge his function under Section 49 of the 2001 Act in not comparing the subject property with comparable properties in the list.

Under cross-examination, Mr. Halpin accepted that the amenities in the area had improved more recently with the addition of a public house and some retail outlets. Mr. Kyne put it to Mr. Halpin that the Commissioner had properly discharged his function under Section 49 of the Act but Mr. Halpin disagreed.

Respondent's Evidence

Having taken the oath, Mr. Kyne adopted his précis of evidence, with some amendments, as his evidence-in-chief. The amendments were in respect of one of his comparisons (see Appendix 2 hereto), the now agreed floor area and a revised estimate of value based on the agreed floor area. Thereafter he set out the valuation history of the property and stated that access to the property had improved in recent years, with access now from three different roads. Public transport had also improved as well as local amenities. Thereafter he referred to his comparisons which were taken from almost identical properties to the subject property and in the same office park and in his view were therefore the most suitable comparisons. He stated that in his view full regard had been given to the established "tone of the list" when applying a NAV and he relied upon the decision of the Tribunal in **VA02/2/091 - Shoezone Ltd., t/a Tylers** in this regard.

Under cross examination Mr. Halpin put it to Mr. Kyne that the rates per sq. foot attached to the subject property were higher than anywhere else in the city. Mr. Kyne accepted that they were probably marginally higher and that there are some anomalies in the Valuation List

which will be addressed at Revaluation. Further, Mr. Kyne confirmed that the Commissioner had relied on other comparisons including the East Point Development in establishing the original NAV values for the subject property but stated that the appropriate adjustment downwards had been made in respect of the subject property.

Findings and Determination:

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

1. The Tribunal is satisfied that full regard has been given to the established “tone of the list” by the Commissioner in applying a NAV per square metre.
2. The Tribunal is not satisfied that the comparisons as set out by Mr. Halpin are useful or relevant.
3. The Tribunal is satisfied that the Commissioner in relying on appropriate comparisons, including the East Point Development, made the appropriate adjustment in relation to the subject property.

In view of the foregoing, the Tribunal therefore dismisses the appeal and, accordingly, the RV is affirmed at €05 - i.e. the respondent’s amended RV.

And the Tribunal so determines.