

Appeal No. VA06/3/006

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

Michael Smithwick

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office(s) at Lot No. Unit 1 Ballycasey Park, Smithstown (Shannon Town), Clenagh, Ennis, County Clare

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 19TH DAY OF DECEMBER, 2006

By Notice of Appeal dated the 11th day of July, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €30.00 on the above described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal and in a letter attached thereto, copies of which are in Appendix 1 attached to this Judgment.

The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin, 7 on the 20th October, 2006. The appellant, Mr. Michael Smithwick, represented himself. Mr. David Molony, B.Sc., M.R.I.C.S., a District Valuer in the Valuation Office, represented the respondent. At the oral hearing both parties, having taken the oath, adopted their précis of evidence, which had previously been submitted to the Tribunal and exchanged by the parties, as being their evidence-in-chief.

Issue

In advance of the hearing, by letters to the Tribunal dated 25th September, 2006, Mr. Smithwick had confirmed that his appeal was not based on legal grounds and would be pursued on quantum grounds only.

Test case

Prior to the commencement of the hearing the parties confirmed to the Tribunal that the subject Appeal **VA06/3/006 – Michael Smithwick** was an agreed test case for Appeal **VA06/3/007 – Aideen M. Pendred** and Appeal **VA06/3/008 – Ozondu Medical Centre** and that the Tribunal decision in the test case would apply equally to those two appeals. The parties also confirmed that all three properties under appeal were identical units in the same office building. Mr. Smithwick further confirmed to the Tribunal that he was authorised by the appellants in both Appeal VA06/3/007 – Aideen M. Pendred and Appeal VA06/3/008 – Ozondu Medical Centre to act on their behalf in relation to the appeals, this fact having also been notified in writing to the Tribunal by letters dated 28th September, 2006 from Ms. Aideen Pendred and Dr. Fabian Akamnonu respectively.

Location and Description

The subject property is located in Ballycasey Business Park, Shannon, Co. Clare. It comprises a new, ground floor, purpose-built office unit in a building containing nine such self-contained office suites and is said to be finished to a good internal specification. There is extensive surface car parking.

Agreed Area

The agreed floor area of the property is 62.7 square metres.

Tenure:

The property is understood to be freehold.

Valuation History

The property was first revised in October 2005 at an RV of €30.00. An appeal to the Commissioner of Valuation resulted in no change to the valuation. It is against this decision of the Commissioner that the appeal to the Tribunal lies.

Appellant's case

Mr. Smithwick contended for a rateable valuation of €15 but did not provide a basis on which this figure was calculated.

He outlined to the Tribunal that he felt that the valuation carried out by the Valuation Office was based on two comparisons, one located in Shannon Industrial Estate and the other located in Shannon Town centre. It was the view of the occupants of Ballycasey Park that these comparisons were not representative comparisons to be used in assessing their properties. Mr. Smithwick felt that a more appropriate comparison would have been the property at the Craft Centre at Ballycasey Park which was in the same area. He said he had compared the rates being charged to the companies at the Craft Centre, Ballycasey Business Park, which were valued significantly lower than the subject property which had a rateable valuation of €30. It was his opinion that the secondary location and the lack of amenities were not taken into account when the property was being assessed by the Valuation Office. The fact that the property was restricted to office use only in the planning permission was not taken into account either.

Mr. Smithwick said that the first appeal to the Commissioner of Valuation was not independently assessed because it was referred back to the Revision Officer.

Under cross-examination Mr. Smithwick said he had not analysed the valuations of the properties he had referred to in his earlier evidence. Mr. Molony then referred Mr. Smithwick and the Tribunal to the three copy rates bills attached to Mr. Smithwick's written submission and said that two of these properties were valued prior to 1988 and therefore valued on a different basis from the subject rendering them unsuitable as comparisons. The third was

valued in 2003 but, as it was trading as a betting office and had the disadvantage of a very low ceiling height – 7ft. as against the normal 8ft. - it also was not a suitable comparison.

Asked by Mr. Molony as to whether the immediate area of the subject property was not a developing commercial area, Mr. Smithwick said that it was a very mixed and mostly residential area with the units in the subject Park and the Craft Centre being the only commercial units. He accepted that there was a shopping centre within walking distance of the subject and that all but one of the nine units in the Park were occupied. He agreed with Mr. Molony that a high profile office was not required for an accountancy practise. He also agreed that the car parking was adequate at present.

Respondent's case

Having taken the oath Mr. Molony stated that the subject property was part of a new development consisting of nine ground floor, purpose-built, office units at Ballycasey Business Park. The upper floors were developed as apartments with access to these units from the rear of the property. The subject property comprised a ground floor self-contained office unit of 62.7 sq. metres with the use of a large car park to the rear. The immediate area, he felt, was experiencing some commercial growth at present with a new commercial centre adjacent, which comprised a supermarket, butcher shop etc. Mr. Molony contended for a rateable valuation of €30 calculated as set out below:

Ground floor offices: 62.7 sq. metres @ €5.64 per sq. metre

Net Annual Value = €996.63

RV @ 0.5% = €29.98

Say €30 RV.

In support of his valuation, Mr. Molony introduced two comparisons within the Shannon area, details of which are at Appendix 2 to this Judgment. His first comparison, Fitzpatrick & Co., Dolmen House, Shannon, was valued at €120 per sq. metre. He felt it was located in a superior location to the subject and as a result he allowed a reduction of 20% of that rate and applied it to the subject. His second comparison, Aero Management Services, was a ground floor office contained in a two-storey building with a shared entrance valued at €109.34 per sq. metre. He felt that there was not a huge difference between it and the subject property and he allowed a 12.5% reduction in favour of the subject. In reply to the Tribunal, Mr. Molony

stated that any offices valued near the subject would be valued at about €180 per sq. metre, which is a much higher rate than that on the subject. Mr. Molony also stated that he himself had valued the eight offices at Ballycasey Business Park. Five of the occupants accepted his valuations, three appealed and one was still vacant.

Under cross-examination, Mr. Molony stated that he could not find any comparable properties in the immediate vicinity of the subject except the two he used and he was satisfied that they represented the tone of the list. He had allowed a generous discount on the level applied to his first comparison when valuing the subject to reflect its better location. He said that while his second comparison was more on a par with the subject he had nevertheless valued the subject at 12¹/₂% less. He said he had not used the properties supplied to the Valuation Office by Mr. Smithwick because they were described as workshops and not offices within the system and were valued before 1988.

Findings

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

- The issue before the Tribunal in this appeal was that of quantum only, the Tribunal having taken due notice of Mr. Smithwick's letters of 25th September, 2006 to this effect.
- The appellant presented no suitable comparisons in the area.
- Of the three comparisons used by the appellant, on the basis of copy rate bills, two were pre 1988 and could not be used and the third was a betting office with restricted ceiling height.
- All planning comes with restrictions and cannot be taken into account by the Tribunal.
- The only reliable comparable evidence available to the Tribunal was that put forward by the respondent.
- The Tribunal is satisfied that the respondent made the appropriate discounts on the levels in his two comparison properties when valuing the subject property.

Determination

In view of the foregoing, the Valuation Tribunal affirms the valuation of the respondent as fair and reasonable.

As this is an agreed test case for Appeal **VA06/3/007 – Aideen M. Pendred** and Appeal **VA06/3/008 – Ozondu Medical Centre** this determination of the Tribunal applies equally to those appeals.

And the Tribunal so determines.