

Appeal No. VA08/5/119

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

Myles Balfe

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 401904, Office at Red Cow House, Naas Road, County Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Michael F. Lyng - Valuer

Member

Damian Wallace - QFA, MIPAV, Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF JANUARY, 2009

By Notice of Appeal dated the 1st day of August, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €305,000.00 on the above-described relevant property.

The grounds of Appeal are set out in the Notice of Appeal, and in a letter attached to the Notice of Appeal, copies of which are attached at Appendix 1 to this judgment.

This appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 20th day of November, 2008. At the hearing the appellant, Mr. Myles Balfe, appeared on his own behalf and Mr. Liam Diskin, BSc (Hons) Property Management & Investment, BSc (Hons) Property Valuation & Estate Agency, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.

The Property Concerned

The property concerned is a modern 3 storey over basement office building located on the south side of the Naas Road adjacent to the Red Cow Hotel and close to the N7/M50 intersection which is currently being upgraded and remodelled. The Naas Road is arguably the busiest of the arterial routes into the city centre and also contains the Luas Red Line running from Tallaght to Connolly Station.

The property, which was built in or about 2002, is of concrete framed construction with a red brick outer leaf, infill walls under a part pitched and slated roof and part concrete slab roof with double glazing throughout. Internally the premises have a plastered and painted wall finish, suspended ceilings, recessed lighting and gas fired central heating. The building provides good quality office accommodation at all levels and all floors are served with a lift. At basement level there is parking for 9 cars.

Accommodation

The accommodation measured on a gross internal area basis according to the Valuation Office is as follows:

Ground floor	529.98 sq. metres
First Floor	529.98 sq. metres
Second Floor	<u>436.29 sq. metres</u>
Total Area	1,496.25 sq. metres

It should be noted that these areas were not agreed with the appellant.

Valuation History

As part of the South Dublin Revaluation programme a Valuation Certificate was issued to the appellant on 5th of June, 2007 to the effect that it was proposed to value the property concerned at a rateable valuation of €305,000. There being no representations from the appellant a Valuation Certificate was issued in due course confirming the valuation at €305,000. No change was made on foot of an appeal to the Commissioner of Valuation and it is against this decision by the Commissioner that the appeal to this Tribunal lies.

The Appellant's Evidence.

Mr. Myles Balfe having taking the oath outlined in some detail the development of the property concerned, which he said was initially built for occupation by his own company. The building, he said, was constructed and finished to a high standard. When completed, due to a change in plan it was decided to let the building under a 4 year and 9 month lease arrangement, at a rent of €230,000 per annum from late 2002. Under this lease the tenant was responsible for rates and the landlord was responsible for external repairs.

In or about mid 2005, Mr. Balfe said, the tenant vacated the premises and since then he had tried to obtain another tenant but without success, notwithstanding the fact that he had placed the property with several well established letting agents. The only letting obtained thus far was a short term arrangement for the ground floor and basement at a monthly rent of €10,000 which ended in November, 2007. Since then the building has been vacant. At this stage Mr. Balfe said he would be prepared to lease the entire building at an annual rent of €150,000 but had received no offers at or about this level. Mr. Balfe said one of the drawbacks in obtaining a tenant was the level of rates that an incoming tenant would have to pay.

Mr. Balfe as part of his well prepared written presentation included a letter from Lisney dated 26th May, 2008 giving advices on marketing the property on either a for sale or to let basis. This letter referred to areas which were substantially different to those cited by the Valuation Office and suggested a quoting rent of €180,000 per annum and an asking price of €3,250,000.

When questioned by Mr. Diskin about the 4 comparisons introduced by the Valuation Office Mr. Balfe expressed the opinion that all of them, with the exception of comparison No. 4 (the Fiat building), were inferior to the property concerned in terms of building quality. The Fiat

building also occupied a better location, Mr. Balfe said. The AIB building beside the property concerned was an inferior building but used for banking purposes.

The Respondent's Evidence

Mr. Diskin having taken the oath adopted his précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence Mr. Diskin contended for a valuation of €305,000 calculated as set out below:

Valuation

(Areas GIA)

Level 0	Office 529.98 sq. metres @ €200 per sq. metre	€105,996.00
Level 1	Office 529.98 sq. metres @ €200 per sq. metre	€105,996.00
Level 2	Office 436.29 sq. metres @ €200 per sq. metre	€ 87,258.00
Level -1	Car Spaces 9 @ €700 per space	<u>€ 6,300.00</u>
Total		€305,550.00
NAV		€305,000.00

In support of his opinion of net annual value Mr. Diskin introduced 4 comparisons, details of which are set out in Appendix 2 attached to this judgment.

Mr. Diskin said that he was not the valuer at the initial valuation stage but had checked the areas contained in the valuation records and found them to be correct. When asked by the Tribunal to double check the area of the second floor Mr. Diskin re-measured the section of the building from architectural drawings he had on file and increased the area from 436.29 sq. metres to 451.34 sq. metres, thus giving a revised total area of 1,511.30 sq. metres. When asked to comment on the areas contained in the Lisney report, Mr. Diskin said he could only assume that they had measured the building on a net internal area basis.

Mr. Diskin said that in carrying out the revaluation programme in the South Dublin area the Valuation Office had analysed a body of rental evidence and the valuation of the property concerned was based on this analysis and was well supported by the assessments of the 4 properties introduced as comparables.

When questioned by the Tribunal about his comparisons Mr. Diskin agreed that comparisons No. 1 and 3 were measured on a different basis (net internal area) to the property concerned and comparisons No. 2 and 4 which were measured on a gross internal area basis. He agreed that this could lead to confusion and suggested that the area of a property measured on a net internal area basis would need to be uplifted by about 20% to give an approximation of its area measured on a gross internal area basis. When this exercise was carried out it indicated rates of €166 per sq. metre for comparison No. 1, and €208 per sq. metre for comparison No. 3, as against the figures of €200 and €250 per sq. metre respectively as shown in his précis.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced at the oral hearing and finds as follows:

1. The statutory basis of valuation is set down in section 48 of the Valuation Act, 2001, wherein at section 48(3), the net annual value of a property is defined as being, *“the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant”*.
2. The onus of showing that the valuation of the property concerned, appearing in the valuation list, is incorrect is on the appellant.
3. When valuers come before the Tribunal it is expected that the valuation of the property concerned and properties cited as being comparable be devalued on a common basis. To do otherwise can give rise to confusion and does not represent good valuation practice.
4. During the course of Mr. Balfe’s evidence he made reference to a letter from Lisney in relation to the current rental value of the property concerned and its capital value on a vacant possession basis. Since no one from Lisney was called, the Tribunal can attach no weight to the opinions expressed in the letter to Mr. Balfe.
5. In relation to the evidence presented by Mr. Diskin the Tribunal attaches most weight to his comparison No. 2 for three reasons. Firstly, it is an older building similar in size to the property concerned which it also immediately adjoins. Secondly, a valuation of €236,000 on this property was fixed following representations by GVA Donal O Buachalla, a well established firm of rating consultants. Thirdly, the rateable value of the

property is well underpinned by the rent of €280,000 per annum fixed under review in August, 2004. This building is occupied by AIB Bank as a business centre, as distinct from a typical branch bank premises to which the general public resort.

6. The other comparisons are of lesser assistance, in particular comparison No. 4 which is a much older and larger property than the property concerned occupying a less prominent location.
7. In arriving at his valuation Mr. Diskin valued all the floors at same rate per sq. metre. It would appear that the accommodation at the second floor level has a lower ceiling height in some places due to the design of the roof. The Tribunal considers that this should be reflected in the sq. metre rate applied to this floor.

Determination

The Tribunal has carefully considered all the evidence and arguments adduced at the oral hearing and determines that the value of the property concerned in accordance with Section 48 of the Valuation Act, 2001 is €270,000. This figure may be devalued as follows:

Ground and First floor say	1,060 sq. metres	@ €180 per sq. metre =	€190,800
Second floor say	450 sq. metres	@ €160 per sq. metre =	€72,000
Car spaces	9	@ €700 per space =	<u>€6,300</u>
Total			= €268,300

NAV Say €270,000

And the Tribunal so determines.