

Appeal No. VA09/4/028

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

**Dr. Declan Moloney**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 846349, Surgery at Lot No. 68b GF, Ranelagh Court, Rathmines East A, Rathmines East, County Borough of Dublin.

**B E F O R E**

**John Kerr - Chartered Surveyor**

**Deputy Chairperson**

**Joseph Murray - B.L.**

**Member**

**Aidan McNulty - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 22ND DAY OF JUNE, 2010**

By Notice of Appeal dated the 21st day of December, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €44.00 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, the limited size of the property and lack of car parking in the area."

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay, Dublin 7, on the 19<sup>th</sup> day of February, 2010. The appellant was represented by Mr. Conor Ó'Cléirigh, FIAVI, ASCS, ARICS, Chartered Surveyor. The respondent was represented by Mr. Peter Conroy, MIAVI, a Valuer with the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence in chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

### **The Property**

The subject property is a ground floor Dental Surgery, being part of a three-storey structure located on Chelmsford Road in the village of Ranelagh. The building has been extended and completely refurbished in recent years. The front elevation of the premises is set back a little, over a metre from the street, behind a low profile masonry wall, and features the entrance door to the Surgery and three windows overlooking the street. The improvement works were carried out on foot of a planning application with 5 conditions, issued on 5<sup>th</sup> January, 2006, by Dublin City Council.

The parties at hearing agreed that the premises may be characterised as modern, well-fitted and suited to purpose.

### **Location**

Chelmsford Road is primarily a residential street, just outside the main centre of Ranelagh village. The ground floor of the subject building is shared in part with Estate Agents, Mason Estates, who also occupy the adjoining premises to the west, the latter now fronting onto Ranelagh Road, which is a major north-south arterial route through the core of Ranelagh.

### **Valuation History**

Prior to its current use as a Dental Surgery, the parties informed the Tribunal that the premises was formerly occupied as a retail unit trading as Fonix Phone Shop. At that time, the gross internal area measured 22 sq. metres, was assessed at an equivalent €276.77 per sq.

metre, which resulted in an RV of €38.09. A second part of the ground floor of the subject property, as it was then, was separately valued at that time, and following First Appeal, the RV on that premises was established at €55.87 based on 35.39 sq. metres assessed at an equivalent of €251 per sq. metre or €18.36 per sq. foot on 381 sq. feet, as noted and corrected at hearing on Page 3 of the respondent's submission and agreed by the appellant's consultant and respondent.

- 6<sup>th</sup> January 2009: Following revision by the Revision Officer, a Draft Valuation Certificate issued from the Valuation Office with an RV of €58.00.
- 20<sup>th</sup> January 2009: Post Representations made by the appellant, the Revision Officer agreed to disregard the previous use of the property as a retail outlet and as a result the proposed RV reduced to €44.00 by decision issued 1<sup>st</sup> May, 2009.
- 8<sup>th</sup> June, 2009: The appellant, through his Agent, appealed the rateable valuation.
- 8<sup>th</sup> December, 2009: Commissioner of Valuation issued result of the First Appeal with the RV unchanged at €44.00.
- 21<sup>st</sup> December 2009: Appellant appealed the valuation to the Valuation Tribunal by Notice of Appeal received by the Tribunal on 23<sup>rd</sup> December, 2009.

### **Agreed Floor Areas**

The parties agreed at the hearing that the gross internal floor area of the subject property measured 33.84 sq. metres.

### **Appellant's Case**

Proceedings commenced when Mr. Conor Ó'Cléirigh, took the affirmation, adopted his précis as his evidence-in-chief, and provided the Tribunal with a review of his submission. Mr. Ó'Cléirigh reviewed the contents of his written submission and noted the change to his calculation of Net Annual Value (having regard to a minor adjustment on the internal floor area), which increased from €3,650 to €3,722 which in turn resulted in a computed RV of €23.45, rounded to €23.00. The Consultant Valuer acknowledged a target RV of €26.00 set

out in the Notice of Appeal at 6a (ii), and explained that the difference between same and his précis was represented and supported by further evidence identified by him, since filing said appeal.

Mr. Ó'Cléirigh referred to the comparison properties outlined in his submission, namely:- Comparison No. 1, being a ground floor office at No. 6, Ranelagh, Dublin 6; Comparison No. 2, also located at No. at 6, Ranelagh, being a ground floor waiting room, together with two first floor offices at that location, details of both attached as Appendix 1 hereto. The foregoing examples, represent premises with gross internal floor areas on the ground floor of 14 sq. metres and 10 sq. metres respectively, and the other two offices overhead of 18 sq. metres and 10 sq. metres each. The rates per square metre assessed on same range from €100 to €13 on the ground floor, and €90 per sq. metre for the first floor offices.

Mr. Ó'Cléirigh cited these properties as representative of the rates per square metre applied by the Commissioner of Valuation on office properties in the Ranelagh area, which he considered to be indicative of the "tone-of-the-list", which, in his view, should be considered appropriate to the property being the subject of this appeal. He also noted that, unlike the subject, his comparisons are located on a parade of commercial units, contained within a terrace building, probably of Victorian vintage.

**Cross-examination by Mr. Peter Conroy.**

In reply to queries from Mr. Conroy, Mr. Ó'Cléirigh explained to the Tribunal the proximity of the subject Dental Surgery to Ranelagh Road, which is a major commercial route within the village, while also stating that the surgery fronts on to Chelmsford Road which, itself an extension of Appian Way, is primarily residential in nature.

Mr. Ó'Cléirigh advised the Tribunal, again in reply to queries from the respondent, that his comparison properties are locations somewhat removed from the central core of Ranelagh village, but benefit from streetside parking and propinquity to the Ranelagh Luas Station.

He also agreed with Mr. Conroy that parking is a general issue for most locations throughout Dublin city and confirmed that, though parking is prohibited on both sides of the road fronting Dr. Maloney's Dental Surgery, there is metered parking available some 20 metres away, on the street. Continuing with his responses to Mr. Conroy, Mr. Ó'Cléirigh confirmed

that the premises identified at No. 6, Ranelagh, as Nora Gallagher, Solicitor, though currently in use as an office, was formerly a retail unit, and prior to same, a residence. Mr. Ó'Cléirigh also agreed that the subject property is better in terms of construction and more suited to purpose than the comparison properties. Questioned by members of the Tribunal, Mr. Ó'Cléirigh clarified that the subject dental surgery represented modern form construction, is somewhat removed from the corner of Chelmsford and Ranelagh Roads, does not have the benefit of on-site parking, front or rear, and is disadvantaged by a front elevation which is set back from the adjoining building, and burdened with the presence of a low masonry wall constructed at the footpath fronting much of the premises.

### **Respondent's Case**

Mr. Conroy took the oath, formally adopted his précis as his evidence-in-chief and reviewed his submission. He explained that part of the ground floor within the subject building adjoining the subject dental surgery was occupied by the neighbouring Mason Estates, which is valued at an equivalent of €251.00 per sq. metre.

The respondent confirmed that on initial assessment, he was mindful of potential retail uses for the subject property, but following discussions with the appellant he agreed not to consider the "tone-of-the-list" for retail premises and focused primarily on dental surgeries. With same in mind, he chose three dental surgeries within the Northbrook Clinic in Ranelagh which he would rely upon to comply with the provisions of the Valuation Act, 2001, and in particular section 49(1). He referred to Valuation Tribunal Judgment **VA95/1/080 – VA95/1/091 - Northbrook Clinic**, and advised the Tribunal that the three units he chose as his primary comparisons were specifically **VA95/1/082 - Unit 3, VA95/1/084 - Unit 5, and VA95/1/085 - Unit 6**, all of which are described in the said judgment as situate on the first floor. He added that this granite, stand-alone period building and former Nursing Home, which features its own on-site parking, provided a choice of particularly well-suited comparison properties, similar in function to the subject, though in his view, possibly of lesser value as they are located within an older building complex, and somewhat removed from the core of Ranelagh village. He stated that the rate per sq. metre applicable to Dr. Maloney's surgery, having regard to its location and building quality, should compare with the highest rate assessed on the three comparison units mentioned above.

In reply to a query from the Tribunal, the respondent would not agree that the customers of Northbrook Clinic might consider the Clinic services as typical of those of a “destination” type but conversely argued that, in his view, there was very little difference in how he might characterise or define the nature of the services provided at the subject Chelmsford Road premises in terms of either being typified as “destination” or “impulse footfall”.

### **Cross-examination by Appellant**

In reply to questions raised by Mr. Ó’Cléirigh, Mr. Conroy acknowledged that the subject is not situate at a corner, that Chelmsford Road is primarily residential, that he was the Revision Officer on the subject and had considered the finishes and fit-out in the subject, as well as those on the remainder of the ground floor, together with those on the first and second floor offices above.

Mr. Conroy confirmed that on his initial assessment as Revision Officer, he applied a proposed rate per sq. metre of €73 on the ground floor, and €6 and €75 on the first and second floor of the subject building, respectively.

The respondent advised under cross-examination, that the first and second floors were assessed at levels per sq. metre consistent with the “tone of the list” for separate offices in the Ranelagh area but that the original proposed assessment on the subject surgery, prior to reduction following representations, was linked to the “tone of the list” for retail units in Ranelagh. Mr. Conroy then clarified further that the current rate of €205 per sq. metre applied to the subject bears reference to the “tone of the list” for other dental surgeries in Ranelagh identified earlier as his three primary comparison properties, namely Units 3, 5 and 6 in the Northbrook Clinic, details of which were set out in his précis of evidence and are attached herewith as Appendix 2. The respondent stated that he felt the subject should bear a rate per sq. metre value at least equivalent to the highest of the three aforementioned comparison properties.

Asked if he felt the wall to the front of the subject might be considered unusual for retail purposes by the appellant, Mr. Conroy responded by indicating that it may, but in any event that the current wall is considerably less obstructive, in his opinion, than the previous higher wall which existed when the premises traded as a retail unit. The respondent also indicated

that he did not know if planning permission would be required if the current use were to change to retail from a dental surgery in the subject property.

Acknowledging that the subject property was specifically designed and constructed as a dental surgery, whereas the Northbrook Clinic was converted from a former Nursing Home to 12 professional dental service outlets, on a site of circa 0.5 acre, with free on-site parking and a certain synergy in terms of some shared commercial services that benefited the tenants there.

Mr. Conroy would not agree with Mr. Ó'Cléirigh's argument that Northbrook Clinic was better positioned and more attractive as a property apposite to dental surgery services, and/or more attractive to the consumer of such services. Mr. Conroy also expressed the belief, in response to further queries from Mr. Ó'Cléirigh, that some building and common area management services provided at Northbrook for the collective benefit of all tenants, may at one level lead to efficiency of services but could also possibly be perceived as a disadvantage in terms of a burden on costs of occupation for each tenant.

Conversely, the respondent would not agree that the appellant's comparisons identified at no. 6 Ranelagh were more representative of the "tone of the list", than the Northbrook Clinic, and did not consider it truly comparable and viewed the latter as inferior in terms of construction, presentation and design to the subject. In response to another question, Mr. Conroy expressed the view that he was correct and followed section 49(1) of the Valuation Act, 2001 by comparing like-for-like properties, in this case the subject with the Northbrook Clinic units and hence felt the office premises units at Nora Gallagher, Solicitors of No. 6 Ranelagh, were not helpful.

### **Concluding Statements**

The respondent repeated his assertion that the Commissioner had complied with the provisions of the Valuation Act, 2001 and considered the current assessment leading to a rateable valuation of €44 to be fair and equitable.

Mr. Conroy also expressed the opinion that Mr. Ó'Cléirigh, representing the appellant, had not supported his case or complied with statutory requirements by relying upon only one comparison property in his précis of evidence.

Mr. Ó'Cléirigh expressed the belief that the Commissioner had not valued the property as it is, i.e. a dental surgery/office, had erred by considering its retail history and had not provided adequate consideration of the effect of the masonry wall fronting the premises along the inside line of the fronting footpath. He added that though the RV assessed by the Commissioner had reduced from the initial level of €8 to €4 post representations, it remained incorrect, as the initial basis of considering the unit's retail history was flawed. He repeated his opinion that the Northbrook Clinic is not truly comparable to the subject given the former's profile, size, location, on-site free parking and the synergy which, in his view, would apply to and benefit all of the tenants within that complex. He also repeated his contention that the comparison units located at no. 6 Ranelagh represented the "tone of the list" for premises of a similar nature to the subject and asked the Tribunal to consider the benefits accruing to the Nora Gallagher premises in terms of pass-by vehicular and pedestrian traffic, adjacent street parking and the large windows at street level.

### **Findings & Conclusions**

1. It was noted that the respondent sought to apply a rate per sq. metre on the subject, equivalent to the highest of his three primary comparison properties.
2. The highest rate applied per sq. metre to the foregoing in item 1, devalues at €204.41 as set out in the respondent's précis (page 6), whereas the Commissioner employed a rate of €205 per sq. metre on the valuation of the subject as shown on page 4 of the written submission of the Valuation Office.
3. The Valuation Tribunal, having heard the evidence, is satisfied that the location of dental surgery services is more akin to those provided at so-called "destination" centres rather than those characterized as high street or high footfall commercial locations.
4. The provision of free on-site customer parking at the Northbrook Clinic offers an advantage over the limited or restricted customer parking arrangements available near the subject relevant property, which has no on-site customer parking.
5. The Northbrook Clinic, having regard to the evidence adduced at hearing, is clearly well established, enjoys a high occupancy level, features professional building management services and the dental surgeons within benefit from shared reception and administration facilities provided at the clinic.
6. Whereas the comparison properties cited in the appellant's submission were helpful, the Tribunal is of the view that the respondent's comparison properties were more instructive and representative of the "tone of the list".



7. Having regard to item no. 4 above, the Tribunal considers that the level of disadvantage between the properties would be reflected by employing a discount of 15% which would result in the rate per sq. metre proposed by the Commissioner of €205 to a reduced value of €174.25 per sq. metre.
8. The Tribunal considers an additional discount of 10% appropriate in this case to apply to item no. 7 above, to reflect the differences in building structure, quality, profile, external appearance, architectural features, and location between the Northbrook Clinic and the subject property, which would result in a reduced level equivalent to €156.83 per sq. metre applicable to the subject property.
9. Furthermore, the Tribunal believes that an additional 5% reduction should apply to the €156.83 per sq. metre to account for the established nature of Northbrook Clinic as a Dental Surgery Centre, the professional building management services provided, together with the shared reception and administrative services benefiting tenants therein.

### **Determination**

Accordingly, the valuation of the subject property may be computed as follows:-

|         |                  |                         |             |
|---------|------------------|-------------------------|-------------|
| Surgery | 33.84 sq. metres | @ €148.99 per sq. metre | = €5,041.82 |
| NAV     | €5,041.82        | @ 0.63%                 | = €31.76    |
| Say RV  | €2               |                         |             |

And the Tribunal so determines.