

Appeal No. VA10/5/012

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

**Maurice Counihan**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Lot No. 2197818, Offices (Business Park) at Unit 8, Block 50, Rosemount Park Drive,  
Rosemount Business Park, County Dublin

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Fiona Gallagher - BL**

**Member**

**Patricia O'Connor - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 19TH DAY OF JANUARY, 2011**

By Notice of Appeal dated the 16th day of July, 2010, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €33,400 on the above-described relevant property.

The grounds of appeal are set out in the Notice of Appeal, a copy of which is 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 30th day of November, 2010. At the hearing, the appellant appeared on his own behalf and Ms. Deirdre McGennis BSc (Hons) Real Estate Management, MSc (Hons) Local & Regional Development, MIAVI, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.

Prior to the oral hearing, each party submitted to the Tribunal and the other party a précis of the evidence they proposed to adduce at the hearing. From the evidence so tendered and additional evidence given orally at the oral hearing, the following materials facts emerged or are so found.

### **The Property Concerned**

The property concerned in this appeal is a two-storey building in office use known as Unit 8, Block 50, in Rosemount Business Park, Blanchardstown. Rosemount Business Park is a new mixed-use development located between the Ballyowen Road and Cappagh Road, about four kilometres west of Blanchardstown Village and some five kilometres from Junction 6 on the M50.

Block 50 consists of five separate buildings which are a mix of office, light industrial and crèche use. Two of the blocks are solely in office use and the property concerned is located within a block where there are five occupiers - two (including the subject property) are in office use and the remaining three in light industrial use. Block 50 is accessed from Rosemount Park Avenue and provides ample off-street car-parking facilities for each unit. The two units in office use adjoin each other and are located at the end of the terrace.

Unit 8 is a two-storey unit with a concrete block front elevation facing on to Rosemount Park Drive. The gable wall is of insulated cladding construction and all windows and doors at each level are double glazed. Internally, the floors are of concrete construction and the office accommodation is fitted with suspended ceilings incorporating strip lighting units. The internal walls have a plastered and painted finish. The agreed area of the property for rating valuation purposes is 278.4 sq. metres measured on a gross external area basis.

### **Rating History**

As part of the revaluation of all relevant properties in the Fingal County Council rating authority area, the property concerned was assessed at a net annual value of €33,400. The appellant made representations under Section 29 but to no avail and no change was made in the valuation following an appeal to the Commissioner of Valuation under Section 30 of the Valuation Act, 2001. The appellant, being dissatisfied with the Commissioner's decision to make no change, lodged a further appeal to this Tribunal under Section 34 of the Act.

### **The Appellant's Evidence**

Mr. Counihan, in his evidence, said that the property concerned was essentially an industrial building with a mezzanine floor and should be valued as such. When he purchased the property in 2003, for €315,000, the building had a shell finish and he subsequently spent some €40,000 in partitioning the accommodation to provide individual office accommodation at first floor level and storage space at ground floor level. Mr. Counihan said the majority of the accommodation at ground floor level was currently unused and further monies would require to be spent to bring this space up to a standard suitable for office use. In his opinion, the valuation of €33,400 was excessive and did not fairly reflect the use to which the available accommodation was being put. In the circumstances, Mr. Counihan contended that the space used for storage purposes should be valued at a lower rate per square metre than that used for office purposes. In his evidence, Mr. Counihan drew the Tribunal's attention to the following:

- a) that the store at Unit 30, Rosemount Business Park had been valued at €20 per sq. metre and
- b) the office accommodation at Unit 30 had been valued at €100 per sq. metre.

In addition to the above, Mr. Counihan contended that insufficient regard had been had to the location of the property for office use purposes, the level of service charges payable (€2,500 per annum) in relation to the maintenance of internal estate roads and other services and the fact that the adjoining unit (No. 7A) was used as a motor repair facility, which gave rise to environmental and visual detractions.

Having regard to all of the above factors mentioned, Mr. Counihan contended that the property concerned should be valued as follows:-

Ground Floor (Storage Use)	139.2 sq. metres @ €50 per sq. metre	=	€ 6,960.00
First Floor (Office Use)	139.2 sq. metres @ €100 per sq. metre	=	<u>€13,920.00</u>
Net Annual Value		=	€20,880.00

### **The Respondent's Evidence**

Ms. McGennis, having taken the oath, adopted her précis and valuation, which had previously been received by the Tribunal and the appellant as being her evidence-in-chief.

In her evidence, Ms. McGennis contended for a rateable valuation of €33,400 calculated as set out below:-

Ground Floor Offices	139.2 sq. metres @ €120 per sq. metre	=	€16,704.00
First Floor Offices	139.2 sq. metres @ €120 per sq. metre	=	<u>€16,704.00</u>
Net Annual Value, say		=	€33,400.00

In support of her opinion of net annual value, Ms. McGennis introduced 7 comparisons, details of which are set out in Appendix 2 attached to this judgment. In her oral evidence, Ms. McGennis said that 4 of her comparisons were located in the same block as the property concerned and that none of these had been the subject of representations under Section 28 or appealed to the Commissioner of Valuation under Section 30. She also confirmed that 3 of the units were in light industrial use whilst the other (comparison no. 1) was identical in all respects to the subject property. In relation to her other three comparisons, one (comparison no. 6) was a purpose-built three-storey office building whilst the other two (comparison nos. 4 and 7) were in warehouse use with ancillary office and showroom accommodation.

Ms. McGennis said that as part of the revaluation process the revaluation team in the Valuation Office had carried out an analysis of all available market evidence of comparable properties in the vicinity and arrived at what she considered to be appropriate levels of assessment on a square metre basis. As part of this analysis it was decided that all purpose-built accommodation in light industrial buildings/warehouses in Rosemount Business Park would be valued at a uniform level of €110 per sq. metre regardless of whether the space was in light industrial/warehouse or office use. It was also decided that mezzanine office space would be valued at a lower rate per square metre.

When questioned by the Tribunal about comparison no. 6, Ms. McGennis agreed that this was a purpose-built, planned, imposing three-storey office building and in all respects distinctly different from a standard light industrial/warehouse building. She further agreed that this building was measured on a net internal area basis whereas the property concerned and comparison no. 1 were both measured on a gross external area basis. When asked what adjustment would be necessary to convert the area of comparison no. 6, measured on a net internal area basis of 337.5 sq. metres, to arrive at its area measured on a gross external area basis, Ms. McGennis said it would require an uplift of between 10 and 15%, i.e. 371 – 388 sq. metres. She further agreed that such an adjustment would have the effect of lowering the rate per square metre to between €136 and €130 per sq. metre. In response to a question from the Tribunal, Ms. McGennis confirmed that she had not inspected this building and hence could not comment as to how it compared to the property concerned in terms of layout, quality of finish and specification.

## **Findings**

The Tribunal has carefully considered all the evidence, both written and oral, adduced and the arguments put forward by the parties and finds as follows:-

1. The basis of determining net annual value on the occasion of a valuation carried out under Section 19 of the Valuation Act, 2001 is set out in Section 48(3) of the Act which states as follows:-

*“Subject to section 50, for the purposes of this Act, “net annual value” means, in relation to a property, 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. It is an established principle in rating law and practice that the onus of proving that the valuation of a relevant property appearing on the Valuation List is incorrect lies with the appellant.

3. The Tribunal accepts the evidence of Ms. McGennis that the analysis of all available market evidence indicated that the appropriate levels for valuing light industrial/warehouse premises in the Rosemount Business Park was €10 per sq. metre. The Tribunal also accepts that it is the practice of the Valuation Office to value light industrial/warehouse space and the office accommodation contained therein at a uniform rate per sq. metre. From the evidence tendered by Ms. McGennis, it would appear that mezzanine space is valued at €22 per sq. metre when it is used for storage purposes and between €5 and €44 per sq. metre when used as office accommodation.
4. There is nothing in the evidence of Ms. McGennis to indicate that the quality of the office accommodation provided in the light industrial/warehouse units is different in any material respects to that of the property concerned and comparison no. 1 which appears to be essentially identical to the property concerned in all material respects. In the circumstances, it is difficult to understand how an uplift of €10 per sq. metre is sustainable. The fact of the matter is that the property concerned is a two-storey commercial building capable of being used for a variety of purposes including office, light workshops or indeed storage purposes.
5. In relation to comparison no. 6, the Tribunal is of the view that a hypothetical tenant in the market for office accommodation at this location would be prepared to pay a considerably higher rent expressed in terms of a rate per sq. metre for this building than the property concerned which although in the same general use category is to all intents and purposes on a par with light industrial premises which contain office accommodation of a similar standard. Ms. McGennis's decision to include this comparison was of limited assistance to this Tribunal having regard to the fact that she had not inspected it. In the circumstances, her opinion that an uplift of 10 – 15% to convert the area measured on a net internal area basis to that measured on a gross external area basis is not particularly well founded and hence the Tribunal attaches little weight to her opinion in this regard or indeed to the usefulness of this property as a comparison.

6. The Tribunal has of course considered the evidence and contentions put forward by Mr. Counihan but finds most of it to be of little assistance. All of the accommodation in the property concerned is of the same quality and specification and there is no valid reason to make any differential to reflect its use for office and/or ancillary storage space purposes. This is his choice. It is also a fact that the property concerned is located in a mixed-use development and that the majority of the units therein will be in light industrial/warehouse use. This is a fact that a hypothetical tenant in the market would take into account in arriving at an opinion of appropriate rental value.
  
7. Finally, it should be said that in accordance with good professional practice, valuers should value the property concerned and analyse the valuation of relevant comparison properties on the same basis, i.e. net internal area, gross internal area or gross external area basis as appropriate in accordance with the guidelines contained in the SCS/IAVI Code of Measuring Practice. When the decision is taken to compare the valuation of two properties which are in similar use but measured on a different basis, then such adjustments as are necessary should be made so as to ensure that like is truly being compared with like. In relation to comparison no. 6, it should have been relatively easy to carry out such an exercise as the area of this building measured on a gross external basis is its footprint area multiplied by three. It would also be helpful if valuers made themselves familiar with all the material facts with regard to property which they introduce as relevant comparisons based upon at least an external examination, but more properly it should be based on a full internal inspection. Otherwise evidence of this nature will be accorded limited weight.

### **Determination**

Having regard to the foregoing and the relatively limited fit-out of the subject property, the Tribunal determines that the net annual value of the property concerned in accordance with Section 48 of the Valuation Act, 2001, to be as follows:-

Ground Floor Offices:	139.20 sq. metres @ €10.00 per sq. metre	=	€15,312.00
First Floor Offices:	139.20 sq. metres @ €10.00 per sq. metre	=	<u>€15,312.00</u>
Net Annual Value, say			€30,600.00

And the Tribunal so determines.