

Appeal No. VA11/4/007

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

**State Street International Ireland Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2206895, Office(s) at 2-5 Floors 1 & 2, Barrack Street, Kilkenny No. 2 Urban, Kilkenny Borough, County Borough of Kilkenny

**B E F O R E**

**John F Kerr - BBS, FSCSI, FRICS, ACI Arb**

**Deputy Chairperson**

**Aidan McNulty - Solicitor**

**Member**

**Frank Walsh - QFA, Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 24TH DAY OF APRIL, 2012**

By Notice of Appeal received on the 25th day of October, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €03 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:

*"The Valuation is excessive and inequitable. The floor area is incorrect. The floor area is incorrect. The floor area is 968 sq. metres."*

The appeal proceeded by way of an oral hearing held at the offices of the Valuation Tribunal, located at Holbrook House, Holles Street, Dublin 2, on Tuesday, 14<sup>th</sup> February, 2012. The appellant was represented by Mr. Aidan Reynolds, MSCSI, MRICS, associate with Savills, and the respondent was represented by Mr. Bríain Ó'Floinn, valuer at 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.

### **At Issue**

Quantum.

### **The Property**

The subject relevant property is located on the first and second floor of a purpose-built modern four-storey office building. The subject floors are accessed by means of two internal stairwells and a lift. Both floors are laid out in offices and the first floor includes a canteen/kitchen. The offices feature suspended ceilings, recessed lighting and air conditioning units. Natural lighting is provided by windows at front and rear of the building and an open balcony is fitted on the second floor. Walls are plastered and painted and floor coverings are a mix of carpet and tiling. There are 12 designated car parking spaces located at basement level.

### **Location**

The subject property is located on Barrack Street on the north-eastern side of Kilkenny city, approximately 25 metres from the junction with the Castlecomer New Road. It is situated opposite the entrance to the former livestock mart, which is considered to be a brownfield development site located a short distance from the railway station and the McDonogh Junction Shopping Centre. High Street, which is viewed as the centre of commercial activity in Kilkenny, is located *circa* one kilometre distant from the subject.

### Services

The subject relevant property is served with mains power, water, telephone, storm and foul sewer.

### Tenure

The property is understood to be held on a leasehold basis, which commenced on the 1<sup>st</sup> December 2007 for a term of eight years, but the commercial terms thereof were not provided.

### Floor Areas

The floor areas were measured on a net internal area (NIA) basis by the parties. Prior to the hearing, the parties had failed to reach an agreement on the NIA and following discussions and an adjournment of the hearing to resolve the issue, the parties confirmed that they had reached an agreement as to the NIA, as follows:-

Floor	Accommodation	Area sq. metres
1 & 2	Offices	988.17
	<b>Total:</b>	<b>988.17</b>

### Plus 12 car parking spaces

### Valuation History

September 2010:	A Valuation Certificate (proposed) was issued with an RV of €507.
October 2010:	Representations were received and considered.
November 2010:	A Final Valuation Certificate was issued with an RV of €503. The reduction was due to a reduction in the calculation of floor area. <u>It was noted that this valuation had not included a value to be applied to the 12 car parking spaces.</u>
December 2010:	An appeal was lodged with the Commissioner of Valuation by the appellant's agent.

- September 2011: The Commissioner allowed the appeal and decided that the property, the subject of the appeal, ought to be included in the relevant Valuation List. No change was made to the RV.
- October 2011: An appeal was lodged with the Valuation Tribunal by the appellant's agent on 25<sup>th</sup> October, 2011.

### **Appellant's Case**

Mr. Aidan Reynolds took the oath, adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission, making the following points:-

- The basis of his valuation was to assess the net annual value (NAV) in accordance with Section 49(1) of the Valuation Act, 2001, i.e. to conform with the “tone-of-the-list”.
- He found it difficult to identify suitable modern office accommodation located on upper floors, at a back-street or peripheral location within the same rating authority area, which might be deemed as suitable comparisons.
- Many of the comparison properties he noted were in higher profile, more desirable locations and the value levels per sq. metre applied to such ranged from €65.03 per sq. metre to €95.96 per sq. metre.
- He referred to a table on pages 8, 9 and 10 of his précis wherein he provided details of the address, location, occupiers' names, rateable valuations, NAV analysis and commentary on six properties in Kilkenny city.
- During the course of the hearing, Mr. Reynolds agreed that comparison properties nos. 3 and 4 on pages 8 and 9 of his précis should be ignored and removed from evidence. The remaining comparison properties, including the FBD premises located directly opposite the subject, valued at a level of €65.03 per sq. metre; the Kilkenny County Council offices occupying three floors at nearby John's Green at an average of €95.96 per sq. metre; the first floor of the New Ireland Assurance office on Ormond Road, valued at €52.48 per sq. metre; and the Ulster Bank premises, i.e.. three floors at Patrick Street at €95.67 per sq. metre are all as set out in the schedule hereunder.
- He confirmed that the comparison properties submitted by him are varied in terms of size, location, specification and/or profile with the subject but emphasised that the

Ulster Bank premises is a particularly useful comparison property insofar as it bears a specification similar to that of the subject property, has a substantially lower NIA of *circa* 426 sq. metres, enjoys a much higher profile, located on Patrick Street in the city centre area and is assessed for rating purposes at a much lower level per sq. metre.

- He reiterated that in his opinion Barrack Street, where the subject is located, is considered a quiet, back-street, peripheral, destination-type location, where very few commercial users are to be found. He added that the subject property is a 10 to 15 minute walk from the main commercial area of High Street and Patrick Street, that his comparison properties cited earlier were built to a lower specification than the subject, with the exception of the Ulster Bank and concluded by contending that the Commissioner of Valuation had failed to apply a sufficient adjustment to the NAV of the subject to reflect the foregoing valuation issues and considerations.
- He referred to Valuation Tribunal Appeal no. **VA95/5/018 - W. Frank Scott**, which he contended supported his position with respect to a reduced valuation on properties some 10 or 15 minutes distant from the city core of Kilkenny.

### **Appellant's Comparison Properties**

#### Comparison No. 1

Property: 1<sup>st</sup> Floor Offices, Barrack Street, Kilkenny.

Property No: 80406

Occupier: FBD.

RV: €25.39

#### Comparison No. 2

Property: Ground to 3<sup>rd</sup> Floor Offices, John's Green, Kilkenny.

Property No: 2201713

Occupier: Kilkenny County Council.

RV: €590

#### Comparison No. 5

Property: Ground and 1<sup>st</sup> Floor Offices, 10, Ormonde Road

Property No: 77800

Occupier: New Ireland Assurance (1993/4 Revision)

RV: €67.30

Comparison No. 6

Property: 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Floor Offices, Patrick Street, Kilkenny

Property No: 2201715

Occupier: Ulster Bank

RV: €205

Based on the foregoing and the agreement reached at hearing with respect to the NIA of both floors taken together, Mr. Reynolds concluded that the rateable value of the subject should now be determined as follows:-

Floor	Accommodation	Area sq. metres	€per sq. metres	NAV
1 & 2	Offices	988.17	€80	<b>€79,053.60</b>
Basement	Car Spaces	12	€127	<b>€ 1,524.00</b>
			<b>Total NAV:</b>	<b>€80,577.60</b>

**Total NAV = €80,577.60 @ 0.5% = €402.88**

**Rounded to: €403**

**Cross-examination of the Appellant**

In response to questions put by Mr. O'Floinn and the Tribunal, Mr. Reynolds stated that:-

- i. The subject is *circa* 12.15 times greater in NIA than his comparison property no. 1, but he argued that the FBD premises should be considered as a comparable upper floor office property on the same street as the subject, albeit not served with air conditioning or raised floors, and acknowledged that it may have possibly been valued at a time when the adjacent livestock mart was operational.
- ii. The second floor windows and balcony of the subject provides the occupier with views of Kilkenny city above the roof ridge line of his comparison property no. 1.

- iii. The rear elevation of the subject features windows which provide reasonable natural light and additional views of the cityscape.
- iv. The subject relevant property may be categorized as third generation quality office accommodation.
- v. His comparison property no. 2, namely the Kilkenny County Council's three floors of offices on John's Green, is located next to the old railway station embankment, a building with no rear windows. Mr. Reynolds did not know if that building is served with a lift but accepted that it was valued in its actual state, occupied as a single unit over a ground and mezzanine floor, together with first, second and third floors, without dedicated parking.
- vi. His comparison property no. 5, being an older Georgian-style building at 10, Ormonde Road, features two rooms on each floor, but Mr. Reynolds would not accept Mr. Ó'Floinn's contention that the value of that property was analysed on an overall basis of €127 per sq. metre rather than the level analysed by him above of €2.48 per sq. metre on the first floor.
- vii. With respect to his comparison property no. 6, he confirmed that the entrance to this particular property is via a narrow passage of about 10 metres in length providing sole access to the upper floors. He acknowledged that the rear of this property may be windowless.
- viii. He confirmed that he could not identify the property being the subject of the case referenced earlier by him, namely **VA95/5/018 – W. Frank Scott**, and accepted Mr. Ó'Floinn's advice that that particular property is no longer on the Valuation List.

### **Respondent's Case**

Mr. Brían Ó'Floinn then took the oath and formally adopted his précis as his evidence-in-chief.

The location, description and accommodation details provided by the respondent, together with the basis of valuation employed by him, were common case to those provided above by the appellant. Mr. Ó'Floinn also confirmed the foregoing agreement with the appellant on the

NIA of the subject relevant property at 988.17 sq. metres overall, without reference to any apportionment per floor. Mr. O’Floinn acknowledged that the current Rateable Valuation of the subject property on the Valuation List is €503 and a copy certified extract from same is attached to his précis of evidence. He then noted that the adjusted RV on the subject relevant property, having regard to the adjusted floor area and the 12 car parking spaces would, by his calculations, now amount to €10.88, rounded to €10.

Mr. O’Floinn referred to a recent Valuation Tribunal decision wherein he asserted that the Tribunal has valued car parking spaces in Kilkenny at €250 per space, a figure some €30 less than that contended for in his précis of evidence. He also stated that his précis should be corrected to read that Barrack Street is a one-way street.

Mr. O’Floinn then reviewed the salient points of his submission at the hearing, making particular mention of the fenestration of the subject, the high specification and good state of repair of the building, its age, having been first valued in September 2010, its size, the views offered from the second floor in particular and the convenience of designated underground parking spaces. He then cited his comparisons, which are listed below.

### **Respondent’s Comparison Properties**

#### Comparison No. 1

Property: 26-42, Castlecomer New Road.  
 Property No: 2179665  
 Occupier: The Kilkenny Newspaper Ltd.  
 RV: €120

He noted that the ground floor of this building is approximately four and a half times smaller than the subject, though valued at €10 per sq. metre.

#### Comparison No. 2

Property: 24A/1, Castlecomer New Road.  
 Property No: 2197301  
 Occupier: John Hayes & Donal Higgins.  
 RV: €15



Again making mention of the smaller floor area, Mr. O'Floinn confirmed that this accommodation was valued at a level of €98.45 per sq. metre.

### Comparison No. 3

Mr. O'Floinn requested during the course of the hearing that the Tribunal ignore the details submitted on this property.

### Comparison No. 4 (common comparison)

Property: 2.3/1 John's Green.  
 Property No: 2201713  
 Occupier: Kilkenny County Council  
 RV: €90

Drawing attention to the fact that this property is valued at €95.96 per sq. metre, Mr. O'Floinn informed the Tribunal that this newly constructed three-storey office development on John's Green comprises three floors and a mezzanine, is completed to third generation standard, though devoid of windows at the rear of the building, and that floor 0 and mezzanine floor windows are fitted at the front elevation only. He added that floor 2 has three windows to the side of the former railway embankment, repeated again that there is no dedicated parking there, though public paved parking is provided to the front of the building, which is located in close propinquity to the disused railway line.

### **Respondent's Comparison Car Spaces**

The respondent provided comparison evidence for five car parking facilities within the same rating authority area ranging in value from €300 up to €364.62 per space. These comparisons included:-

- a) Four spaces @ €300 each, adjoining a medical centre.
- b) 768 spaces @ €330 each, under the McDonogh Junction Shopping Centre on two levels.
- c) 10 spaces rented to Hanby Newman at McDonogh Junction @ €330 each.
- d) Market Cross Shopping Centre Car Park on three levels, 520 car spaces @ €355.52 per space.
- e) The Pudding Lane Car Park opposite The Ormond Hotel, 787 car spaces @ €364.62 per space.

Mr. Ó'Floinn acknowledged that a number of the foregoing parking facilities are professionally managed toll operations.

Mr. Ó'Floinn concluded his direct evidence by indicating that he had had regard to all of the pertinent details applying to the subject relevant property, as outlined in his précis, noting that the first and second floor levels display average depths of 16.2 metres and 14.75 metres respectively. He accepted that the subject is larger in NIA than some of the comparisons cited, repeated that his nearest comparison, property no. 4, being the Kilkenny County Council occupied premises, does not have windows to the rear though it has a greater front depth measurement of 20.6 metres on the ground, mezzanine and second floors and a depth of 16.2 metres on the third floor. He repeated his view that the subject relevant property is built and finished to a good standard with a balcony on the second floor providing the occupant with impressive panoramic views over Kilkenny city.

### **Valuation by the Respondent**

The following represents the valuation details of the subject property computed by the respondent, as submitted and amended by Mr. Ó'Floinn during the course of the hearing:-

<b>Accommodation</b>	<b>Area sq. metres</b>	<b>€per sq. metres</b>	<b>NAV</b>
Offices	988.17	€100	<b>€98,817</b>
12 Car Spaces		€280	<b>€3,360</b>
		<b>Total NAV:</b>	<b>€102,177</b>

**Total NAV = €102,177 @ 0.5% = €510.885**

**Rounded to: €510**

### **Cross-examination of the Respondent**

In reply to various questions asked by the Tribunal and the appellant, Mr. Ó'Floinn responded that:-

- 1) Retailing at McDonogh Junction Shopping Centre may not have reached target levels but parking space rental levels there should in any event be compared with

similar tolled and managed facilities in the town core, which he added are valued at €30 per space.

- 2) He accepted that High Street and Patrick Street represent the commercial core of Kilkenny city.
- 3) FBD is not the only other commercial outlet on Barrack Street and Mr. Ó'Floinn referred to page 11 of his précis which identified other commercial entities located on the street on a copy synopsis plan, which he advised was issued by the Post Office.
- 4) He acknowledged that there may be a high vacancy level of various commercial accommodations on Barrack Street, that the remainder of the subject building lies vacant and he accepted that it would not be considered a prime shopping street.
- 5) He confirmed that he did not know of any other specific office occupiers on Barrack Street, excluding State Street International and FBD.
- 6) He confirmed that the location of the subject relevant property may not be considered as truly central, that his comparison property no. 1, namely the Kilkenny Newspaper premises, may be in a marginally better location and comparison no. 2 may benefit from the fronting two-way traffic system, unlike the one-way arrangement at the subject. He confirmed that the latter detail was not known by the Commissioner of Valuation during consideration of the first appeal, but would not accept the appellant's contention that such a difference might warrant a 10% reduction in the RV of the subject property.
- 7) He confirmed that he had not seen the details of the Planning Permission granted on his comparison no. 2 property.
- 8) He accepted that 18 metres of ground floor street frontage does not equate in value terms to the same lineal frontage of an upper floor in Kilkenny city.
- 9) He added that ground floor offices typically are more valuable than similar upper floor units, with the exception of certain penthouse suites which may be more valuable.
- 10) He stated that Georgian buildings should not be compared in rating valuation terms with third generation office buildings.
- 11) His comparison property no. 4, with 20 metres' frontage, located next to a Centra retail outlet, is situate at a better location than that of the subject property.

- 12) Car parking cited as his comparison a), above is closer to the commercial business centre and accordingly more valuable than parking spaces in the area of the subject and he stated that his comparisons b), c), and d) are professionally managed parking facilities, unlike the subject, and that the Pudding Lane and Market Cross parking facilities represent the “tone” for managed car parks in Kilkenny.
- 13) He accepted that the 12 no. spaces are not commercially managed or tolled but noted that the Hanby Newman 10 spaces, namely his comparison c), are located further from the city centre, are similarly not tolled but are valued at €330 per space, some €50 higher than that which he was seeking in his précis and €80 more than the level he advised was recently established by a decision of the Valuation Tribunal in another Kilkenny case.
- 14) He confirmed that in terms of office accommodation values, location is a critical factor and in his view, the appellant’s comparison property no. 6, namely the Ulster Bank, is closer to the central business district of Kilkenny, though in his opinion, it is “off centre” at Patrick Street.

### **Summations**

Both the appellant and the respondent availed of the opportunity to provide summation statements which were a synopsis of the foregoing arguments and positions employed by them in both their précis of evidence and the evidence adduced at hearing.

### **Findings**

The Valuation Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions at hearing.

The Tribunal finds that:-

1. On balance, the apposite office comparator submitted by the parties was the Ulster Bank, or comparison no. 6 in the appellant’s précis.
2. The Tribunal is mindful of the differences in terms of location, access, profile and floor area of the foregoing comparison 6 when compared with the subject relevant property but is satisfied that the factors which advantage and disadvantage each in

terms of valuation for rating purposes effectively produce a very similar outcome overall.

3. The Tribunal appreciates the challenging tasks faced by both the appellant and the respondent to identify and analyse the valuation of properties in the Kilkenny city area deemed suitable as comparisons and to make these relative to the so-called “tone-of-the-list”.
4. The Tribunal considers the one-way traffic management system fronting the subject as pertinent, and notes that such fact was not known to, or reckoned in, the computation of value by the respondent during the course of earlier considerations.
5. The Tribunal, as ever, is limited in its task and challenge to determine a fair and equitable valuation having regard only to facts submitted and adduced at hearing.

### **Determination**

Mindful of all of the above, the Tribunal considers that a fair and reasonable Rateable Valuation on the subject relevant property should be calculated as follows:

<b>Floor</b>	<b>Accommodation</b>	<b>Area sq. metres</b>	<b>€per sq. metres</b>	<b>NAV</b>
1 & 2	Offices	988.17	€5.67	€4,538.22
Basement	Car Spaces	12 No.	€250 per space	€ 3,000.00
			<b>Total NAV:</b>	<b>€7,538.22</b>

**Total NAV: €7,538.22 @ 0.5% = €487.69**

**Say €488**

And the Tribunal so determines.