

Appeal No. VA11/5/041

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

Michael McGuirk

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 522628, Office at 7A Carrickbrennan Road, Monkstown, County Dublin.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

Frank O'Donnell - FRICS, B Agr Sc, MIREF

Member

Joseph Murray - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF DECEMBER, 2011

By Notice of Appeal dated the 24th day of June, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €20,700 on the above described relevant property.

The grounds of appeal are set out in the Notice of Appeal attached at Appendix 1 to this judgment.

The 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 September, 2011. At the hearing the appellant represented himself. The respondent was represented by Mr. John O' Brien, BSc (Hons) Real Estate Management, a Valuer in the Valuation Office. Both parties having taken the oath adopted their respective précis of evidence which had previously been received by the Tribunal as their evidence-in-chief. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal.

At issue

Quantum

The Property

The subject property, located at 7a Carrickbrennan Road, Monkstown, County Dublin, is not far from Monkstown roundabout. This is mainly a residential area. The subject property comprises the first and second floors of a three-storey stand-alone commercial building. The agreed floor areas are:

First floor: 56 sq. metres

Second floor: 30 sq. metres

Total area: 86 sq. metres

Basis of Valuation

This was a revaluation arising from a Valuation Order in which the date by which valuations are to be determined is 30th September, 2005. The valuation was derived from market rental information of comparable properties in the Dun Laoghaire Rathdown rating authority area.

Valuation History

The proposed valuation certificate issued on 15th June, 2010 with a NAV of €20, 700. Following Representations Stage the valuation remained unchanged. An appeal to the Commissioner of Valuation was made on the 5th February, 2011. The valuation remained unchanged. An appeal was lodged with the Valuation Tribunal on the 27th of June, 2011.

Appellant's Case

Mr. McGuirk said he had no written lease with the landlord but had a verbal agreement for four years and nine months. There are three and a half years to run on the lease and he hopes to retire soon.

The rent he is paying is €10,000 per annum. In 2005 the rent was €5,000 per annum. His present rent is 20% lower than the average rents quoted by the Valuation Office.

In support of his appeal against the valuation fixed by the Commissioner of Valuation, Mr McGuirk maintained the following:

- The rates payable for Alma House on Alma Road close by went down while his own rates went up.
- The first floor of the subject is an office, while the second floor cannot be considered an office and is not suitable as such. At the apex the height is six feet.
- The condition of the property is poor. (In this regard, Mr McGuirk referred to photographic (photocopy) evidence he had submitted to the Tribunal prior to the hearing.)
- The respondent did not take into account the market conditions which would suggest that recoverable rent in the Monkstown area was low.

The appellant listed 11 points in his précis with regard to the condition of the building. (For example, point seven states that there is a disintegrating ceiling due to a roof leak.)

Appellant's Comparators

The appellant used only one comparison, Alma House on Alma Road close by. This is a modern two-story building set mid-terrace, ideal for professional practice. The passing rent is higher than subject's at €18,000 per annum. The floor area is 87 sq. metres, similar to that of the subject. The rate per sq. metre is €206.90 which is lower than the subject's. The office floor area for ground and first floor is 40.2 sq. metres.

Respondent's Case

In support of the valuation fixed by the Commissioner of Valuation, Mr O'Brien maintained the following:

- The subject is on the Carrickbrennan Road.
- The subject is an office above shop with first floor and second floor.
- The area of the subject was agreed at 86 sq. metres.
- The appellant is in occupation since 1982 (27years).
- The subject property is a listed building.
- Mr O'Brien admitted that the building was in need of renovation, which he referred to as "cosmetic".
- When asked if he would like to work in the subject property, Mr O'Brien replied that he would for the rent that was being paid.
- The top floor was indeed an office, not an attic, and he saw office equipment there.

Respondent's Comparators

1. **Office (vacant) above shop:** 6A Carrickbrennan Road, Monkstown, Co. Dublin.
46.3 sq. metres at €60 per sq. metre. The passing rent was higher than subject's at €19,046 per annum at valuation date in 2005. NAV is €12,030. The condition is superior to that of subject. No representations or appeals were submitted in respect of this valuation.
2. **O'Sullivan Marketplan Ltd:** First floor, 10c Monkstown Crescent, Monkstown, Co. Dublin. This is smaller than subject: 45.6 sq. metres at €250 per sq. metre. The passing rent is higher than the subject's. Its condition is superior to subject's. No representations or appeals were submitted in respect of this valuation.
3. **O'Reardan & Co.:** First floor, 23 Monkstown Crescent, Monkstown, Co. Dublin. This property is smaller than subject at 61.12 sq. metres. Its condition is superior to subject's. Representations were made and the valuation was reduced from €15,890 to €15,280. The passing rent is higher than subject's.
4. **Eumom Marketing Ltd:** 101c Monkstown Road, Monkstown, Co. Dublin.
At 91.96 sq. metres, it is larger than subject. The rate is €250 per sq. metre. No representations or appeals were lodged in respect of this appeal.

Law and Findings

Having considered the evidence and submissions of the parties the Tribunal finds as follows:

1. This is a revaluation which means that the valuation is subject to a valuation order under Section 19 of the Valuation Act, 2001. The valuation date of the order was 30th September, 2005 and this is the date by which the value of every relevant property in the rating area is determined.
2. Further, the Tribunal has to apply the provisions of Section 48(3) of the Valuation Act, 2001 which states that the NAV shall be the rent “for which one year with another, the property might, in its actual state be reasonably expected to let from year to year.” Therefore, the subject must be valued in its actual state *rebus sic stantibus*. This means the Tribunal must take the condition of the property into account.
3. Judging by the photographs and submissions of the appellant the Tribunal finds that the subject property is in very poor condition. It needs much more than “a cosmetic job”.
4. The average first floor rate in the area is €250 per sq. metre and the respondent’s comparisons support this. Nevertheless, the respondent’s comparisons are in far superior condition to that of the subject, bearing in mind the actual state of the property.
5. The top floor of the subject property does not equate with an office accommodation. This is simply an attic and is only six feet in height at the apex. A hypothetical tenant would surely look upon this as a minus factor.
6. The passing rent of the subject is €10,000 per annum and this is less and in some cases much less than that of the comparisons. Again this indicates the poor quality of the building.
7. The areas of subject have been agreed at 56 sq. metres for the first floor and 30 sq. metres for the attic floor.

Determination

In view of the foregoing, the Tribunal determines that the valuation on the subject property should be reduced, and that the valuation on the subject property should be calculated as follows:

First floor:	56 sq. metres @ €200 per sq. metre	=	€11,200
Attic floor:	30 sq. metres @ €50 per sq. metre	=	<u>€ 1,500</u>
Total:			€12,700

NAV €12,700

And the Tribunal so determines.