

Appeal No. VA11/5/057

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

**Imaginarium**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 515171, Retail (Shops) at 68 George's Street Lower, Dun Laoghaire, County Dublin.

**B E F O R E**

**Fred Devlin - FSCSI, FRICS**

**Deputy Chairperson**

**Patrick Riney - FSCSI, FRICS, ACI Arb**

**Member**

**Damian Wallace - QFA, Grad Dip**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 8TH DAY OF DECEMBER, 2011**

By Notice of Appeal dated the 6th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €9,000 on the above described relevant property.

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

"The valuation is excessive as the rates applied are not reflective of the uses within the building and exceed the passing rent."

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 19<sup>th</sup> day of October, 2011. At the hearing the appellant was represented by Ms. Siobhán Murphy BSc (Surv) Property Management and Investment, MSCSI, MRICS. Mr. Liam Diskin, BSc Property Valuation and Estate Agency, a valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.

Prior to the commencement of the hearing and in accordance with the rules of the Tribunal the valuers submitted to the Tribunal, and exchanged, respective précis of evidence and valuation which were subsequently received into evidence under oath at the oral hearing. From the evidence so tendered and additional evidence received at the hearing the following material facts emerged or are so found.

### **The Property Concerned**

The property concerned is a two-story, mid-terrace building, on the south-west side of George's Street Lower, in that section between Patrick Street and Convent Road, Dún Laoghaire, County Dublin. The ground floor of the property is in retail use and the accommodation at first floor level which is accessed via the shop by a staircase at the rear is used for office and storage purposes.

### **Accommodation**

The accommodation measured on a Net Internal Area (NIA) basis throughout is agreed as being as follows:

Ground Floor Retail:	Zone A – 28.76 sq. metres
	Zone B – 28.76 sq. metres
	Zone C – 0.875 sq. metres
Ground Floor Stores	20.77 sq. metres
First Floor Offices	11.40 sq. metres
First Floor Stores	69.13 sq. metres

### **Tenure**

The subject property is held under a ten year lease from the 26<sup>th</sup> October, 2005 at an initial yearly rent of €3,719. The lease provided for a rent review in 2010 but in mid-2009 the rent

payable was reduced by agreement to €36,000 per annum. The tenant has negotiated a surrender of the lease and will exit the building sometime next year.

### **Rating History**

As part of the revaluation programme the net annual value of the property concerned was initially assessed at €60,000 which was reduced to €59,000 following an appeal to the Commissioner of Valuation, in accordance with section 30 of the Valuation Act, 2001. The appellant, being dissatisfied with the decision, lodged a further appeal to this Tribunal under section 34 of the Act.

### **The Issue**

At the hearing, the valuers acting for the appellant and the respondent advised the Tribunal that the only issue in dispute was the value to be attributed to the accommodation at the first floor level, the value attributed to the ground floor level retail area and miscellaneous accommodation at ground floor level having been agreed at €38,932.

### **Appellant's Evidence**

In evidence, Ms. Murphy said that, a section to the front of the building at first floor level had been partitioned off in order to provide office accommodation to normally acceptable standards. The remainder of the accommodation which was at different levels was in poor decorative condition and suitable only for storage use. In this section of the building the suspended timber floors were visibly sagging in places and there were also signs of damp penetration and render cracking. Taking these factors into account, Ms. Murphy estimated the value of the first floor accommodation as follows:

Office space – 11.41 sq. metres @ €250 per sq. metre =	€2,852
Stores - 69.10 sq. metres @ €100 per sq. metre =	<u>€6,910</u>
Total	€9,762

In support of her opinion of value Ms. Murphy introduced 3 comparisons, details of which are set out in Appendix 1 attached to this judgment.

Under examination Ms. Murphy acknowledged that, the subdivision of the property to provide the office space was a tenant's fit-out. She also acknowledged that the entire of the

first floor accommodation could be used for office purposes and the fact that the occupier decided to use the majority of the space for storage purposes only was the occupier's choice.

Ms. Murphy pointed out that the occupier had spent monies in order to upgrade that part of the space used for office purposes and that in order to bring the remainder of the space up to a similar standard would require a further investment which the occupier was not prepared to make. In the circumstances Ms. Murphy contended that she was correct in valuing the storage area at a considerable lower level than the office accommodation.

### **Respondent's Evidence**

Mr. Diskin said that he had valued the entire first floor accommodation at the uniform level regardless of the use to which the space was being put. The fact that the occupier in this instance chose to partition off part of the space solely for office purposes and had spent some money in so doing was a purely personal decision. In the circumstances Mr. Diskin said he was of the opinion that the entire first floor accommodation should be valued at a uniform rate per sq. metre as set out below:

Offices - 80.53 sq. metres at €250 per sq. metre = €20,132.

In support of his estimate of NAV Mr. Diskin introduced 4 comparisons details of which are set out at Appendix 2 attached to this judgment.

Under examination Mr. Diskin indicated that he was not in a position to compare the accommodation in respect of his comparisons 3 and 4 with the subject property as he had not inspected them but had merely extracted the information in relation to them from the valuation records. He also agreed that in order to bring the area currently used for storage purposes up to the same standard as the office space some expenditure would be required. In his view the level of expenditure would be minimal but when asked to put a figure on it he said he was not competent to estimate what it might be.

In relation to his comparisons 3 and 4, Mr. Diskin agreed that these were self-contained offices over retail premises which had the benefit of a separate entrance from pavement level. When asked by the Tribunal if this type of accommodation would not warrant a higher rate per sq. metre over that applied to office space at a similar level with access from retail space at ground floor level Mr. Diskin said that he did not think so.

## Findings

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

1. Firstly the valuers are to be commended in agreeing the value to be attributed to the retail space at ground floor level thus leaving the only matter for the Tribunal to determine being the value to be attributed to the first floor accommodation.
2. It is a principal in rating law and practice that the property concerned is to be valued as it in fact is – *rebus sic stantibus*. It is common case that the area partitioned off and in office use is in a better state of repair than the remainder of the accommodation at first floor level. In this regard Mr. Diskin agreed with Ms. Murphy that it would require expenditure to bring this accommodation up to the same level but was unable to indicate how much it might be. In the circumstances the Tribunal concurs with Ms. Murphy's valuation methodology – that the area used for storage purposes should be valued at a lower rate per sq. metre than the area in office use.
3. It would appear from the evidence introduced by Mr. Diskin that all first floor accommodation over shops is valued at €250 per sq. metre regardless of the use to which this space is being put. It would also appear that self-contained office accommodation with its own separate entrances from pavement level is also valued at €250 per sq. metre. Ms. Murphy's comparisons – particularly comparisons 1 and 2 – indicate that stores at first floor level forming part of retail premises are valued at a considerable lesser figure than offices at the same level. Similarly the stores in her comparison 3 are valued at €100 per sq. metre whilst the restaurant at the same level is valued at €250 per sq. metre.
4. Ms. Murphy values the office space at €250 per sq. metre (that is the same as used by Mr. Diskin). The Tribunal accepts as a fact that the condition of the remainder of the accommodation at first floor level is inferior to that of the office area. It also accepts that it would require some expenditure to bring the area now used for storage purposes up to a similar standard of condition as the area used for office purposes and that this should be reflected in the rate per sq. metre applied to this area. It is the Tribunal's opinion that an allowance of somewhere between 20% and 25% would be fair to reflect the difference in the quality of the accommodation between the area in office use and the remainder.

**Determination**

Having regard to the foregoing, the Tribunal determines the NAV of the property concerned to be as follows:

Ground floor retail as agreed	€8,932
First floor offices – 11.41 sq. metres @ €250 per sq. metre =	€2,852
Stores – 69.10 sq. metres @ €190 per sq. metre =	<u>€13,129</u>
Total	€4,919
Net annual value, say	€5,000

And the Tribunal so determines.