

Appeal No. VA11/5/081

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

Cleary Barker

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2166652, Office (3rd Generation), at Suite 1, (Ground Floor), The Avenue, Beacon Court, Blackthorn Road, County Dublin.

B E F O R E

Niall O'Hanlon - BL

Deputy Chairperson

Michael F Lyng - Valuer

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF JANUARY, 2012

By Notice of Appeal dated the 11th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €26,100 on the above described relevant property.

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

"On the basis the RV as assessed is excessive & inequitable. The Commissioner has failed to take the last increase in supply in the local market into account when assessing the subject."

"The Commissioner has over estimated the property's relative value on a one yr with another basis per S. 48(3) of the 2001 Act."

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 8th day of December 2011. At the hearing the appellant was represented by Mr Eamonn Halpin, BSc(Surveying), MRICS, MIAVI, ASCS, and the respondent by Ms Fiona Quinn, BSc, ARICS, a valuer in the Valuation Office. At the hearing, both parties having taken the oath adopted their respective précis as their evidence in chief.

The Issue

Quantum

Location

The property is located on the Avenue within Beacon Court. Beacon Court is located on the Blackthorn Road within Sandyford Industrial Estate, overlooking a major intersection of the M50. The LUAS is located a 5 minute walk away from the development.

Accommodation

The accommodation has been agreed by the parties as follows and was measured on Net Internal Area (NIA) basis:-

Ground Floor Offices	73.8 sq. metres
Ground Floor Car Spaces	2

Tenure

The subject property is held on a freehold basis.

Rating History

- A valuation certificate (proposed) issued on 15th of June 2010. The property had a valuation of €26,100.
- Representations were lodged with the Commissioner of Valuation on 12th July 2010. The valuation remained unchanged.
- An appeal was lodged with the Commissioner of Valuation on 9th February 2011. The valuation remained unchanged.
- An appeal was lodged to the Valuation Tribunal on 12th July 2011.

Appellant's evidence

Mr Eamonn Halpin for the appellant took the oath and adopted his précis as his evidence-in-chief. Mr Halpin maintained:

1. In judgments of the Valuation Tribunal in 2004, namely **VA04/1/023 – BUY4NOW, VA04/1/024 - Gerri Cobbe & Mary McGibney** and **VA04/1/030 – S. Paltheria**, it was determined that both the Avenue and the Mall should be regarded as equals in terms of their values. In the decision of **VA04/1/024** the Tribunal found as follows: “5. *It is common case that all buildings in the Avenue and the Mall are physically identical and no evidence was adduced to show that the price paid for the crèche was proportionately more or less than the price paid for office buildings*”. The Park Academy is valued at €200 per sq. metre on the ground floor, €180 per sq. metre on the 1st floor and €160 per sq. metre on the second floor. This is 37.5% less than the subject. It undermines the Commissioner's assertion for the same rate on every floor (in spite of lack of lift services) in the Avenue, The Mall and The Apex Centre as there is a clear 10% division of value between the floors. It should be noted that the Park Academy unit also has a lift fitted.
2. The location of the subject property is in direct and intense competition with other third generation office buildings in the immediate vicinity.
3. It is unsustainable to suggest that the hypothetical tenant would pay an effective level of €320 per sq. metre for the subject when compared with others in the vicinity such as the Apex (€280 per sq. metre), Bracken Court (estimated €256.63 per sq. metre) and Ballymoss House (€280 per sq. metre).
4. The highest spec offices in the Sandyford Industrial estate and its environs are valued at €280 per sq. metre. It is inequitable to suggest that the subject would command 11.1% more than these units, as it provides inferior accommodation.
5. The Commissioner has failed to take account of the increased competition to secure rental bids and high levels of vacancy in the area.
6. The appellants seek to have the assessment reduced to more fairly reflect their unit's relative value, taking into account Tribunal decisions VA04/1/023, VA04/1/024 and VA04/1/030, together with their actual location and the level applied to other units in the area as shown by the comparisons.

Mr. Halpin contended for a NAV of €22,400 on the subject property, calculated as follows:

Ground Floor Offices	73.80 sq. metres @ €70 per sq. metre	€19,626
Car Spaces	2 @ €1,250 per space	<u>€ 2,500</u>
		€22,426

Say NAV €22,400

In support of his opinion of NAV, Mr Halpin in his evidence gave 10 comparisons:

Comparison 1

The Park Academy, The Avenue, Beacon Court, Sandyford Ind.Est.

Property No 2166666 NAV €126,900

Crèche (Ground floor) 173 sq. metres @ €200 per sq. metre

Crèche (1st Floor) 254.70 sq. metres @ €180 per sq. metre

Crèche (2nd Floor) 251.60 sq. metres @ €160 per sq. metre

Car Spaces 6 @ €1250 per space.

Comment

This equates to an overall level of €177.94 per sq. metre, which is deemed by the Tribunal to be of the same value as the office units in both the Mall and the Avenue. The property has full lift access but yet is taken at 37.5% less than the subject.

Comparison 2

Agcert International PLC, Unit C (Ground Floor), The Apex Centre, Sandyford Ind.Est.

Property No 2166669 NAV €1,900

Offices (Ground floor) 306 sq. metres @ €80 per sq. metre

Car Spaces 8 @ €1,250 per space.

Comment:

First rated by the Commissioner in 2003, at the same time as the subject was first rated, and at 4% less than the subject at the conclusion of all appeals (subject @ €125 per sq. metre, The Apex Centre @ €120 per sq. metre, VA04/1/028). Third generation offices valued at €80 per sq. metre on every floor, hence now valued 11.1% less than the subject. Half the unit currently to let through Agar estate agents asking €153 per sq. metre (€3,250 p.a.).

Comparison 3

BMC Software Europe Ltd, Ballymoss House, Sandyford Ind.Est.

Property No 344538 NAV €411, 000

Offices (Ground floor) 1,290 sq. metres @ €280 per sq. metre

Car Spaces 39 @ €1250 per space.

Comment:

Ground floor unit comprising third generation offices. Used by the Commissioner in 2004 to reinforce the tone in the area, valued then at 7% less than the subject, now valued at 11.1% less than the subject. Third floor occupier is Bank of Ireland with 1,245 sq. metres and 39 car spaces valued on the same basis as above.

Comparison 4

Getty Images Ltd, Bracken Bus. Park, Sandyford Ind.Est.

Property No 2176254 NAV €135,300

Offices (Ground floor) 463sq. metres @ €260 per sq. metre

Car Spaces @ €1250 per space

Comment:

2nd Floor Unit comprised of 2nd Generation plus Offices with lift, raised access floors. Valued at 18.75% less than the subject.

Comparison 5

Bracken Court, Sandyford Ind.Est.

Property No 344476 NAV €153,700

Offices (Ground floor) 535.59 sq. metres @ €256.63 per sq. metre

Car Spaces 13 @ €1250 per space

Comment:

Now appears to be valued at 20% less than the subject property.

Comparison 6A

The Atrium, Sandyford.

Property No 2164044 NAV €194,000

Offices (Ground floor) 1,551 sq. metres @ €280 per sq. metre

Car Spaces 46 @ €1250 per space.

Comment:

Ground Floor unit comprised of 3rd Generation Offices, highest spec in the entire of the Sandyford area.

Comparison 6B

The Grange, Stillorgan Road.

Property No 2204443 NAV €63,000

Offices (Ground floor) 835 sq. metres @ €280 per sq. metre

Car Spaces 30 @ €1,000 per space.

Comment:

Ground Floor unit comprised of 3rd Generation Offices, highest spec in the entire of the Sandyford area.

Comparison 7

Small own-door office units in the Sandyford Office Park

e.g. Property No 449398 (unit 29)

Offices 83.1 sq. metres @ €60 per sq. metre = €1,606

2 car spaces @ €1,250 each = € 2,500

Total NAV (rounded) = €4,100

These units were also originally assessed at €320 per sq. metre but reduced at appeal to €260 per sq. metre. These units are comparable in terms of letting value with the units in the Avenue.

Comparisons 8 & 9

Two first floor self-contained suites in a redeveloped building at Rowan Avenue adjacent to the Beacon Hotel. Assessed at €140 per sq. metre under the Revaluation.

Property no 2204504 120.28 sq. metres @ €140 per sq. metre = RV €16,830

Property no 2204503 131.35 sq. metres @ €140 per sq. metre = RV €18,390

These two office suites were capable of commanding €300 per sq. metre rentals in 2006/2007 due to the temporarily hyper-elevated state of the property market at the time.

Respondent's Evidence

Ms. Fiona Quinn, having taken the oath, adopted her précis as her evidence-in-chief. Ms. Quinn contended for a NAV of €26,100 on the subject property, calculated as follows:

Ground Floor Offices	73.80 sq. metres @ €320 per sq. metre
Ground Floor Car Parking	2 Spaces @ €1,250 per space
Total NAV €26,116 Rounded to €26,100	

In her evidence, Ms Quinn gave four comparisons in support of her submission:

Comparison 1

Suite 4, The Avenue, Beacon Court, Sandyford

WLI Trading Ltd.

Property No 2166660

Level 2 Offices	81.60 sq. metres @ €320 per sq. metre
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Basement Car Parking	1 space @ €1,250 per space
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NAV €27,362.00 rounded to €27,300

Comment:

The property is located alongside the subject within the same development. No Representations or Appeals were submitted on this property. Valuation remained unchanged. The property is held on 10 year lease of five yearly rent reviews from 1st June 2006 at initial rent of €31,000 p.a. This equates to €364 per sq. metre with 1 car park space at €1,250 per space.

Comparison 2

Suite 33, The Mall, Beacon Court, Sandyford

CPA Finance Ltd.

Property No 2174252

Ground Floor Offices	70 sq. metres @ €320 per sq. metre
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Ground Floor Car Parking	2 Spaces @ €1,250 per space
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NAV €24,900

Comment:

The property is located within the same development as the subject. No Representations or Appeals were submitted on this property. Valuation remained unchanged. The property is held on 35 year lease of five yearly rent reviews from 17th May 2004 at initial rent of €25,500 p.a. This equates to €28 per sq. metre, with 2 car park spaces at €1,250 per space.

Comparison 3

Suite 5, The Mall, Beacon Court, Sandyford

RBC Reinsurance Ireland Ltd.

Property No 2176258

Level 2 Offices 90 sq. metres @ €20 per sq. metre

Basement Car Parking 2 Spaces @ €1,250 per space

NAV €31,300

Comment:

The property is located within the same development as the subject. Representations were submitted on this property. Valuation remained unchanged. The property is held on 4 year 1 month lease from 15th July 2005 at initial rent of €3,125. This equates to €40 per sq. metre, with 2 car park spaces at €1,250 per space.

Comparison 4

Suite 25, The Mall, Beacon Court, Sandyford.

Alliance Unichem International Trading.

Property No 2182559.

Level 2 Offices 66 sq. metres @ €20 per sq. metre

Basement Car Parking 1 Space @ €1,250 per space

NAV €2,370 rounded to €2,300

Comment:

The property is located within the same development as the subject. No Representations or Appeals were submitted on this property. Valuation remained unchanged. The property is held on 5 year lease from 1st January 2006 at initial rent of €30,000 p.a. This equates to €46 per sq. metre, with 1 car park space at €1,250 per space.

In cross-examination, Ms Quinn accepted that the 2006 rent on her comparison no. 4 equated to €435 per sq. metre. Mr. Halpin also put it to Ms. Quinn that the Mall, where properties

open out onto a covered common area, was a superior location to the Avenue; however Ms. Quinn did not agree with Mr. Halpin on this point.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and makes the following findings:

1. The Tribunal notes that Mr Halpin referred to a series of Tribunal decisions as set out under point 1 of the appellant's evidence. Given *inter alia* that this is a Revaluation appeal, with a valuation date of 30th September, 2005, the Tribunal does not consider the aforementioned cases to be of assistance in the present appeal.
2. The Tribunal prefers the comparisons advanced by the respondent in this case. We note that they are all located within Beacon Court, which is also the location of the subject property.
3. We find the respondent's comparisons 2 and 3 to be of less assistance. In comparison 2, the rental evidence dates from May 2004. Whilst comparison 3 has an area of 90 sq. metres, comparisons 1 and 4 have areas of 81.6 sq. metres and 66 sq. metres, respectively, which lie on either side of the area of the subject property, which is 73.8 sq. metres.
4. The Tribunal accepts the appellant's contention that the Mall, where properties open out onto a covered common area, is a superior location to the Avenue.
5. In this regard we note that the respondent has applied a NAV of €320 per sq. metre both to properties on the Mall and on the Avenue.
6. Ms. Quinn accepted in cross-examination that rents were roughly the same between January and June 2006.
7. We note that the rent in comparison 4 equates to €435 per sq. metre excluding car spaces. We note that the rent in comparison 1 equates to €364 per sq. metre excluding car spaces.
8. We note that the rent per sq. metre for comparison 1, which is the on Avenue, is 83.7% of the rent for comparison 4, which is on the Mall. The Tribunal notes that a discount of 16.3% applied to the NAV per sq. metre of €320 would yield a figure of approximately €268. In the circumstances the Tribunal considers it appropriate that the NAV per sq. metre applied to the subject property should be €270 per sq. metre.

Determination

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

Ground Floor Offices	73.8 sq. metres	@ €70 per sq. metre = €19,926
Ground Floor Car Parking	2 spaces	@ €1,250 per space = €2,500

NAV €22,426

NAV, say €22,400

And the Tribunal so determines.