

Appeal No. VA11/5/090

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

Eurolott Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2176961, Office (House) at Royal Marine Mews, Rear 20A Adelaide Street, Dun Laoghaire, County Dublin.

B E F O R E

Niall O'Hanlon - BL

Deputy Chairperson

James Browne - BL

Member

Fiona Gallagher - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF JANUARY, 2012

By Notice of Appeal dated the 18th July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €12,920 on the above described relevant property.

The grounds of appeal are on a separate sheet attached to the Notice of Appeal, a copy of which is attached at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 6th day of December 2011. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying) ASCS, MRICS, MIAVI. Mr. John McKeon, owner of the subject property, was also present. The respondent was represented by Ms. Theresa O'Sullivan BSc, MIAVI, a Valuer in the Valuation Office. Both the appellant and the respondent furnished written submissions. Both representatives also gave evidence and were cross-examined.

The Issue

The areas have been agreed between the parties and the only issue is the quantum and the rate of valuation to be applied to the relevant floors of the subject property. The concept of net annual value is well known. Both parties accepted the legitimacy of the use of comparators in the locality. In effect, the only issue between the parties was quantum.

Description

The subject property is an office building to the rear of 20A Adelaide Street.

Location

The property is located in a laneway off Adelaide Street, Dun Laoghaire, Co. Dublin in a mixed commercial/residential area.

Accommodation

The subject property was measured on a net internal area (NIA) basis. The areas have been agreed between the two parties. The ground floor comprises an office of 55.37 sq. metres and the first floor comprises a store of 7.99 sq. metres.

Tenure

The property is owned by Mr. John McKeon of Eurolott Limited.

Valuation

The property was the subject of a revaluation as one of all rateable properties in the Dun Laoghaire/Rathdown County Council area. The valuation order for Dun Laoghaire/Rathdown County Council specifies the 30th of September 2005 as the valuation date.

Valuation History

A valuation certificate (proposed) was issued on the 15th June 2010 with a valuation of €7,150. Representations were lodged by the appellant for the subject property on the 12th July 2010 at which stage the valuation was reduced to €2,920. An appeal was lodged to the Commissioner of Valuation on the 8th February 2011 whereafter the valuation remained unchanged. An appeal was then lodged to the Valuation Tribunal on the 19th July 2011.

Valuation

Ground floor offices	55.37 sq. metres @ €245 per sq. metre	=	€13,565.65
First floor store	7.99 sq. metres @ €100 per sq. metre	=	€ 799.00
Less 10% discount given for profile		=	(€ 1,436.46)
Total		=	€12,928.19
Valuation Office estimate of NAV (rounded) €12,920			

The Appellant's Case

The appellant adopted his précis as his evidence-in-chief. The appellant submitted a number of points for consideration by the Tribunal, namely:

1. That the location of the subject property is very moderate being located on an unserviced laneway between Adelaide Street and Haigh Terrace. The laneway has not been surfaced by the Council and the subject property has no profile from the main street and very little even from Adelaide Street. He stated that the lane was unserviced and was not in charge.
2. He submitted that the loft stores cannot be regarded as lettable space and are barely useable.
3. He submitted that the hypothetical tenant would not add anything to his rental bid for this accommodation and as such an effective level of €90 per square metre was grossly excessive and particularly so in view of the stores in both retail and office units around Dun Laoghaire being valued by the Commissioner at €50 per square metre.

He added that the store for the subject property had significant access problems. He submitted that it was unsustainable to suggest that the hypothetical tenant would pay an effective level of €220.50 per square metre, (i.e. €245 per sq. metre less 10%) for the subject when compared with better located and superior properties on Mulgrave Street (€225 per sq. metre) and particularly Century Court (with an effective level of €237.50 per sq. metre).

He stated that this merely allows a 2% allowance over properties on Mulgrave Street and a 7.2% allowance over properties on Century Court, which is completely unsustainable given their location, type and nature and their relative worth. He also stated that the offices in the subject are finished to a basic standard and as such are much less desirable than those at Century Court which has a prime location and hi-spec finish and those of Mulgrave Street which benefit from being fully refurbished and modernized with additional benefits such as ease of access, proximity to prime space and other offices being used in the immediate vicinity.

4. He considered that the ground floor internal floor level is constructed below the external level and this is a further restriction on the property as there is a greater risk of residual dampness in the exterior walls. He added that it also gave the offices a peculiar feel as the windows are almost down at ground level.
5. He submitted that the Commissioner's approach failed to take account of the relatively poor location and lack of serviced access to the property in this case.
6. He accepted that with this type of property, as with all other types, there is a range of values; however he submitted that this particular unit falls at the lower end of the spectrum.
7. He submitted that the Commissioner's approach in this case was unfair.
8. He submitted that the appellant seeks to have its assessment reduced to a more relative value taking into account their actual location, together with the level applied to other units in the area as shown by the comparisons.

9. Mr. Halpin put forward five comparisons which the Tribunal has carefully considered and which are attached at Appendix 2 to this judgment.

The Respondent's Case

Ms. O'Sullivan, on behalf of the respondent, adopted her précis as her evidence-in-chief. She submitted that all comparable properties were in the €245 - €250 per sq. metre valuation range. She also submitted that her valuation was fair and equitable and reflected the value of the comparable properties in the area. She emphasized that comparison no.1 was the truest comparison. She further submitted that a 10% allowance fairly reflected any issues concerning the subject property. This 10% was allowed for the lack of profile of the subject property, the property being recessed with steps down to it and it's not being on Main Street.

Ms. O'Sullivan accepted in cross-examination that comparison no.1 of the appellant's comparisons was on a one way street, namely Mulgrave Street, and that this was a relevant consideration. However, Ms. O'Sullivan denied that whether or not the laneway was taken in charge was a relevant issue. She did agree, however, that on this particular laneway traffic could only pass at one at a time.

The respondent's three comparisons are attached at Appendix 3 to this judgment and have been carefully considered by the Tribunal.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing, and make the following findings:

1. The statutory basis of valuation is set down in section 48 of the Valuation Act, 2001 wherein at subsection (3) the net annual value of property is defined as being *“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. Section 63(1) of the Valuation Act, 2001 states:
“The statement of the value of property as appearing on a valuation list shall be deemed to be a correct statement of that value until it has been altered in accordance with the provisions of this Act.” Therefore, the onus is on the appellant to prove that the valuation under appeal is not correct.
3. The Tribunal notes that the areas are agreed between the parties.
4. In arriving at its decision, the Tribunal relies on the comparisons put forward by the parties.
5. The Tribunal notes that the property is located down a narrow laneway; that the property is a mews; that the laneway has not been taken in charge; that traffic can only pass at one at a time down the said laneway; that all of the comparisons of the respondent are on commercially orientated streets; that the store is of a very low quality and is accessed through a long narrow hallway with a certain amount of difficulty and it is at a distance from the main office space; that the property frontage is recessed from the main street and is accessed down a number of steps, with the floor area being below ground level.

Determination

In reaching its determination the Tribunal has been required to consider only the evidence submitted and adduced. In so doing, the Tribunal has made the foregoing findings and in light of those findings determines that the valuation of the respondent is too high when compared to other relevant properties in the area. The Tribunal makes the following valuation on the said property:

Ground floor office	55.37 sq. metres @ €220.00 per sq. metre	=	€12,181.40
First floor store	7.99 sq. metres @ €30.00 per sq. metre	=	€ 239.70
Less 10% discount given for profile		=	(€ 1,242.11)
Total NAV		=	€11,178.99
Say NAV	€1,170.00		

And the Tribunal so determines.