

Appeal No. VA11/5/091

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

**Nikki Darling**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 437317, Creche (House) at Farranboley House, Bird Avenue, Clonskeagh, County Dublin.

**B E F O R E**

**Maurice Ahern - Valuer, IPAV**

**Deputy Chairperson**

**Veronica Gates - Barrister-at-Law**

**Member**

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

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 18TH DAY OF JANUARY, 2012**

By Notice of Appeal dated the 19th day of July, 2011, the the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €26,300 on the above described relevant property.

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

*"The valuation is excessive having regard to the nature of the accomodation comprising basement rooms in a mainly residential dwelling."*

*"The passing rent at the time of revaluation was in the order of €12,500 per annum."*

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 2<sup>nd</sup> day of December 2011. Mr. Conor Ó Cléirigh, FSCSI, FRICS, chartered valuation surveyor, represented the appellant while Ms. Theresa O’Sullivan BSc, MIAVI, valuer at the Valuation Office, represented the respondent.

### **At Issue**

Quantum.

### **Location**

The property is located on Bird Avenue close to the junction with Clonskeagh Road. Neighbourhood shops fronting a green are adjacent to the entrance. Clonskeagh is an established residential suburb of Dublin, situated four miles south-east of Dublin city centre. The area comprises mainly settled residential housing laid out in traditional estate layout format interspersed with more recent infill housing schemes. On-street unmetered parking is available in the area.

### **Description**

The subject property is a crèche at basement level of a fine period residence surrounded by gardens to the front and a secluded playground to the rear. The property is a detached residence set in its own gardens. The basement area, which is self-contained, has an entrance from the front of the house via a flight of steps and an entrance from the side via a graduated paved path.

### **Accommodation**

The subject property was measured on a net internal area (NIA) basis. Areas have been agreed between the parties. The basement area measures 117.21 sq. metres.

### **Tenure**

The subject property is held on a 25 x 5 lease commencing 1<sup>st</sup> September, 1993. The last rent review was on 1<sup>st</sup> May, 2008 at which time the rent was fixed at €12,180 per annum.

### **Valuation History**

The valuation certificate (proposed) was issued on the 10<sup>th</sup> day of September 2010, with the property having a valuation of €26,300. No representations were submitted and the valuation

remained unchanged. An appeal was lodged with the Commissioner of Valuation on the 8<sup>th</sup> day of February 2011. The valuation of €6,300 was not amended. An appeal was lodged with the Valuation Tribunal on the 20<sup>th</sup> Day of July, 2011.

### **Basis of Valuation**

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

The valuation of this property on appeal to the Commissioner of Valuation, was determined by reference to the values of comparable properties stated in the valuation list in which they appear.

### **Valuation**

The subject basement level property of 117.21 sq. metres was valued at €25 per sq. metre, which equals €6,370.25. The Valuation Office estimates net annual value (NAV) (rounded) at €6,300.

### **The Appellant's Case**

Mr. Ó Cléirigh, having taken the oath, adopted his written précis and valuation, which had been received by the Tribunal, as being his evidence-in-chief. He presented photographs of the subject property and a report of the valuation history, location, description, accommodation, condition, services and title of the property. He then gave a general description of the property itself and surrounding area. The subject property comprises the basement of Farranboley House, a protected structure under the Dún Laoghaire/Rathdown Development Plan, which imposes particular obligations and responsibilities on both owners and occupiers. This protected structure and status imposes additional administrative and financial obligations on occupiers and should be considered when comparing the subject with crèche facilities in the Dún Laoghaire/Rathdown area. The property is let under lease but Mr. Ó Cléirigh stated that he would find it difficult to rely on this as there was an inter-relationship between the landlord and tenant.

Mr. Ó Cléirigh was of the opinion, having regard to the contents of his report, that NAV of the relevant subject property as at 30<sup>th</sup> September 2005 is €17,500 per annum, calculated follows:

Crèche 117.21 sq. metres @ €150 per sq. metre = €17,581  
 NAV say €17,500

In support of his opinion of NAV, Mr. Ó Cléirigh put forward one comparison only:

Comparison No. 1

Bright Horizons Family Solutions, Unit 7, Block C,  
 Nutgrove Office Park, Rathfarnham, Dublin 14,  
 Property No: 2174597

Mr. Ó Cléirigh noted that this comparison property is currently the subject of an appeal to the Tribunal.

There was no cross-examination of the appellant by the respondent.

**The Respondent's Case**

Ms. Theresa O'Sullivan, having taken the oath, adopted her written précis and valuation, which had been received by the Tribunal, as being her evidence-in-chief. Ms. O'Sullivan contended for a NAV of €26,300 on the subject property, details of which valuation are set out previously in this judgment. In support of her opinion of NAV, Ms O'Sullivan put forward four comparisons, as follows:

Comparison No. 1

Lilliput Childcare, Old Bray Road, Foxrock  
 Property No: 332126

Block	Level	Use	Measured	Area	NAV
1 - 11	0	Crèche	NIA	160.49 sq. m	€250/sq. m
12 - 17	1	Crèche	NIA	62.80 sq. m	€225/sq. m

FRI lease from 1<sup>st</sup> April 2007 @ €80,000 per annum = €358.27 per sq. metre.

NAV (Rounded to) €4,200

Comparison No. 2

Angels Care, Beaumont Avenue, Churchtown  
Property No: 338266

Block	Level	Use	Measured	Area	NAV
1 - 7	0	Crèche	NIA	191.84 sq. m	€250 / sq. m
2 - 7	1	Crèche	NIA	88.29 sq. m	€225 / sq. m

Proposed certificate issued on 10<sup>th</sup> September 2010; NAV €104,200.

Due to a reduction in area the value reduced at representation stage to NAV €67,800.

Letter of agreement received from agent on 30<sup>th</sup> November 2010.

NAV (Rounded to) €67,800

Comparison No. 3

Mulberry Crèche, Bray Road, Loughlinstown, Co. Dublin  
Property No: 527864

Block	Level	Use	Measured	Area	NAV
A	0	Crèche	NIA	103.95 sq. m	€250 / sq. m

Proposed certificate issued on 10<sup>th</sup> September 2010; NAV €34,600.

Valuation was reduced at representation stage to NAV €24,600.

Appeal application was received on 7<sup>th</sup> February 2011 with no subsequent change made.

NAV (Rounded to) €24,600

Comparison No. 4

Wee Care Ltd, Windsor House, 98 Monkstown Avenue, Monkstown, Co. Dublin  
Property No: 512722

Total Area 664.66 sq. metres

Representations and an appeal were received.

5% allowance was given for quantum at appeal stage.

Valuation was reduced from NAV €154,500 to NAV €146,600.

NAV level applied to the basement @ €225 per sq. metre is the same as the subject property.

Property was not the subject of an appeal to the Tribunal.

Valuation Office Estimate of NAV (Rounded to) €146,600

### **Cross-Examination of Respondent**

When questioned by Mr. Ó Cléirigh as to how she arrived at her NAV figure, Ms. O'Sullivan stated that she used a benchmark and valued all types of crèches to arrive at her figure. She stated that of the 74 crèches in the catchment area, the subject property is the only one to be the subject of an appeal to the Tribunal.

Ms. O' Sullivan further stated that under section 63 of the Valuation Act, 2001, a tone of list had been established. She agreed that none of her comparisons was a listed building or had a 2005 rental value. Ms. O'Sullivan stated that she inspected only one of her comparisons, namely Comparison No. 3. Ms. O'Sullivan stated that Comparison No. 4 had a basement in line with the subject property.

### **Findings**

The Tribunal commends both valuers for the professional and courteous manner in which they presented their evidence and conducted themselves generally throughout the course of the hearing. Having carefully considered all the evidence and arguments adduced by the parties, the Tribunal makes the following findings:

1. There was no dispute between the parties as to the description, location or the total accommodation of the subject property.
2. The only comparison put forward by the appellant is currently under appeal to the Tribunal.
3. The respondent's comparison number four is the more relevant comparison property, since it is similar to the subject property.
4. Mr. Ó Cléirigh adduced evidence of a 2004 passing rent on the subject property, but accepted that he had not given any great weight to such rental evidence as the same was not at an arm's length given an existing relationship between the landlord and tenant.

**Determination**

Having regard to the foregoing, the Tribunal determines that the NAV of €26,300 as determined by the Commissioner of Valuation is fair and reasonable. Accordingly, the appeal is dismissed and the NAV of €26,300 on the subject property is affirmed.

And the Tribunal so determines.