

Appeal No. VA11/5/181

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

Michael McCann - Lynx Group

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No.1032063, an Office at Lynx House, Old Church Road, Lwr. Kilmacud Road, Stillorgan, County Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Mairead Hughes - Hotelier

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF FEBRUARY, 2012

By Notice of Appeal received on the 25th day of August, 2011 the appellant appealed against the determination of the Commission of Valuation in fixing a valuation of €47,000 on the above described relevant property.

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

"The valuation is excessive."

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 26th January 2012. At the hearing the appellant was represented by Mr John Algar, Bardon & Co., Rating Consultants & Valuers, Harold's Cross, Dublin 6W, while Mr Paul Ogbebor, a Valuer in the Valuation Office, represented the Respondent.

Both parties, having taken the oath, adopted their respective précis which had previously been received by the Tribunal as their evidence-in-chief. From the evidence tendered, the following relevant information emerged.

The Issue

The issue between the parties was quantum, the appellant maintaining that the rateable valuation of €47,000 was excessive.

Valuation History

The property was the subject of a revaluation as one of all rateable properties in the Dun Laoghaire Rathdown County Council Area. A Valuation Certificate (proposed) was issued on June 15th 2010 for €56,000. Representations were lodged by Bardon & Co. on behalf of the appellant in July 2010 that resulted in a reduction of valuation to €48,100 due to an amended schedule of areas. An appeal was lodged with the Commissioner of Valuation on 8th February 2011 by Bardon & Co., and following consideration of this appeal, the Commissioner further reduced the valuation to €47,000 due to a change in the level applied to the first floor office area. On 25th August, 2011 a Notice of Appeal was lodged with the Valuation Tribunal.

The NAV was assessed as follows:

Ground Floor Office	106.50 sq. metres @ €320 per sq. metre	=	€34,080.00
Ground Floor Kitchen	7.54 sq. metres @ €50 per sq. metre	=	€ 377.00
Ground Floor Store	5.42 sq. metres @ €50 per sq. metre	=	€ 271.00
First Floor Office	53.63 sq. metres @ €230 per sq. metre	=	<u>€12,334.90</u>
Total			€47,062.90

NAV (rounded to) €47,000

The Property

The subject property is an end of terrace building that was formally in use as a morgue, and was subsequently converted to a garage and workshop, and currently comprises a one and a half storey building that is located at the end of a cul-de-sac off the Lower Kilmacud Road in South Dublin. The property was converted to offices in 2000, had a mezzanine floor installed to house the first floor office, and was extended to the front to include a lobby, toilets and an additional office. The main building itself is built with solid concrete walls, timber flooring and a pitched asbestos roof, while the new extension to the front has concrete walls and floors with a pitched slate roof. All mains services are connected to the property.

Accommodation

The area is measured on a Net Internal Basis, and has been agreed between the parties.

Ground Floor Office	106.50 sq. metres
Ground Floor Kitchen	7.54 sq. metres
Ground Floor Store	5.42 sq. metres
First Floor Office	53.63 sq. metres

The Appellant's Case

Mr Algar argued that the location of the subject property at the end of a cul-de-sac known as Old Church Road is very moderate. Formally a morgue that was attached to the church that fronts onto the Lower Kilmacud Road, the subject premises was converted to offices in 2000. He argued that the property did not have any profile from the Lower Kilmacud Road, that a number of commercial buildings on the said road actually blocked the subject from view, and that all of his comparisons were superior location-wise to the subject. He said that the offices had poor natural light, and were adjacent to a parade of small retail units including an electrical repair shop, a hairdresser, and a bicycle shop. Mr Algar informed the Tribunal that the premises is currently held a 2 year 9 month FRI lease from April 2011 with an agreed annual rent of €30,000 and this amount includes the local authority rates. Prior to this lease agreement the premises was occupied by the owner with a rent of €60,000 per annum, but this was not an arms length rent. Mr Algar contended for a valuation of €200 per sq. metre for ground floor level and €150 per sq. metre for the Mezzanine floor.

Mr Algar said that the subject premises should be valued in its actual state and on an overall

basis, be compared with properties that are truly comparable to the subject property, and in line with other offices in the locality. He contended that a valuation of €320 per sq. metre for the ground floor and €230 per sq. metre for the mezzanine of the subject was incorrect.

Mr Algar admitted that while he did not have any rental evidence to support his arguments, he preferred to rely on his comparisons, and particularly his comparison 1, the recent Valuation Tribunal decision on Larchfield House (**VA11/5/042 – John T. Gibbons**) which has a ground & first floor value of €200 per sq. metre. In support of his valuation Mr Algar introduced four comparisons, details of which are set out in Appendix 1 to this judgement.

His comparison 1, Larchfield House (a period 2 storey over basement detached property used as office space) is located on Dundrum Road, Dundrum, and while situated in a much more valuable location than the subject, is similar in use. Levels here have been established by the Valuation Tribunal at €200 per sq. metre for the ground and first floor. (**VA11/5/042 – John T. Gibbons**)

Comparison 2 (first floor, 10 Kilmacud Road Lower) was formerly valued as an office at €230 per sq. metre and now, due to change of use to a restaurant, it carries a 5% loading. This comparison is in a more superior location to the subject, opposite the Stillorgan Shopping Centre.

Comparison 3 (Lynnwood House, Ballinteer Road, Dundrum) is similar in description to comparison 1, and has a ground and first floor valuation of €220 per sq. metre. Comparison number 4 (Unit 5, Ashgrove estate, Kill Avenue, Dun Laoghaire), has a ground and first floor valuation of €200 per sq. metre.

Summarising, Mr Algar informed the Tribunal that the small retail units that are located next to the subject property are valued on a Zoned Basis (Zone A = €300 per sq. metre, Zone B = €160 per sq. metre) and that this gives an overall rate per sq. metre of €261.61. He contended that it was unfair to value the subject offices at €320 per sq. metre, while the next door retail units are valued overall at €261 per sq. metre.

Accordingly, Mr. Algar considers that the net annual value of the property concerned should be as set out below:

Ground Floor Offices	106.5 sq. metres x €200 per sq. metre	=	€21,300
Ground Floor Store	12.96 sq. metres x €50 per sq. metre	=	€ 648
Mezzanine Office	53.63 sq. metres x €150 per sq. metre	=	<u>€ 8,044</u>
Total			€29,992

NAV say 29,900

Respondent's Evidence

Mr Ogbebor outlined the valuation history of the subject as already detailed here in this report. In support of his opinion of Net Annual Value, he introduced 5 comparisons, details of which are set out in Appendix 2 to this judgment.

Ground Floor Offices	106.5 sq. metres x €320 per sq. metre	=	€34,080.00
Ground Floor Kitchen	7.54 sq. metres x €50 per sq. metre	=	€ 377.00
Ground Floor Store	5.42 sq. metres x €50 per sq. metre	=	€ 271.00
First Floor Office	53.63 sq. metres x €230 per sq. metre	=	<u>€12,334.90</u>
Total			€47,062.90

Valuation Office Estimate of NAV (rounded to) €47,000

Comparisons 1 & 4 (Mervile Road in Stillorgan) are located in a residential area about 1 kilometre from the subject property. The ground floor level applied to these comparisons is €400 per sq. metre with a reduction of 7.5% applied due to the residential location, (thus giving a level of €370 per sq. metre).

Comparison 2 (St. Laurence Park, Stillorgan) is a first floor office beside the Stillorgan Shopping Centre with a level applied of €230 per sq. metre, while comparison 3 (The Rise, Mount Merrion) has a level of €450 per sq. metre for the ground floor and €300 per sq. metre for the first floor.

The final comparison, number 5, is located on the Old Dublin Road in Stillorgan. This property comprises a ground floor office, initially valued at €400 per sq. metre by the Commissioner of Valuation, but determined by the Valuation Tribunal at €300 per sq. metre. (VA11/5/151 – Copystock Ltd. t/a Kopikat Ltd.)

Under cross-examination from the appellant, Mr Ogbebor said that he believed that the natural light in the subject was up to an acceptable standard, and acknowledged that the rent on the subject as per his evidence was not an arms' length rent. He also acknowledged that his comparison 2 (first floor offices at St Laurence Park Stillorgan valued at €230 per sq. metre) was in a superior location to the subject property's first floor office (also valued at €230 per sq. metre) and this comparison was suitable for a number of other uses, while the subject first floor office did not have a separate entrance and was not suitable for a variety of uses. Under further cross-examination, Mr Ogbebor was asked to explain why the retail units next door to the subject property were valued on an overall basis at €261 per sq. metre, while the subject had a level of €320 per sq. metre for the ground floor. He said that there was no comparison between these units and the subject, that these units were all retail and that when valuing retail you must value in accordance with similar retail units in the rating area.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and finds as follows:

1. The Tribunal notes that the location of the subject property, based on the evidence of both parties, is less desirable than those of the comparison properties.
2. The subject building, based on the evidence adduced, is a former morgue with an asbestos roof dating back to circa 1900, and was used as a garage before being converted to office use. The first floor of the subject property does not have a separate entrance.
3. The Tribunal is of the opinion that the respondent's comparison 2 (valued at the same level as the subject property) is in a much better location to the subject, and is capable of a variety of uses, whereas the subject is burdened by its location and layout
4. Under the circumstances, the Tribunal is of the belief that "other use" consideration for the subject property would be very limited.
5. The retail units next door to the subject property have an overall valuation of €261 per sq. metre, whereas the subject property is valued at €320 per sq. metre on the ground floor.

Determination

Mindful of the foregoing, together with all the evidence submitted and advanced at hearing, the Tribunal determines that the net annual value of the subject is €38,800, calculated as follows:

Ground Floor Office	106.50 sq. metres @ €260 per sq. metre =	€27,690.00
Ground Floor Kitchen/Store	12.96 sq. metres @ €50 per sq. metre =	€ 648.00
First Floor Office	53.63 sq. metres @ €195 per sq. metre =	<u>€10,457.85</u>
Total		= €38,795.85

NAV Say €38,800

And the Tribunal so determines.