

Appeal No. VA11/5/300

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

**Padraic Kissane**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property no. 2172175, Office at Unit A3, Nutgrove Office Park, Rathfarnham, County Dublin.

**B E F O R E**

**John F Kerr - BBS, FSCSI, FRICS, ACI Arb**

**Deputy Chairperson**

**Michael Connellan Jr - Solicitor**

**Member**

**Thomas Collins - PC, FIPAV, NAEA, MCEI, CFO**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 2ND DAY OF MARCH, 2012**

By Notice of Appeal received the 6th day of September, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €45,100 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are attached at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 20<sup>th</sup> February, 2012. The appellant represented himself at the hearing and the respondent was represented by Ms. Fiona Quinn, BSc, ARICS, valuer at the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence in chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

#### **At issue**

Quantum.

#### **The Property**

The property comprises ground and first floor offices within own door office unit. The offices have been fitted out to a good specification throughout with raised access floors and air conditioning. Car parking is available to the front of the unit.

#### **Situation/Location**

The property is located in Nutgrove Office Park, a purpose-built office park comprising mainly own door office units. Nutgrove Office Park is located off Nutgrove Avenue situated approximately six km south of Dublin city centre between the south inner ring road (R112) and the M50 and is in close proximity to Nutgrove Shopping Centre and Dundrum Town Centre.

#### **Accommodation**

The accommodation has been agreed by the parties as follows and was measured on a net internal area (NIA) basis:

|                           |                   |
|---------------------------|-------------------|
| Blocks 1-3 (Ground Floor) | 85.20 sq. metres  |
| Blocks 4-7 (First Floor)  | 88.63 sq. metres  |
| Total NIA                 | 173.83 sq. metres |

**Tenure**

The subject property is held on a freehold basis.

**History**

- A Valuation Certificate (proposed) was issued on the 15<sup>th</sup> June, 2010. The property was valued at €52,100.
- Representations were lodged with the Commissioner of Valuation on the 9<sup>th</sup> July, 2010. The valuation was reduced to €45,100.
- An Appeal was lodged with the Commissioner of Valuation on the 3<sup>rd</sup> February, 2011. The Valuation remained unchanged.
- An Appeal was lodged with the Valuation Tribunal on the 6<sup>th</sup> September, 2011.

**Appellant's Evidence**

Mr Padraic Kissane took the oath, adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission, making the following points:

- i. that Nutgrove Office Park was unique as it was initially occupied by owner occupiers;
- ii. that a quarter of his office block is empty;
- iii. that the previous tenants left to occupy different properties in Dublin with same rents but different rates.

The Tribunal informed the appellant that the Valuation Tribunal must confine its functions to those provided for in the Valuation Act, 2001 and that the Valuation Order specifies 30<sup>th</sup> day of September, 2005 as the valuation date.

The appellant, referring to his précis of evidence, extracted the following details of rental rates:

**Comparison 1.**

Unit F8, Nutgrove Office Park.

Occupier: Cleary & Co.

Rent: €157.05 per sq. metre.

**Comparison 2.**

Unit 6 & 7, Nutgrove Office Park,.

Occupier: Alan B Kidd & Co. Ltd.

Rent: €178.89 per sq. metre.

**Comparison 3.**

Unit E4/E5, Nutgrove Office Park.

Occupier: Nicholas O'Dwyer Ltd.

Rent on circa 1,081 sq. metres @ €177.60 per sq. metre.

**Comparison 4.**

Unit A1, Nutgrove Office Park.

Rent: €178 per sq. metre.

**Comparison 5.**

Unit E7a, Nutgrove Office Park.

Occupier: Design Tactics.

Rent: €166.93 per sq. metre.

**Comparison 6.**

Unit F5, Nutgrove Office Park.

Occupiers: Lee & Sherlock Solicitors.

Rent: The appellant was not sure as to the precise rental details on this unit but estimated that it was in the range of €202 per sq. metre.

Mr. Kissane asserted that the net annual value (NAV) on office units in Sandyford Industrial Estate are set at an average of €260 per sq. metre, though the occupiers of many of those units are not subject to the payment of service and maintenance charges, unlike the subject, including services such as waste disposal, landscaping, public lighting, road markings, pest control and more. He added that the NAV established for the nearby Nutgrove Enterprise Centre has been set at €225 per sq. metre and that a NAV of €170 per sq. metre had been established on the offices at the Dundrum Business Park, which

he noted to be of a higher specification than the subject property. He also noted that Dundrum Business Park is served by public transport.

Mr. Kissane had included in his précis a schedule of occupiers and rental rates expressed on a per sq. metre basis on 10 properties within the Nutgrove Office Park, but during the course of the hearing he acknowledged that the details of same could not be relied upon and requested the Tribunal to remove same from evidence.

The appellant also stated that he was surprised with the NAV established on his property as it did not accord with his expectations during previous communications with the Valuation Office and he felt that the decision reached by the Commissioner of Valuation, assessing a value of €260 per sq. metre on the subject relevant property, was rushed and did not accurately reflect its value as it failed to take account of the rental evidence on a number of comparable properties, the rental details of which he contended were based on arms' length leases at or about the subject valuation date of September 2005.

Mr. Kissane stated that retailers Harvey Norman and Homebase, who had been tenants in the subject office park, have since vacated it.

### **Cross-examination**

The parties declined opportunities here, and later, to cross-examine each other.

### **Respondent's Evidence**

Ms. Fiona Quinn then took the oath and formally adopted her précis as her evidence-in-chief. The respondent in her evidence submitted four comparison properties, all of which were taken from the Nutgrove Office Park, and summary details of which are as follows:

#### Comparison 1

Unit C6, Nutgrove Office Park.

Occupier: Ocean Health Care Ltd.

No representations or appeals were submitted on this property. The NAV was reduced to €26,600 on this property in line with a decision taken by the Commissioner of Valuation upon receipt of additional empirical data on rental that the earlier rate of €300 should be reduced to €260 per sq. metre. The

property is held on a 25-year lease with five-yearly rent reviews from 1<sup>st</sup> March 2003 at an initial rent of €36,000 per annum. This equates to a rental level of €350 per sq. metre.

### Comparison 2

Unit C5, Nutgrove Office Park.

Occupier: Assured Property Management Ltd.

No representations or appeals were submitted on this property. The NAV was also reduced to a level of €260 per sq. metre. The property is held on a 25-year lease with five-yearly rent reviews from 1<sup>st</sup> March 2003 at an initial rent of €36,000 per annum. This equates to a rental level of €350.77 per sq. metre.

### Comparison 3

Unit D8, Nutgrove Office Park.

Occupier: Arcon Consultants Ltd.

Representations were submitted on this property. The NAV was reduced to €8,300 by reference to a rate per sq. metre of €260. The property is held on a five-year lease from 30th November, 2008 at €2,500 per annum. This equates to a rental level of €301 per sq. metre.

### Comparison 4

Unit D17, Nutgrove Office Park.

Occupier: Vacant.

Representations and a Section 30 appeal were submitted on this property. The NAV was reduced at representation stage to €2,940 in line with the foregoing rate per sq. metre (i.e. €260 per sq. metre). The property is held on a 20-year lease with five-yearly rent reviews from 1<sup>st</sup> September 2007 at a rent of €18,000. This equates to a rental level of €61.44 per sq. metre.

Ms. Quinn acknowledged that only three-storey blocks within the Nutgrove Office Park are served by lifts.

## **Findings**

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

1. The respondent acknowledged difficulties in seeking to establish available arms' length market rental values on a number of the Nutgrove Office Park offices as of the valuation date of 30<sup>th</sup> September, 2005.
2. The appellant reaffirmed his understanding that the rental levels cited above on the comparisons in his précis of evidence were accurate, reliable and had not been disputed or challenged by the respondent.
3. The respondent indicated that the basket of rental values in the Nutgrove Office Park is reflected in the "tone of the list" established by the Commissioner of Valuation in the area of Nutgrove Office Park at a level of €260 per sq. metre, which had been adjusted from an earlier threshold of €300 per sq. metre on receipt of more reliable rental evidence pertaining to the relevant valuation date.
4. The respondent accepted that her comparison properties 3 and 4 had still yet to be constructed in 2005 but stated that they are, in any event, suitable and relevant properties for the current exercise as their values are included on the List.
5. The respondent accepted that the rental values cited in her comparison properties 1 and 2 were based on Internal Repairing and Insuring (IRI) terms.
6. It was noted that the valuations on three of the comparison properties relied upon by the respondent were not appealed.

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

|                      |                                       |   |                   |
|----------------------|---------------------------------------|---|-------------------|
| Offices Ground Floor | 85.20 sq. metres @ €15 per sq. metre  | = | €18,318.00        |
| Offices First Floor  | 88.63 sq. metres @ €215 per sq. metre | = | <u>€19,055.45</u> |
| Total                |                                       |   | €37,373.45        |

NAV say €37,370.

And the Tribunal so determines.