

Appeal No. VA12/3/001

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

Fitzwilliam Business Centre

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2192125, Office(s), Carpark at Lot No. 77 (Block C), fl 0,1,2,3,4,5, Sir John Rogerson's Quay, South Dock, South Dock, County Borough of Dublin.

B E F O R E

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

Deputy Chairperson

Aidan McNulty - Solicitor

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF DECEMBER, 2012

By Notice of Appeal, received on the 2nd day of July, 2012, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €2,872 on the above described property.

The Grounds of Appeal as set out in the said Notice of Appeal are:

“On the basis that the NAV as assessed is excessive and inequitable on a NIA basis for this property at this location.”

“Insufficient allowance has been made to reflect the actual location without river (water) frontage and profile.”

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal, located on the third floor of Holbrook House, Holles Street, Dublin 2, on the 20th day of September, 2012. The appellant was represented by Mr. Eamonn S. Halpin, B.Sc. (Surveying) MRICS, MSCSI, and the respondent was represented by Ms. Roisin Casey, B.SC Real Estate, 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 at the hearing, via cross-examination or in mutually agreed materials submitted post hearing. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

At Issue

Quantum

The Property

The subject relevant property is a six-storey modern purpose-built third generation office building. Parts of the 1st and 2nd floors are valued separately under property no. 2210408 and occupied by another party. The subject property comprises a fully serviced reception area on the ground floor including a large kitchen / catering facility which serves the entire building. The remaining floors comprise open plan offices with meeting rooms on each floor. The offices feature raised access floors covered with carpet tiles and suspended ceilings with fluorescent lighting. The building has been constructed to a high specification and added features include air-conditioning, a fire suppression system and a building stand-by power generator. A landscaped courtyard area is located at the rear of the subject building and 14 dedicated car parking spaces are available to the occupier within a secure underground car park.

Location

The subject property is located at Benson Street in the Dublin's Docklands business district, approximately 35 metres south of Sir John Rogerson's Quay. The latter fronts onto the south bank of the River Liffey. The subject relevant property has no profile to the river. Other

companies in the Sir John Rogerson's Quay area include McCann Fitzgerald Solicitors, State Street International (Ireland) Ltd., Bank of New York Mellon, Matheson Ormsby Prentice Solicitors. The O2 Arena is situated also in the docklands area opposite Sir John Rogerson's Quay on the north bank of the river. Public transport is easily accessed from the area including the Grand Canal Dart Station and a new bus terminus located within a short walking distance from the subject property.

Services

The property concerned is served with mains power, water, telephone, storm and foul sewer.

Tenure

The property is understood to be held on a freehold basis by Mr. William Smyth, who is the director of the Fitzwilliam Business Centre.

Floor Areas

The floor areas were measured on a Net Internal Area (NIA) basis by the parties. Prior to the hearing, the parties failed to reach an agreement on the NIA of the fifth floor of the subject property and on the valuation to be assigned to the car parking spaces. However, during the course of the hearing, Ms Casey conceded to the removal of the balcony of the fifth floor from her calculations for valuation purposes, thus concurring in all respects with the floor areas as calculated by Mr Halpin. She also conceded to a reduction in the valuation of each car parking space from €50 to €35. The Valuation Tribunal requested the respondent, on the basis of the evidence adduced at hearing, to review the floor area measurements provided by her. Ms Casey submitted revised floor areas as set out hereunder:-

Floor	Accommodation	Area m²
Ground	Offices	514
First Floor	Offices	451.23
Second Floor	Offices	510.68
Third Floor	Offices	555
Fourth Floor	Offices	555
Fifth Floor	Offices (555 sq. metres less 14.5 sq. metres balcony)	540.5
	Total:	3,126.41

Plus 14 Car Parking Spaces

Valuation History

January 2008:	Valuation Certificate issued on the initial revision of the original floor area of the building with RV€3,000.
October 2010:	Revision request submitted by appellant's agent for a sub-division of the subject relevant property.
June 2011:	Property inspected.
September 2011:	Proposed Valuation Certificate issued with RV€2,975.
October 2011:	Representations made on behalf of appellant.
October 2011:	Valuation Certificate issued with RV€2,897. The valuation was reduced due to a reduction in the floor area calculations arising from the sub-division of the original property.
October 2011:	Subject property entered onto the Valuation List.
December 2011:	Appeal submitted to the Commissioner of Valuation.
June 2012:	Valuation Certificate issued at RV€2,872 (reduced without agreement to reflect error in original level).
July 2012:	The decision of the Commissioner of Valuation was appealed to the Valuation Tribunal.

Appellant's Case

Mr. Eamonn Halpin 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:-

- The property does not share the benefits of other similar office buildings along the nearby Sir John Rogerson's Quay as it is denied profile to the River Liffey and the occupier has very limited and restricted views of the river.
- The subject office building is positioned between two large residential blocks of apartments.
- The location and profile of the subject building would be unlikely to command the attention of the hypothetical tenant having regard to the considerable choice available to him along the waterfront.

- The Tribunal acknowledged in Appeal No. **VA11/3/013 – State Street International (Ireland) Ltd.** that an office building which offers frontage onto the River Liffey in that area is capable of commanding a rental premium over those denied such aspect.
- The foregoing State Street Bank lies directly east of Fitzwilliam Business Centre and, with the benefit of a northern elevation commanding a view of the river, is assessed at a lower rate per sq. metre than the subject.
- The Commissioner has not valued the subject relative to the comparison properties cited by him.
- Mr. Halpin, on behalf of his client, sought consideration of an allowance equivalent to 7.5% of the level of €140 per sq. metre which was used to calculate the Net Annual Value of the State Street Bank premises.

Appellant's Comparison Properties

Comparison No. 1

Property: State Street International (IRL) Ltd., Sir John Rogerson's Quay.
 Property No: 791037
 RV: €13,860

Comparison No. 2

Property: D'Amico Ireland Ltd., 3rd Floor The Anchorage, Sir John Rogerson's Quay.
 Property No: 2198986
 RV: €455

Comparison No. 3

Property: Update Technology, Portview House. (Described as being located on Thorncastle Road in the appellant's précis, but actually located on Thorncastle Street.)
 Property No: 2177735
 RV: €445

Comparison No. 4

Property: Bridgecom Ltd., Hanover Street East.

Property No: 2107337

RV: €87.27

Based on the foregoing together with additional details on same contained within his précis and the agreement reached with respect to the NIA of the subject relevant property, Mr. Halpin concluded that the rateable value of the subject should now be determined as follows:-

Accommodation	Area m²	€/ m²	NAV
Offices	3,126.41	€129.50	€404,870
Car Spaces	14	€635	€8,890
		Total NAV:	€413,760

Total NAV= €413,760 @ 0.63% = RV€2,606.68

Rounded to: €2,600

Cross-examination of the Appellant

In response to questions put by Ms. Casey and the Tribunal, Mr. Halpin stated that:-

- i. The valuation of the entire building was initially agreed with the appellant's first appointed agents, at an RV of €3,000.
- ii. The generous specification and condition of the premises reflects third generation standards, a common feature with many of his comparison properties but in his view an allowance or discount should be made available to
 - (a) reflect the locational differences between the subject and the comparable properties noted, and
 - (b) to acknowledge the nature of the immediate neighbourhood characterised by mixed residential / office rather than office occupiers and uses.
- iii. The subject continues to overlook a vacant undeveloped site, which in his view would be considered as bearing a negative influence on the value of his client's premises when assessed by the hypothetical tenant.

Respondent's Case

Ms. Roisín Casey then took the oath and formally adopted her précis as her evidence-in-chief.

She acknowledged the agreement of the parties with respect to the location of the premises, the nature, fit-out, standard and specification of the subject relevant property and subsequently reached agreement with the appellant on the floor area calculated on an NIA basis.

Ms. Casey also concurred with the valuation history details submitted by the appellant. She continued with her direct evidence by providing pertinent details on the valuation of six comparison properties which she considered germane to the appeal, as follows:-

Respondent's Comparison Properties

Comparison No. 1

Property: Fitzwilliam Business Centre, Sir John Rogerson's Quay.
 Property No: 2192125
 RV: €3,000

Comparison No. 2

Property: State Street Int. (IRL) Ltd., Sir John Rogerson's Quay.
 Property No: 791037
 RV: €13,860

Comparison No. 3

Property: The Blood Stone Building, Sir John Rogerson's Quay.
 Property No: 2211792 (vacant).
 RV: €1,128

Comparison No. 4

Property: Matheson Ormsby Prentice, Sir John Rogerson's Quay.
 Property No: 2191340
 RV: €1,940

Comparison No. 5

Property: Google Ireland, Barrow Street, Dublin 4.
 Property No: 2210944
 RV: €15,268

Comparison No. 6

Property: Byrne Wallace, Grand Canal Square, Dublin 2.
 Property No: 2207350
 RV: €6,690

Ms. Casey, again referring to her précis of evidence, indicated that she was relying upon the valuation on the building as published in the Valuation List prior to the revision of the subject, notwithstanding the above noted variation on the floor area, the influence of which she considered *de minimis* on the applied rental rate per sq. metre.

Ms. Casey also noted a correction on the details submitted on her third comparison property, namely the Blood Stone Building, wherein she had mistakenly referred to the subject property as having river frontage.

In conclusion, Ms. Casey expressed the view that all of the evidence taken on balance would indicate that the 'tone of the list' for third generation office buildings in the area of the subject is set at €150.34 per square metre.

Valuation by the Respondent

The following represents the amended valuation details of the subject property computed by the respondent, as submitted post hearing and received in writing by the Valuation Tribunal on 28th September, 2012:-

Floor	Accommodation	Area m²	€/ m²	NAV
Ground	Offices	514	€142.36	€73,173.04
First Floor	Offices	451.23	€142.36	€64,237.10
Second Floor	Offices	510.68	€142.36	€72,700.40
Third Floor	Offices	555	€142.36	€79,009.80
Fourth Floor	Offices	555	€142.36	€79,009.80
Fifth Floor	Offices (555 m ² less 14.5 m ² balcony)	540.5	€142.36	€76,945.58
Basement	Car Spaces	14	€635	€8,890
	Total:			€453,965.72

Total NAV= €453,965.72 @ 0.63% = €2,859.98

Rounded to: €2,860

Ms. Casey summarised her evidence by noting again that the subject property, with the concurrence of the appellant, may be described as a modern, high specification, third generation office building without water frontage but landscaped to the rear. She acknowledged that the 14.5 sq. metres of balcony area on the 5th floor of the subject should not be included in the rating calculation. However, she indicated that the outcome following such an amendment exercise did not warrant an adjustment to the rateable valuation calculation already established and agreed by the Commissioner of Valuation but suggested that the appropriate alternative approach would be to:-

- a) Marginally increase the rental rate per sq. metre to be applied on the net internal area of the subject office premises from €142.28 per sq. metre to €142.36 per sq. metre, and
- b) Reduce the rate applied on the parking spaces from €650 p.a. to €635 p.a. / per space.

These amendments were reflected in the correspondence submitted by the respondent to the Valuation Tribunal dated 26th September, 2012.

Cross-examination of the Respondent

In reply to various queries raised by the Tribunal and the appellant, Ms. Casey responded that:-

1. She exercised her powers to revise the subject property in accordance with Section 28(4) of the Valuation Act 2001 and the exercise carried out was not one of apportionment of value, but rather a new revision.
2. As the Revision Officer, she did not see any reason during the revision exercise to change the rate per sq. metre from that previously applying to the property for rating purposes.
3. The Revision exercise was carried out by her in accordance with Section 49(1) of the Valuation Act, 2001.
4. Though she considered the State Street Bank premises a suitable comparison property, she stated that she was not influenced by the locus of that bank building

and its potential influence on the rental rate per sq. metre which should apply to the subject property. Ms. Casey contended that the vacant and undeveloped site adjoining the State Street Bank premises would have a more direct and negative bearing on that bank premises' rental value.

5. Water frontage would be considered desirable by the hypothetical tenant seeking office accommodation in the docklands area, but she added that the State Street Bank premises does not necessarily carry any discernible advantage in waterfront rental terms when compared with the subject.
6. She emphasised again that the rental level of €140 per sq. metre assessed on the State Street Bank premises, i.e. at a lower level than the subject, represents the negative influence of its vacant adjoining site.
7. She accepted that her comparison properties nos. 5 and 6 are superior to the subject and accordingly should be considered with caution as comparables though she expressed the view that they are useful reference properties comprising with others the 'tone of the list'.
8. She acknowledged that her comparison properties nos. 2 and 3 are valued on the Valuation List for rating purposes at levels of €140 per sq. metre and €142.28 per sq. metre, respectively, and their associated parking spaces at €635 each per annum.
9. She added that comparison no. 3 had its rental rate initially assessed at €150.34 per sq. metre but later reduced during representations with the occupier's agent, to €142.28 per sq. metre. Ms. Casey contended that such reduction was attributed exclusively to the entrance of the parking facility located to the rear of that building.

Summations

Both the appellant and the respondent availed of the opportunity to provide summation statements which were a synopsis of the foregoing arguments and positions employed by them in their respective précis of evidence and adduced at hearing.

Findings

The Valuation Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions, both at hearing and post hearing.

The Tribunal finds that:-

1. The 'tone of the list' for third generation office space in the subject Grand Canal docks area of Dublin appears to be refined by reference to two distinguishing characteristics, namely: (a) those third generation office buildings fronting directly onto the Sir John Rogerson's Quay along the south bank of the River Liffey and (b) those office buildings set back, albeit nominally in some cases, from the river.
2. Further segregation of values can be found in the Grand Canal docks area as office accommodations extend further south in the direction of Pearse Street with rental rates per sq. metre appearing to adjust downwards but subject to the inevitable exceptions as evident in some of the comparison properties cited in evidence such as those buildings with high profile and / or extensively glazed double street front elevations.
3. This Tribunal considers the judgment made on the State Street Bank premises - **VA11/3/013 – State Street International (Ireland) Ltd.** by another division of the Valuation Tribunal to be very helpful in the instant case.
4. The subject property fronts Benson Street. The profile of the subject premises is very limited and indeed restricted in most part to those passing by on foot or in vehicle on Benson Street.
5. The Tribunal notes that Benson Street is not a major commercial route or thoroughfare and the immediate area is characterised by mixed residential and office developments.
6. The point made by the respondent with respect to the possible negative influence of the vacant site adjoining the State Street Bank premises is noted and the Tribunal believes that having regard to the propinquity of the subject to aforementioned vacant site, a similar consequence must flow with respect to the impact on the value of the subject premises.
7. The Tribunal concurs with the opinions of the parties that waterfront office / commercial property in the area commands a premium.

8. The Tribunal considers that the adjustment proposed by the respondent during the course of the hearing i.e. to remove the assessment on the 14.5 sq. metre balcony area and reduce the rate applied on the subject parking spaces and marginally increase same on the office accommodation does not correlate with the material she sought to rely upon in her evidence and in particular with comparison property no. 1 in her précis.
9. The Tribunal is of the view that the hypothetical tenant would consider all of the foregoing issues and would conclude, with the benefit of market knowledge, that his / her bid should reflect a reduction, not only from the established 'tone' along the waterfront for like office accommodation, but in addition from the rental level as established at the State Street Bank premises in particular, as well as take heed of the influence of mixed development uses on the subject side of Benson Street, the vacant lot opposite, and the shared reception and common area with the other current tenant in the subject relevant property.

Determination

Mindful of all of the above then, the Tribunal considers that a fair and reasonable rateable valuation on the subject relevant property should be calculated as follows:

Floor	Accommodation	Area m ²	€/ m ²	NAV
Ground	Offices	514	€138	€70,932
First Floor	Offices	451.23	€138	€62,269.74
Second Floor	Offices	510.68	€138	€70,473.84
Third Floor	Offices	555	€138	€76,590
Fourth Floor	Offices	555	€138	€76,590
Fifth Floor	Offices (555 m ² less 14.5 m ² balcony)	540.5	€138	€74,589
Basement	Car Spaces	14	€635	€8,890
	Total:			€440,334.58

Total NAV: €440,334.58 @ 0.63% = €2,774.11

Say €2,770

And the Tribunal so determines.

