

Appeal No. VA02/2/011

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

**Dr. Paul Cosgrave & Dr. Stephen Murphy t/a The Park Clinic      APPELLANT**

**and**

**Commissioner of Valuation      RESPONDENT**

**RE: Surgery at Map Reference 3E Glen Drive, Cabinteely, Foxrock Carrickmines,  
County Dublin**

**B E F O R E**

**John O'Donnell - Senior Counsel**

**Chairperson**

**Patrick Riney - FSCS. MIAVI**

**Member**

**Michael McWey - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 15TH DAY OF NOVEMBER, 2002**

By Notice of Appeal dated the 12th day of April, 2002, the appellant appealed against the determination of the Commissioner of Valuation which fixed a rateable valuation of €295 on the relevant property above described.

The grounds of appeal are that:

"The appellants wish to appeal on the basis that the RV is excessive inequitable and bad in law. They believe that the quantum is excessive given the type and nature and location of the premises. Additionally they contend that the revision of that part of the property that lies outside the boundaries of the original hereditament may be invalid."

The said appeal proceeded by way of an oral hearing which took place on the 14<sup>th</sup> October 2002, the Valuation Tribunal sitting at the Distillery Building, Dublin. Mr. Eamonn Halpin BSc.(Surveying) ASCS., ARICS., MIAVI, Principal of Eamonn Halpin & Co., Chartered Valuation Surveyors & Estate Agents appeared on behalf of the Appellant. Mr Christopher Hicks, District Valuer in the Valuation Office appeared on behalf of the Respondent. Both valuers prepared written summaries of their evidence which they exchanged with each other and gave to the Tribunal in the advance of the hearing. Both valuers adopted their summaries as their evidence in the course of the hearing also.

### **The Appeal**

The property the subject matter of this appeal was first valued in the 1980's and assessed then as having a rateable valuation of £85. This was an agreed valuation following a first appeal. The premises were again revised on the 2001/4 revision at a rateable valuation of £158 (€200.62). This RV was appealed. On appeal the revising Valuer increased the RV by 47% to €295. Against this the Appellant appealed to the Tribunal on the issue of quantum. The Appellant also raised a preliminary issue in relation to the validity of the revision, contending that the Commissioner of Valuation included within the revised valuation, property that was not within the boundaries of the lot described in the Valuation Certificate. However, this ground of appeal was not pursued, by agreement between the parties in advance of the hearing, and accordingly the appeal proceeded by way of appeal against quantum only.

### **The Property**

The property comprises of a single storey bungalow-type structure, which was first constructed in the early 1980's. The purpose (and it is of interest that it is purpose built) is that of local medical centre. It houses a surgery and other incidental facilities for use by medical practitioners in the building in question. It was recently extended, a similar type single storey building being added on.

The Tribunal was provided with photographs of the exterior of the building. It is at the end of a short terrace of commercial units, which include a Spar supermarket. The gross area of the relevant property is 491.9sq. m.; the net area is 357sq. m.

**The Appellant's case.**

Mr Eamonn Halpin gave evidence on behalf of the Appellant. Prior to the hearing he had furnished a submission, which included photographs. Mr Halpin indicated that it was difficult to find a comparative property within the vicinity of the subject property. Of significance was the fact that this property was attached to a small shopping centre which in turn was in competition with a major shopping centre nearby namely Cornelscourt. Accordingly he felt the most appropriate comparison would be to the Aylesbury Clinic, Tallaght which was attached to a small shopping centre, but which was in turn quite close to The Square in Tallaght.

He was aware that there was a large crèche at the other end of the terrace of shops, to which the subject property was attached. In his view, however, this was not a suitable comparator, since it was not comparable with the subject property. He also indicated that the planning permission for the unit permitted its use as a medical centre and he did not believe it could be used for any other use without an application for change of user. It could not be used for offices or for retail without significant modifications.

With regard to the location of the unit he felt that the profile of the clinic was the worst within the terrace of shops, whereas the profile of the crèche building was the best. The clinic was not subject to passing trade located where it was. As well as the Aylesbury Clinic he referred to the Johnstown Medical Centre, a unit in Clonkeen Road, a unit in Finglas called the Finglas Medical Centre, and Beaumont Park Clinic. Under cross-examination he accepted that the Aylesbury Clinic was some considerable distance away from the subject property. He insisted that the crèche in the subject shopping centre was not a suitable comparator. He agreed that there was no evidence either way whether a doctor would pay more to rent a large unit as opposed to a small unit.

In response to queries from the Tribunal, he agreed that the Johnstown Medical Centre was reasonably close. However he felt that it was in a better location and had more access to passing trade. He also felt that it was better finished. There did not appear to be a significant differentiation between the available parking of the Johnstown Medical Centre and the subject property. While he believed that the issue

of passing trade was difficult to quantify, it was more likely that people would be aware of a unit close to or on a main road than a unit located where the subject property was.

### **The Respondent's case**

Mr Christopher Hicks gave evidence on behalf of the Respondent. He adopted the précis previously furnished by him to the Tribunal as his evidence. In his view the only practical approach was to look at the units next door or nearby. He did not think it was in the least bit appropriate to compare premises in Cabinteely with premises in Tallaght. He felt that the crèche was the most appropriate comparator. There should be no reason why this property should be valued higher than the surgery. He also referred to the Johnstown Medical Centre, and to the Physical Therapy Centre near the Leopardstown Inn, a photograph of which was furnished to the Tribunal. In the circumstances he felt that the best comparator was the crèche (The Park Academy) in Cabinteely at the far end of the terrace of units where the subject was located and accordingly felt that the RV €295 was appropriate.

In cross-examination he expressed the view that the Tallaght Clinic was a considerable distance away from the subject property, though he accepted that there was no identical facility within the district area. He did not believe that another retail unit would be suitable to be used as a comparator. He believed the most appropriate comparator was The Park Academy (the crèche). He agreed that he did not appear to have given a net valuation for this property, and had instead valued it on a gross basis. Both valuers agreed however that usually 85% of the gross sq. footage would constitute the net sq footage. He believed the tenant would expect to pay the same rent for both the crèche and the subject clinic. However he had no market evidence supporting his assertion that use as a crèche or a surgery would be more valuable than use as an office.

In response to questions from the Tribunal he accepted that the crèche was probably in a slightly more prominent position and had car parking and access at the front. However he ultimately did not believe that there was a great difference between the crèche and the clinic. He accepted that the crèche had a newer appearance. He accepted that the increase in RV by 47% to €295 was significant, but felt that he was

obligated to use the nearby crèche that had not been available as a comparator in previous circumstances. He felt that there was no distinction in passing trade between the crèche and the clinic of the types under consideration. Moreover he felt that both the crèche and the clinic performed a similar function in that they provided a service to persons living in the neighbourhood. Similar planning requirements were imposed. In addition there would be similar staffing (e.g. nurses) and similar use of certain areas (e.g. a play area) in both of the units. Both sides then made closing submissions.

### **Determination**

The Tribunal accepts that difficulties were encountered in finding a comparator within the immediate vicinity of the subject property. However, while the crèche is undoubtedly closest in location, the Tribunal believes that it is a property that a hypothetical tenant would probably find more attractive than the subject property. The crèche has a more prominent location, albeit that it is the lower floor of the building in question. It is more attractively presented and finished. The clinic on the other hand is to some extent tucked away at the end of a row of shops and has not the most attractive of appearances. The Tribunal also accepts that the Appellant was entitled to consider other premises such as the clinic in Tallaght, notwithstanding how far away it is from the subject matter. The Aylesbury Clinic certainly has a number of features in common with the subject matter; it is in a small shopping centre, which is adjacent to a big shopping centre, it appears to be not dissimilar in size. The Johnstown Medical Centre is much nearer to the subject. However it is undoubtedly smaller and is on a main road.

The Tribunal was supplied with net figures for all of the comparative properties put forward by the Appellant. It is interesting to examine these figures. For example, the Johnstown Medical Centre has a NAV of €5.68 per sq. m. (or €6.69 per sq. m according to the respondent). The NAV for the Aylesbury Clinic is €76.18 per sq. m. No net figure was supplied by the Respondent in relation to the crèche. Applying the 85% rule which both parties appeared to agree was appropriate, the net NAV for the crèche appears to be €110 per sq. m.. In marked contrast to these figures, the NAV on a net basis for the subject property according to the latest RV is €31.22 per sq. m.. In the opinion of the Tribunal this is too high. Given the view of the Tribunal that the subject property is slightly inferior and a less desirable property than the crèche in

question, the Tribunal feels that there should be a substantial reduction in the RV concerned. Accordingly the Tribunal believes that the appropriate figure to apply per net sq. m. is the figure of €102. This produces the following;

$$357\text{sq. m. @ €102 per sq. m.} = \text{€36,414 NAV @ 0.63\%} = \text{€229.}$$

Accordingly the Tribunal determines the RV of the subject property to be €229. The appeal of the Appellant is allowed to this extent and the determination of the Commissioner of Valuation is varied accordingly.