

Appeal No. VA02/2/064

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

Ulster Bank (Irl) Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Map Reference Lot No. 17AB (Third Floor) Naas Road, Fox & Geese, ED: Clondalkin Ballymount, Co. Dublin. County Dublin

B E F O R E

Frank Malone - Solicitor

Deputy Chairperson

John Kerr - FIAVI

Member

Frank O'Donnell - B.Agr.Sc. FIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF NOVEMBER, 2003

By Notice of Appeal dated the 25th April 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €290.00 on the relevant property above described.

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

"(1) The valuation is excessive and inequitable.

(2) The valuation is bad in law."

1. The appeal proceeded by way of an oral hearing, which took place in the Offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 7th July, 2003. The Appellant was represented by Ms. Sheelagh O’Buachalla, BA, ASCS, Director of GVA Donal O’Buachalla, and the Respondent by Mr. Joseph McBride, B.Agr.Sc, MSc, ASCS, MRICS, MIAVI, District Valuer in the Valuation Office.
2. In accordance with the rules of the Tribunal, the parties had, prior to the commencement of the hearing, exchanged their précis and, having taken the oath, adopted them as being their evidence-in-chief.
3. This hearing was conducted in tandem with Appeal No. VA02/2/014 and VA02/2/015 being Modern Plant Ltd, being two unoccupied floors within the same building known as Otter House. Ms. O’Buachalla acknowledged the similarities and common grounds between her client’s Appeal and that of the foregoing. Some discussion ensued between the parties to both Appeals resulting in an agreement between them on the basis of those many common aspects or elements of the submissions of GVA Donal O’Buachalla, Harrington Bannon and the Valuation Office, which were exchanged prior to Hearing, and formally adopted on the day of Hearing by their respective authors as their précis and evidence-in-chief. Ms. O’Buachalla also acknowledged, with the concurrence of the District Valuer and co-operation of Mr. Adrian Power-Kelly of Harrington Bannon, the common features of the two Consultants’ arguments, which might be made in support of their evidence in regard to their respective client’s positions. Consensus was also reached by all parties that the usual procedures of a full Hearing would be relaxed to avoid unnecessary repetition of the presentation of material and evidence by the parties relative to this Appeal. Ms. O’Buachalla, having been assured by the Tribunal that:
 - her précis was formally accepted,
 - its contents were duly noted and regarded,
 - she would be provided with the opportunity to discuss and review photographic images relating to her client’s property,

sought the right to cross-examine, and if necessary be cross-examined by, Mr. McBride.

The Property

The property consists of a suite of offices occupied by Ulster Bank (Irl) Ltd. at third floor level, with raised floors, suspended ceilings and air-conditioning serving a purpose-built layout.

Access is provided beside the large ground floor showroom occupied by Modern Plant from a small lobby with lift. The floor area was agreed at 421 m² net lettable and tenure agreed as leasehold held for a term of 9 years and 9 months commencing 31st October 2001, at an annual rent of €12,995.26 including twelve car spaces, subject to review at the end of year 5. The lease is on an FRI basis and internal partitions, fittings and fixtures and all decorations and internal service layouts were borne at the expense of the tenant but excluding the provision of air-conditioning and raised floors.

History

The RV was assessed at €290 upon first Appeal.

Appellant's Case – Supplemental to certain evidence in Appeals VA/02/2/014 & 015

In support of her client's position, Ms. O' Buachalla stated that the entrance to the Ulster Bank premises had very limited profile and no Ground Floor Reception Area. She confirmed, in reply to Mr. McBride, that the property is serviced and fitted with a lift, air-conditioning and raised floors. She confirmed that the subject Bank was not staffed in the "retail" sense, with tellers, and visits by clients were arranged by prior appointment. She also affirmed that Mr. McBride's Comparison No. 2, i.e. AIB Bank plc, Naas Road, comprises a Banking Hall, but acknowledged that its purpose is limited to serve the needs of commercial customers only.

A discussion ensued between the parties as to the proper approach to adopt and define "Net Lettable Area".

Following some debate, consensus was reached between the Valuers that the gross floor area should be adjusted by a factor of 8.5% to reflect the net internal area of the subject Ulster Bank office accommodation.

Ms. O’Buachalla then argued that the adjustment would then produce a Rate / m² increase from €8.09 to €3.00 based on the analysis of the Valuation Office assessment of the Ground Floor industrial area within the Modern Plant (Otter House) building. She proffered that if the measurement Guidance Notes of the Society of Chartered Surveyors, for calculation of industrial and office areas were employed, the result would indicate that the Ulster Bank (Irl) Ltd. appeal, based on a rental figure of €70 / m² for the 3rd floor office, was reasonable and fair.

Findings

The Members of the Tribunal carefully reviewed both parties’ submissions made prior to and during the Hearing and attentively listened to the arguments made by the Appellant’s Consultant and the District Valuer in this Appeal. The Tribunal concludes that:

- a) The four Comparisons in the GVA Donal O’Buachalla submission, as noted in Appendix 1 attached, were all of particular relevance to the Hearing.
- b) Similarly, those five Comparisons submitted by the Valuation Office, as noted in Appendix 2 attached, were very relevant and useful in establishing an understanding of the parties’ methods of definition and classification of the subject property of this Appeal.
- c) As in the aforementioned Appeals VA02/2/014 and VA02/2/015, the Valuers representing the Respondent and Appellant in this appeal, appeared to differ in interpretation, albeit to a lesser degree, as to the make-up of the Tone of the List in this case.
- d) The Members are familiar with the Champion Sports Ltd. Judgment VA95/1/104 and the relevance of the “Tone of the List” in assessing the Rateable Valuation on the property.

Conclusion

- 1) The subject property, being the third floor in Otter House, is located in an area which the Members feel might more aptly be classified as industrial / commercial rather than office park.
- 2) The industrial component of the ground floor of Otter House cannot be considered in isolation from, or without relevance to, the Appeal.
- 3) The subject floor of the building may best be described or characterised as Third Generation, though the building is located in an industrial / commercial environment.

Determination

Taking all of the foregoing into account, the Tribunal hereby adopts what it considers to be a fair and reasonable rental rate of €70 / m² on the floor area agreed as 421m². The product of these numbers then calculates a net annual value in the amount of €29,470. Applying the appropriate factor of 0.63%, the resultant Rateable Valuation on the subject property would amount to a sum of €185.66. Say €186.00

And so the Tribunal Determines.