

Appeal No. VA04/1/024

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

Gerri Cobbe & Mary McGibney

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Creche at Lot No. Beacon Court 7, 8, 9 The Avenue, Balally, Dundrum Balally
County Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

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

Member

Michael F. Lyng - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF SEPTEMBER, 2004

By Notice of Appeal dated the 2nd day of March, 2004 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €609.00 on the above described relevant property.

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

"On the basis that the RV is excessive inequitable and bad in law."

1. Introduction

This appeal proceeded by way of an oral hearing at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 14th of June, 2004. At the oral hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), ASCS, MRICS, MIAVI and the respondent by Mr. Christopher Hicks, a Valuer in the Valuation Office.

2. Background

The development known as Beacon Court was listed for revision by Dun Laoghaire Rathdown County Council and in January 2003 Mr. Hicks was appointed as the Revision Officer by the Commissioner of Valuation pursuant to section 28 of the Valuation Act, 2001. In July 2003 valuation certificates were issued in respect of 38 properties in those sections of the Beacon Court development known as The Mall and The Avenue. In particular a certificate was issued in respect of the property concerned with a rateable valuation of €609. No change was made at first appeal stage and it is against this decision that the appeal to this Tribunal now lies.

3. Beacon Court

The subject property is located in a new development known as Beacon Court which is located in the Sandyford Industrial Estate located at the junction of Blackthorn Avenue and Blackthorn Road. Over the past several years a number of office developments have been built in Sandyford and it is now one of the most important out-of-town office locations in the greater Dublin Area.

The Beacon Court development when completed will provide a number of office buildings together with a private hospital and clinic, hotel, crèche and accessible car-parking at basement level. The property which is the subject of this appeal comprises Units 7, 8 and 9 The Avenue, Beacon Court.

4. The Appellant's Evidence

Mr. Halpin after having taken the oath adopted his written précis which had previously been received by the Tribunal as being his evidence-in-chief.

In evidence Mr. Halpin contended for a rateable valuation of €359;-

Agreed net area 679.3 sq.metres @ €2 per sq.metre	€5,702
5 Car Spaces @ €254	<u>€1,270</u>
	€6972.60
RV @ 0.63%=	€358.92
Say RV €359	

In support of his opinion of rateable valuation Mr. Halpin introduced six comparisons details of which are set out in Appendix 1 attached to this judgment.

Mr. Halpin said that in arriving at his opinion of value he had regard to section 49(1) of the Valuation Act, 2001:

“49(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.”

Mr. Halpin said that the meaning and intent of section 49 was clear and meant that the property concerned must be valued in line with the assessments of other comparable properties in the same rating area. Since the use of the property concerned in this instance was a crèche it follows that its value must be assessed having regard to the values of other crèches in the Dun Laoghaire Rathdown area. All his comparisons he said were located in the same rating area as the property concerned.

Under examination Mr. Halpin agreed that the subject property was similar in design, construction and finish to the other buildings in The Avenue and The Mall all of which were in office use. He also agreed that the Beacon Court development was constructed to a high standard, was visually attractive and occupied a good location within the Sandyford Industrial Estate.

In regard to his comparisons Mr. Halpin agreed that all his comparisons with the exception of comparisons No.1 and No.3 were former residences located within mainly residential areas. Comparison No.2 was a pre-fabricated structure with a large open play area located close to the Central Park office development on the Leopardstown Road. This crèche he said had capacity for 35 children. The only purpose-built crèche was his comparison No.3 i.e. The Park Academy, Cabinteely which he said was a single-storey structure located in a small district shopping centre. He agreed that the area of this building when measured on the same basis as the subject property was near enough 290 sq.metres and that this net area when valued gave a €105.27 per sq. metre valuation.

Mr. Halpin agreed that section 49(1) did not contain the words “comparable and of similar function” which were included in section 5(1) of the Valuation Act, 1986 since repealed. Mr. Halpin said that the true interpretation of the word “comparable” as used in section 49(1) meant buildings that were similar in use and similar in construction or location. It follows therefore, he said, that crèches should be valued having regard to the values of other crèches. Mr. Halpin said that he did not know if the purchase price of the property concerned was on a proportionate basis different from those prices paid for the office units in The Mall and The Avenue.

5. The Respondent’s Evidence

Mr. Hicks having taken the oath adopted his written précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence Mr. Hicks contended for a rateable valuation of €545 calculated as set out below:

Offices 679 sq. metres @ €125 per sq. metre	=€84,875
Car spaces x5 @ €317.43	=€1,587

Net annual value	= € 6,462
RV @ 0.63%	=€45

Mr. Hicks said that the valuation in the list at the moment was €609 but based on his discussions with Mr. Halpin he had amended his valuation in light of the reduction in the area as agreed.

In support of his valuation Mr. Hicks introduced four comparisons details of which are set out in Appendix 2 attached to this judgment.

Mr. Hicks said that his first three comparisons were office buildings located in The Avenue section of the Beacon Court development. The other comparison was a purpose built crèche in a small low profile shopping centre development in Cabinteely where values were significantly less than those in the Sandyford Industrial Estate. This comparison was also put forward by Mr Halpin – i.e. The Park Academy at Cabinteely. Mr Hicks' area is slightly smaller than Mr Halpin's.

Mr. Hicks said that Beacon Court was a unique multi-purpose development, designed and constructed to a very high standard. All the buildings in The Avenue and The Mall sections were physically identical and hence it was reasonable that they should all be valued at a similar level. Mr. Hicks said that when he first valued Beacon Court at revision stage he had carried out an analysis of all the assessments in Sandyford in order to arrive at what he considered to be the appropriate level of assessment. As far as he was concerned the tone of values of Beacon Court was now established by the fact that 22 out of 38 assessments entered in the valuation list at revision stage were not subject to appeal.

As far as the subject property was concerned the only other purpose built crèche in the Dun Laoghaire Rathdown functional rating area was his comparison D (The Park Academy). In this instance the crèche was valued at €12 per sq. metre but taking into account that the Beacon Court crèche was in a superior location and that the building was of better specification the 10% differential in the rate per sq. metre was fair and reasonable.

Under examination Mr. Hicks agreed that a three-storey crèche might present some operational difficulties. In relation to The Park Academy at Cabinteely Mr. Hicks agreed that this was located in a mature residential area where there would be a demand for this type of operation. When asked whether or not an allowance should be made for quantum Mr. Hicks said that in his opinion no such allowance was justified in this instance. However, that being said he had added a premium for small units of occupation in the Beacon Court area i.e. those units with an area less than 200 sq. metres. Mr Hicks also said that small crèches were no longer considered suitable as they tended to be inefficient in operation.

Decision

The Tribunal has carefully considered all the evidence proffered and arguments adduced and makes the following findings:-

1. Over the past several years Sandyford Industrial Estate has become a major out-of-town location. To that extent there is a substantial amount of comparable evidence available in the Sandyford Industrial Estate vicinity.
2. Beacon Court is a somewhat unique mixed development scheme which by common consent has been constructed and finished to a high standard.
3. The Valuation Act, 2001 which came into effect on the 2nd of May, 2002 set down the principles for valuing properties for rating purposes and the procedures for revision and first appeal stages. Section 49(1) set down the basis for valuing properties at revision stage and dictated that values should be determined by reference to comparable properties in the same rating area. In the absence of any definition in the Act as to what is comparable the word must be interpreted in its normal sense and mean equivalence, likeness or sameness. That being the case, comparable must be interpreted as being similar in use, location and nature of construction or any other factor which will have a bearing on value. The fact that the property by its very nature is not homogenous requires the valuer to use all his skills of analysis to arrive at what he or she considers to be the appropriate level of assessment in each individual case.
4. From all the comparable evidence adduced the Tribunal attaches most weight to that of The Park Academy which is a single storey purpose built crèche. The

Tribunal accepts Mr. Hicks' evidence to the fact that the Beacon Court crèche is superior in terms of location and build quality.

5. It is common case that all the buildings in The Avenue and The Mall are physically identical and no evidence was adduced to show that the price paid for the crèche was proportionately more or less than the price paid for office buildings.
6. Section 63(1) of the Valuation Act, 2001 which came into effect on the 2nd of May 2002 states:

“(1)- The statement of value of property as appearing on a valuation list shall be deemed to be a correct statement of that value until it has been altered in accordance with the provisions of this Act.”

In effect therefore the onus is on the appellant to prove that the valuation under appeal is not correct. Having carefully considered all the evidence adduced the Tribunal finds that the amended valuation of €45 put forward by the respondent is fair and reasonable having regard to the provisions of the 2001 Act.