

Appeal No. VA04/1/064 & VA04/1/065

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

**Electric Paper Ltd.
& Nutricia Ireland Ltd.**

APPELLANTS

and

Commissioner of Valuation

RESPONDENT

RE: Offices at Lots No. 11F (Block 1)/4 & 11F (Block 1)/2 at Deansgrange
Business Park, Kill of the Grange, Cabinteely Pottery, County Dublin

B E F O R E

Frank Malone

Deputy Chairperson

Maurice Ahern - Valuer

Member

Joseph Murray - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF SEPTEMBER, 2004

By Notices of Appeal dated 30th day of March, 2004, the appellants appealed against the determination of the Commissioner of Valuation in fixing rateable valuations of €390.00 (VA04/1/064) and €486.00 (VA04/1/065) on the above described relevant properties.

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

"On the basis that the R.V. is excessive inequitable and bad in law. On the basis that there was no clear revision request that would allow the Commissioner to identify my client's offices as those to be valued given that there are numerous other offices within the development."

With the consent of the parties these appeals were heard contemporaneously and proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay, Dublin, on the 14th July 2004. At the hearing, the appellant was represented Mr Eamonn Halpin, B.Sc. (Surveying), A.S.C.S., M.R.I.C.S., M.I.A.V.I. and Mr Damien Curran, Grade 1 Valuer in the Valuation Office, MRICS, ASCS, BSc (Surv) appeared on behalf of the respondent. Both parties having taken the oath adopted their respective précis which had previously been received by the Tribunal as their evidence-in-chief.

Location

Both properties are located in the Deansgrange Business Park, off Kill Lane, close to its junction with Deansgrange Road and Clonkeen Road.

Description

VA04/1/064 – Electric Paper Ltd – 4th Floor (Penthouse) of 5-storey over basement, semi-detached office development.

VA04/1/065 – Nutricia Ireland Ltd – 2nd Floor of 5-storey over basement, semi-detached office development.

Tenure

VA04/1/064 – Electric Paper Ltd – 25-year FRI lease (5 year reviews) from 1st April 2002 @ €177,713 p.a. – (rent-free period from 1st April 2002 to November 2002).

VA04/1/065 – Nutricia Ireland Ltd - 25-year FRI lease (5 year reviews) from 21st August 2002 @ €229,613 p.a.

Services

All main services connected

Valuation History

At revision stage in August 2003 the rateable valuation of the properties was determined at €390 (VA04/1/064 – Electric Paper Ltd) and €486 (VA04/1/065 – Nutricia Ireland Ltd) and Valuation Certificates issued in accordance with section 28 of the Valuation Act, 2001. No change was made at first appeal stage in March 2004 and it is against these decisions by the Commissioner of Valuation that the appeals to

this Tribunal now lie. The issue of quantum was the only issue pursued in the appeals before this Tribunal

Appellants' submissions

- RV is excessive when viewed against a broad basket of comparisons in locations superior to that of the subject properties.
- No dispute about the quality of the subject building. Accepts that offices are a very good quality.
- Location at Deansgrange inferior to others in Dunlaoghaire / Rathdown- location is moderate
- Site undergoing redevelopment and more an industrial site than an office development.
- Block dissimilar to rest of buildings on site
- Moderate location and industrial nature of site should be stressed.
- Valuation on car space is excessive
- Secondary location, as opposed to locations near the city centre.
- Crucial factor is the comparative method of evidence, of actually comparing one property with another.
- Respondent's valuations are in the list. Yet no evidence to show how the valuations were determined. No evidence to show how the tone or levels were set. Don't automatically have to accept them. One cannot say they are absolutely correct.

Appellants' Comparisons (set out at Appendix 1 to this judgment)

1. Paradigm House, Dundrum Office Park. Best comparison. Modern office block in good location in the centre of Dundrum village. Building not to the same standard of fit out as subject properties. Profile of building is of moderate nature.
2. Irish International Sales, Rathdown Hall, Upper Glenageary Road. View of Dublin Bay. High profile. More of a shopping centre than an office block.
3. M2S Ireland Ltd., 62-63 Lr. Mounttown Road, Dun Laoghaire. 2 story offices. Profile poor. Did not stop it achieving a very high rent.
4. Softech Telecom, South County Business Park, 1H Carman Hall, Leopardstown. Building inferior to subject properties in fit out. No raised floors or air conditioning.
5. Lot 24-32 Temple Road, Blackrock. Fit out inferior to subject properties. No air conditioning or raised floors. Because of location has high rental capacity.
6. 7-8 Haddington Terrace, Dun Laoghaire. Older building and fit out inferior to subject properties.

Mr Halpin contended for the following valuations:

VA04/1/064 – Electric Paper Ltd

Estimated NAV based on the established tone of the list as at 1st November 1988 tone

Agreed net area 551.4 sq.m @ €5.67 = €2,752.43

6 car spaces @ €126.97 = € 761.82

Total NAV = €3,514.25

RV @0.63% = €37.13 say ~~RV~~ €37

VA04/1/065 – Nutricia Ireland Ltd

Estimated NAV based on the established tone of the list as at 1st November 1988 tone

Agreed net area 652.4 sq.m @ €5.67 = €2,415.00

26 car spaces @ €126.97 = € 3,301.00

Total NAV = €5,716.00

RV @0.63% = €14

Respondent's Submissions

- Accepted by everyone that the offices are of the highest quality.
- Six comparisons given and the most important are the first three. These units are in the same office development and have a high profile onto the main street.
- None of Mr. Halpin's comparisons compare quality-wise with subject properties and also the subject properties are better fitted out.
- Offices have high profile onto the street.
- Building is of high quality with air conditioning, raised access floors and suspended ceilings.
- Site of subject properties will be developed in the future. Nevertheless properties were valued "*rebus sic stantibus*".
- Tone of the list is established with first 3 comparisons. These valuations have not been challenged.
- Locations of appellant's comparisons more difficult to access than subject properties.

- Location of subject properties is good as there is easy access to the Bray dual carriageway.
- 5th comparison at Carysfort Avenue, Blackrock is identical with subject properties with raised access floors, suspended ceilings and air conditioning.
- Cannot compare with primary locations in Dublin city centre as it is a different market. Moreover comparisons must be in the same rating authority area. Not only a question of different locations, but also different markets.
- In comparison number 6 car spaces value lower because of shared vehicle and pedestrian access with McCormacks pub. Quality of the comparison generally inferior to subject properties with poor profile. Reduction for car space.

Respondent's Comparisons (set out at Appendix 2 to this judgment)

Numbers 1,2 and 3 are very good as they are located in same office block as subject properties. "Tone of the list" appears to indicate a value of €109 per sq. metre. This is what the appellant has to compete with.

Mr Curran contended for the following valuations:

VA04/1/064 – Electric Paper Ltd

Offices 551.40 sq.m @ €109.34

6 car spaces @ €222 per space

= €61,622.74 RV €390

VA04/1/065 – Nutricia Ireland Ltd

Offices 652.42 sq.m @ €109.34

26 car spaces @ €222 per space

= €65,716.00 RV €486

Conclusion

On the evidence presented, the Appellant's comparisons are not as good as the subject properties with regard to location, quality and access. The subject properties have a

very good location on the Clonkeen Road with easy access to the Bray dual carriageway. Respondent's comparisons are better. Comparisons numbers 1, 2 and 3 are in the same office block as the subject properties and these values have not been challenged, and appear to indicate an established "tone of the list".

Values on the list appear to establish a mean or "tone" value in the particular office development in Deansgrange. As regards the correctness of values appearing on the List –section 63 of the Act states:

"the value of property as appearing on a valuation list shall be deemed to be a correct statement of that value."

The Appellants' comparisons appear to be out of line with "the tone of the list" and are generally of poorer quality than the modern office block in which the subject properties are situated.

Determination

(a) VA04/1/064 - Electric Paper Ltd

In view of the foregoing and having taken all the evidence into consideration the Tribunal considers the Valuation contained in Mr Curran's précis to be fair and reasonable and that the Rateable Valuation of €390 is fair and reasonable and should be affirmed.

The Rateable Valuation of €390 is affirmed.

(b) VA04/1/065 - Nutricia Ireland Ltd

In view of the foregoing and having taken all the evidence into consideration the Tribunal considers the Valuation contained in Mr Curran's précis to be fair and reasonable and that the Rateable Valuation of €486 is fair and reasonable and should be affirmed.

The Rateable Valuation of €486 is affirmed.

And the Tribunal so determines.