

Appeal No. VA04/2/049

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

Tridelta Development Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse/Warerooms at Lot No. 1A/A2A/Unit F7, Maynooth Business Campus, Moneycooly, Maynooth, Celbridge 1, County Kildare

B E F O R E

John Kerr - BBS. ASCS. ARICS. FIAVI

Deputy Chairperson

Maurice Ahern - Valuer

Member

Joseph Murray - B.L.

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 12TH DAY OF JANUARY, 2005

By Notice of Appeal dated the 17th day of May, 2004, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €105.00 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. On the basis that there is no clear intention to value the unit occupied by my clients."

At issue

Quantum.

The second ground of appeal stated in the Notice of Appeal, namely “*On the basis that there is no clear intention to value the unit occupied by my client*” was not included by the appellant as a ground of appeal in his précis of evidence to the Tribunal and was not pursued by the appellant nor addressed by the respondent at the hearing of the appeal.

The appeal proceeded by way of an oral hearing, held in the Offices of the Tribunal, Ormond House, Ormond Quay, Dublin, on the 22nd September, 2004. The appellant was represented by Mr. Eamonn S. Halpin, BSc., (Surveying) ASCS., MRICS., MIAVI., and the respondent by Mr. Ian Power, BSc., Property Management & Valuations, MIAVI., Valuer in the Valuation Office.

In accordance with the Rules of the Tribunal, prior to the commencement of the hearing the parties had exchanged their respective submissions to the Tribunal. From the evidence so tendered the following emerged as being the facts relevant and material to this appeal.

The Property

The property is described as a standard terraced unit within Maynooth Business Campus comprising warehouse accommodation with two storey offices / laboratory section to the front. The unit is finished to a high standard and is built with blocks to eaves height, the latter which varies in the warehouse, with 7.5 metres to the rear and 3.5 metres to the front. The roof is of metal deck construction. The office accommodation area within is fitted with suspended ceilings and recessed lighting. The warehouse area features electronically controlled roller shutter doors. The unit is one of a number newly developed within the Business Park, which is located off the M4, the main arterial route to the west out of Dublin and some minutes drive from the M50 motorway and approximately 24 km from Dublin city centre. There are a number of similar type units within Maynooth Business Campus.

Access to the warehouse is provided through the front elevation of the building located under the first floor offices and it was noted accordingly with reduced headroom.

Tenure

The property is held under 20 year FRI Lease from the 5th September, 2002, at an annual rent of €36,000, with five year rent reviews and a break option in favour of the tenant every five years.

Valuation History

- 15th May, 2003. Revision Officer appointed to value a number of new units within Maynooth Business Campus.
- 22nd May, 2003. Property inspected by Revision Officer, Mr. Ian Power.
- 10th September, 2003. Valuation Certificate issued fixing RV at €105.00.
- 17th October, 2003. Appellant appeals valuation through Eamonn Halpin & Company with subsequent discussions held with the Revision Officer, Mr. Ian Power, relating to the quantum failing to produce consensus or agreement, following which, on 20th April 2004, the Commissioner of Valuation issues result of first appeal with RV unchanged at €105.00.
- 17th May, 2004. Appellant filed an Appeal against the decision of the Commissioner through Eamonn Halpin & Company to the Valuation Tribunal.

Appellant's Case

At the invitation of the Chairperson, Mr. Halpin assumed his position in the stand, took the oath, formally adopted his précis as his evidence-in-chief and provided the Tribunal with a review and synopsis of his submission. He commenced by noting three amendments or minor changes to be made to his précis, as follows:

Page 5 Location: Subject property is located approximately 15 miles from Dublin city centre.

Page 5 Purchase Price: The unit was purchased from the developers by the Lessor for €24,000 plus VAT, in or about 2002.

Page 9: Comparison No. 6 is identified by its occupier, Coldchain Limited.

Mr. Halpin then reviewed his précis of evidence indicating that the warehouse section, offices and laboratory are not particularly special or superior. He sought to assert the fact that the unit is not fitted with an air conditioning system. He proceeded by indicating that the greatest

concentration of industrial development in Co. Kildare is located in the Naas and Newbridge areas and not in Maynooth. He indicated that there exists a vast array of comparative evidence to support the “Tone of The List” which may be developed from actual rents passing, all at significantly lower levels than those for Dublin city and county. Mr. Halpin specifically addressed his concerns to the Tribunal with regard to the role of the Revision Officer in this particular case stating that the same Officer effectively carried out the function of Appeal Valuer during the course of the first appeal.

He also indicated that the estimated NAV, as applied by the Valuation Office, was incorrect and excessive when one considered the actual rent passing and capital values, both of which are very moderate, he stated, in this circumstance. He stated that the NAV does not conform with the established tone of the list for similar type new units, as set out in his comparisons attached hereto as Appendix 1 and which include: No. 1, a new industrial unit at Clane Business Park; No. 2, an industrial unit built in approximately 1997, almost directly across the street from the foregoing; No. 3, built in approximately 1996, being an industrial unit in Leixlip; No. 4, a new industrial unit at Maudlins Industrial Estate; No. 5, being a new industrial building, again in Newbridge; and No. 6, being an older traditional industrial unit comprising a workshop and offices, also in Newbridge. Mr. Halpin emphasised that the comparisons noted in his précis more accurately reflected the correct tone of the list to be adopted in this case.

Mr Halpin argued that the location of the subject is moderate, as demonstrated by the lack of demand for units in the Maynooth Business Campus and would be considered as vastly inferior in location terms to others closer to and within Dublin. On the basis of all of the foregoing he sought to have the quantum reduced to a level to reflect his opinion and calculations of a suitable tone of the list based on the following valuation approach and calculations:

Valuation

Estm. Nav based on the established tone of the list (Nov 1988)		
Offices 207 sq. metres @ €41 per sq. metre	=	€8,487
Warehouse 168 sq. metres @ €30.75 per sq. metre	=	€5,166
Access to warehouse (reduced headroom) 68.5 sq. metres @ €23.87 per sq. metre	=	€1,635
(3.2 metres approx)		
Total Nav	=	€15,288

Page 2: Final sentence should refer to Appendix 3 and not to Appendix 2.

Page 3: Under heading “Tenure”, the lease commenced on 5th September, 2002, at an annual rent of €36,000 for a term of 20 years, with five year reviews and a five year break clause.

Page 4: Warehouse total GEA of 236.54 sq. metres should read at €41.00 per sq. metre and not €54.67, as typed. The NAV estimated at €21,000 by the Valuation Office produced a rateable valuation of €105.00, which the written précis indicated reflects the established tone of the list within the Maynooth Business Campus and the “excellent circulation area and ample parking available there”. Mr. Power also provided the Tribunal with a signed and dated copy of his précis.

Mr. Power’s first two comparisons are both within the same block as the subject of this Appeal and both contain office and warehouse space with comparison No. 2 also including some 36 sq. metres for a workshop area. Example No. 3, being Earthbridge, was described as an older building, semi-detached, across the road from the subject and not in as good condition with lower eaves in that warehouse. His comparisons No.s 4 and 5 were described as offices and warehouses with either mezzanine or first floor stores in Collinstown Industrial Estate at Leixlip, the former being in the same location as comparison No. 3 in Mr. Halpin’s précis and the latter having the same occupier, but within a different unit. Mr. Power indicated that when these two units were valued there was no access at that time on to the M4 and indeed ingress and egress was to a very poor standard. He also indicated that his comparison No. 6, containing offices, warehouse and showroom is situate about a mile outside the village of Clane, about 10 miles from Maynooth and consequently not near the M4, and accordingly deeming it a poorer location than the subject. The foregoing comparisons are attached hereto as Appendix 3.

Mr. Power contended that the Valuation Office carefully followed the statutory provisions of the Valuation Act, 2001 in terms of:

- (a) seeking out and reporting on appropriate comparison properties within the same Rating Authority area as the subject, and;
- (b) his own services rendered to the process during Revision and Appeal stage.

Cross-examination

Mr. Halpin commenced cross-examination of Mr. Power and in reply to a query he confirmed that all of the comparisons set out by him in his précis of evidence represented rateable

valuations based on agreements following revision, with two of those comparisons relating to revisions pre-dating 2001. Mr. Power also confirmed his opinion that Naas and Newbridge are perceived as the primary industrial locations in Co. Kildare. He repeated that his comparisons were drawn from locations within about four miles of the subject and accordingly, he felt that they offered a good basis for the tone of the list. In reply to Mr. Halpin, he said that Maynooth may not be considered a strong industrial development centre. Mr. Power suggested that the subject should be viewed as superior to Clane, in terms of location and access. He affirmed that he was required to use and used the established tone of the list and that the figures he used reflected market conditions. Mr. Halpin queried Mr. Power on how the subject property would apparently command a 33% premium for office area rental rates when compared to offices in Clane but Mr. Power indicated that he did not identify or perceive such a vast difference between the two areas. The parties continued to debate their respective positions set out in their written submissions and in particular the ceiling and eave heights of the subject. Mr. Halpin endeavoured to highlight the restricted uses associated with the limited and varying ceiling heights. Mr. Halpin spoke of and drew reference to the Revision Officer's report, which drew on information on a property located outside the Rating Authority area, namely Calmount Business Park identified as property No. 2 of the comparisons used on the earlier revision of the subject, an exercise not permitted under current legislation. Notwithstanding, Mr. Halpin then sought Mr. Power's consideration to support a reduction on the assessed RV of the subject warehouse area (currently levied by the Valuation Office at €41/ m²) to correspond with the rate per metre of €27.34 apparently levied on that aforementioned Calmount property and to further correspond with his own Comparison No. 1 being the Flomeaco premises located at the Clane Business Park which contained, among others, ground floor stores area with reduced headroom of 305m² assessed apparently by agreement at €27.34 per sq. metre also. Mr. Halpin felt these respective warehouse properties bore similar characteristics and accordingly merited similar RV assessments.

Mr. Halpin also received confirmation from Mr. Power that no representations were made on comparison No. 1 or No. 2 in the Valuation Office's submission and the former also queried if a reduction on the subject at the date of First Appeal would have caused a consequent worry for the Valuation Office on those two established RV's. In response, Mr. Power suggested that no reduction should be allowed on the subject because of the evidence produced by him from the tone of the list. Mr. Halpin summed up with the following:

- Location being the Maynooth Business Campus.
- The property is of good quality.
- No evidence of there being in the category of the subject property, a premium of approximately 33% higher applying to Maynooth Business Campus over the Clane location as noted, but acknowledged that there should be a small, albeit very limited, premium.
- NAV should be established on the subject by reference to the tone of the list and not to the two comparison units which were assessed and agreed within the Park without challenge.
- The subject is not air-conditioned.
- The subject is a modern structure but similar to many others.

Mr. Power summed up by stating:

- The subject is a high quality building in a top class location.
- The tone of the list was properly employed to establish the NAV.
- The appellant effectively had only one comparison to rely upon within four miles of the subject, which he contended was the appellant's primary source property to establish a tone of the list, in this case.

Findings & Conclusion

Immediately following the hearing, the Tribunal conducted a review of the evidence and submissions made, considered the various arguments adduced at the hearing, and then reconvened to deliver an oral decision to the parties in this case. In summing up the opinion of the Tribunal, the Chairperson noted all of the evidence and in particular the efforts of each party to put forward cogent arguments to support their respective positions. The Chairperson also acknowledged the difficult challenge both parties had in completing their tasks under the aegis of the new statutory provisions set out in the Valuation Act, 2001 and acknowledged the well-reasoned arguments of both Valuers.

In this case, the Tribunal found that in regards to the two comparison properties noted within the Maynooth Business Campus, the RV's were apparently established without challenge or Appeal under the new Act. The Tribunal was also aware of the different views between the Valuation

Office and the appellant in terms of employing comparisons subjected only to the revision process and to those which have been processed through the rigours of Appeal. In reaching its conclusion the Tribunal has kept in mind other similar properties within the Park, the configuration and layout of the subject building with its reduced ceiling heights in some of the warehouse area, and finally, has considered all the evidence provided at Hearing in relation to the established tone of the list.

Conclusion

Relying upon agreement between the two parties at Hearing in relation to the areas demised for offices, warehouse at the rear and warehouse to the front, all totalling 443.5 sq. metres, the Tribunal hereby calculates the following:

	<u>Rate per sq.metre</u>	<u>NAV</u>
Offices (Areas 1 & 4) 207 sq. metres	@ €45.10 per sq. metre	= €9,335.70
Warehouse (Area 3) 168 sq. metres	@ €41.00 per sq. metre	= €6,888.00
Access to warehouse (reduced headroom) (Area 2) 68.5 sq. metres @ €24.47 per sq. metre (3.2 metres approx)		= €1,676.19
	Total NAV	= €17,899.89
	@ 0.5%	= RV €89.50

SAY RV €89.00

And the Tribunal so determines.