

Appeal No. VA06/2/010

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

John Player & Sons Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office(s), Warehouse/Warerooms, Tank(s) at Lot No. Unit 56, Park West Industrial Estate, Gallanstown, Cherry Orchard C, Cherry Orchard, County Borough of Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Joseph Murray - B.L.

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 18TH DAY OF SEPTEMBER, 2006

By Notice of Appeal dated 13th April, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €2,993.00 on the above described relevant property.

The Grounds of Appeal are set out in a letter accompanying the Notice of Appeal a copy of which is contained in Appendix 1 to this judgment.

1. This Appeal came before the Tribunal by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 15th June, 2006. At the hearing the appellant was represented by Mr. David O'Neill, FRICS, FSCS, MIAVI, an Associate Director with Hamilton Osborne King. The respondent, Commissioner of Valuation, was represented by Ms. Orlaith Ryan, a District Valuer in the Valuation Office.

The Property Concerned

2. The property concerned is a modern detached industrial premises built to a high standard of specification and finish in 2003 and occupying a good profile location on the main estate road in Park West Industrial Estate.

Location

3. The Park West Industrial Estate is part of an extensive mixed development containing the Park West Office Park and an extensive residential complex located about 7.2km south west of Dublin city centre and within 1km of the M50/Naas Road interchange. Access to Park West is off the Nangor Road, Killeen Road and the new Cloverhill Road linking to the N4 at Liffey Valley Shopping Centre. The estate is well served by public transport facilities and has the benefit of an onsite rail station fed by the Arrow network and within 10 minutes of Heuston Station. There is also a private feeder bus service which runs to the Naas Road and the City Centre.

The Building

4. The property concerned, which was built to meet the specific requirements of the appellant company, is of metal frame construction and the warehouse accommodation incorporates profile cladding to the side and rear elevations with concrete block walls to the inner elevations of the perimeter walls. The roof is of insulated metal deck construction throughout and the eaves height is approximately 7.5 metres.

5. The production area has suspended strip fluorescent lighting and there are "hi-bay" sodium lights in the warehouse area. The production area is air conditioned and there are also warm air blowers in the warehouse and production areas. Loading access is via four dock levellers with tailgate loading and one ground level roller shutter door.

6. The office accommodation which is located to the front and side of the building is part two storey and part single storey. The fit out includes suspended ceilings incorporating recessed fluorescent lighting, gas fired central heating, perimeter trunking and double glazed uPVC windows. There is also a fully fitted canteen and extensive employee locker rooms and toilets.

7. The entire building is fitted with smoke detectors, a sprinkler system and a high security fence surrounds the building and yard to the rear. There is a fully integrated onsite CCTV system in operation with secure caretaker access gates to the front of the building incorporating a swipe card security system.

Accommodation

8. The accommodation and agreed floor areas measured on a gross external area basis are as set out below:

| | |
|----------------------------|---------------------|
| Offices | 1,914.72 sq. metres |
| Warehouse/Production space | 7,068.48 sq. metres |
| Lean-to Warehouse | 293.65 sq. metres |
| Mezzanine Storage Space | 466.80 sq. metres |

Outside:

| | |
|------------|------------------|
| Pump house | 33.50 sq. metres |
| Tank | 620,000 litres |

Tenure

9. The property is currently occupied under the terms and conditions of a 25 year full repairing and insuring lease from August 2003 at an initial yearly rent of €865,000 per annum subject to upward only rent reviews at five yearly intervals. The lease provides for a tenant option to break at the end of the 15th year subject to 12 months notification in writing. At the commencement of the lease the tenant was granted an 18 month rent free period.

Rating History

10. On the 9th May, 2005 a valuation certificate pursuant to Section 29(1) of the Valuation Act, 2001 was issued to the effect that the revision officer proposed to value the property concerned at a rateable valuation of €2,993.00. Following representations by the appellant a

valuation certificate was issued confirming a rateable valuation of €2,993.00. No change was made following an appeal to the Commissioner of Valuation and it is against this decision that the appeal to this Tribunal lies.

Appellant's Evidence

11. Mr. O'Neill having taken the oath adopted his written précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief.

12. In his evidence Mr. O'Neill contended for a rateable valuation of €2,375.00, calculated as set out below:

| | | |
|--|------------------------|-------------------|
| Offices (with lift) 1,914.72 sq. metres | @ €58.09 per sq. metre | = €11,226.08 |
| Warehouse 7,068.48 sq. metres | @ €47.86 per sq. metre | = €338,297.47 |
| Side Warehouse 293.65 sq. metres | @ €44.44 per sq. metre | = €13,049.81 |
| Mezzanine | | Nil |
| Tanks | | €7,872.00 |
| Pump house | | <u>€1,448.74</u> |
| Total | | €471,894.10 |
| Less quantum reduction @ 20% (derived from Bunzel letting) | | <u>€94,378.82</u> |
| Total | | €377,515.28 |
| @ 0.63% | | = €2,378.35 |
| Say €2,375.00 | | |

13. In support of his opinion of net annual value, Mr. O'Neill submitted three comparisons, details of which are set out in Appendix 2 to this judgment.

14. Mr. O'Neill said in his evidence that he accepted that there was an established "tone" for valuing premises of a type similar to the property concerned in Park West Industrial Estate. However, the property concerned was considerably larger than any unit so far valued in the estate, and he contended that there should be a quantum allowance to reflect this. Mr. O'Neill said that such an allowance was commonplace in the open market and this was borne out by the evidence he had brought forward. Mr. O'Neill said that larger industrial/warehouse premises were more difficult to let on the open market due to the low level of demand for such premises and in practice rental values on a sq. metre basis were lower for larger

buildings than for standard size units occupying similar locations. Mr. O'Neill said that the concept of a quantum allowance was recognised by the Valuation Tribunal and cited a number of judgments of the Tribunal in support of this argument.

15. Mr. O'Neill said the property concerned was designed and built to meet the particular requirements of the appellant and in his opinion the layout and eaves height would not necessarily be suitable for all potential large space users. This, he said, was borne out by the fact that the premises had been vacant since January, 2005, and to date there had been little interest from prospective tenants. In particular, Mr. O'Neill said, the office accommodation was finished to a fairly basic standard and there was under-provision of dock levellers and other loading and offloading facilities.

16. Under cross-examination Mr. O'Neill agreed that there was an established level of values in Park West for rating purposes regardless of size and eaves height. However, Mr. O'Neill said that the subject property was about 60% greater than the largest of the respondent's comparisons i.e. Comparison No. 1. Whilst he accepted that there was an established tone in the estate this did not necessarily mean that buildings of an unusually large area should be valued at the same rate per sq. metre as that applied to other buildings within the estate. This, he said, was the essential point of his argument.

17. When asked to comment about the Valuation Tribunal appeals introduced to support his argument for a quantum allowance, Mr. O'Neill agreed that only two of the appeals referred to concerned industrial buildings and that both of these were located in rural areas and were much larger than the property concerned. He further agreed that the allowance made was 5% in one case and about 4.2% in the other.

Respondent's Evidence

18. Ms. Ryan having taken the oath adopted her written précis and valuation which had previously been received by the Tribunal as being her evidence-in-chief.

19. In evidence Ms. Ryan contended for a rateable valuation of €2,993.00 calculated as set out below:

| | | | |
|--|---------------------|------------------------|--------------------|
| Offices | 1,914.72 sq. metres | @ €58.09 per sq. metre | = €11,226.08 |
| Warehouse/Production | 7,068.48 sq. metres | @ €47.86 per sq. metre | = €338,297.45 |
| Lean-to | 293.65 sq. metres | @ €44.44 per sq. metre | = €13,049.81 |
| Compressor/utility stores (lower eave): | | | |
| Mezzanine | 466.80 sq. metres | @ €6.83 per sq. metre | = €3,188.24 |
| Pump House | 33.50 sq. metres | @ €44.44 per sq. metre | = €1,488.74 |
| Tank (620,000 litres) | | | = <u>€7,872.00</u> |
| Total NAV Nov 88 | | | = €475,122.32 |

Rateable Valuation = Total NAV @ 0.63% = RV €2,993.27

Say €2,993.00

20. In support of her opinion of net annual value Ms. Ryan introduced 7 comparisons, details of which are set out in Appendix 3 to this judgment. All of Ms. Ryan's comparisons are of recent construction and are located in the Park West Industrial Estate.

21. Ms. Ryan in evidence said that there was a consistent level of valuation in the Park West Industrial Estate regardless of size and variation in eaves height. The property concerned, she said, was built to a high standard of specification and afforded excellent warehouse and office accommodation. Whilst it was larger than other similar buildings within the Park West Industrial Estate, it was not unduly large in the context of the Dublin market and accordingly a quantum allowance, in her opinion, was not appropriate.

22. Under cross-examination Ms. Ryan agreed with the general proposition that there would be a lower level of demand for larger industrial buildings than for smaller ones. When asked if this was borne out by the 18 month rent free period granted by the landlord at the beginning of the lease, Ms. Ryan said this could be so but added that there could also be a number of other factors involved in arriving at this level of inducement.

23. In relation to quantum allowances generally, Ms. Ryan said that in her opinion any such allowance would only arise in the greater Dublin area where the buildings were in excess of 20,000 sq. metres or thereabouts. As far as she was concerned there was no evidence of quantum allowance in the Park West Industrial Estate for rating purposes. In regard to the previous decisions of this Tribunal referred to by Mr. O'Neill, Ms. Ryan said the properties

concerned were located in rural areas and were considerably larger than the property concerned. In both instances the allowance was between 5% and 4% and in the light of this the 20% quantum allowance contended for by Mr. O'Neill in this case was excessive.

Findings

Having considered all the evidence and arguments adduced the Tribunal makes the following findings:

1. It is common case that the property concerned was designed, built and finished to a high level of specification to meet the requirements of the appellant.
2. It is also common case that there is an established and consistent level of valuation within the Park West Industrial Estate and that no allowance has been made for the differences in size or eaves height. This is amply borne out by the comparisons introduced by Ms. Ryan.
3. It is common case that none of the comparisons introduced by Ms. Ryan are of a size similar to the property concerned and that they vary in area from 5,329 sq. metres to 177 sq. metres.
4. It is agreed that the total area of the property concerned is in the order of 9,777 sq. metres.
5. Ms. Ryan, under cross-examination, agreed with the proposition that there would be a lower level of demand for larger buildings but not necessarily for one of the size of the property concerned. Mr. O'Neill contended otherwise and said that this was borne out in the first instance by the length of the rent free period granted at the commencement of the lease and secondly by the fact the building was vacant and to let for the past 18 months.
6. Under Section 49 (1) of the Valuation Act, 2001 the value of the property concerned is to be determined "*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*". In this instance the property concerned is comparable to the comparisons introduced by Ms. Ryan in all respects save as to size. In the circumstances the Tribunal has come to the conclusion that a quantum allowance is appropriate in this instance but not of the magnitude sought by Mr. O'Neill.
7. Mr. O'Neill in his evidence said that the property concerned was designed to meet the specific requirements of the tenant and that the resultant layout may not be suitable

for all other potential occupiers of a building of this size. In particular Mr. O'Neill was of the view that there was an under-provision of dock levellers and other loading facilities. The Tribunal is of the opinion that there is some merit in this regard.

Determination

Having regard to the foregoing the Tribunal accepts Ms. Ryan's valuation subject to a 5% allowance for quantum and other matters.

| | | |
|----------------------------------|-----|-------------|
| Net annual value as per Ms. Ryan | = | €475,122.32 |
| Less 5% | Say | €451,400.00 |
| Rateable valuation @ 0.63% | = | €2,843.82 |

Say €2,844.00

And the Tribunal so determines.