

Appeal No. VA07/2/043 &045

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

**Shoe Rack Ltd. &
Richard Clarke & Co. Ltd**

APPELLANTS

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse/Warerooms at Lot No. 1B/Unit 7 (VA07/2/043), 1B/Unit 9 (VA07/2/045), North Park Industrial Estate, Kildonan, The Ward, Airport, County Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

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

Member

Leonie Reynolds - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF NOVEMBER, 2007

By Notices of Appeal received on the 29th day of May (VA07/2/043) and the 18th day of June (VA07/2/045), 2007, the appellants appealed against the determination of the Commissioner of Valuation in fixing rateable valuations of €406.00 (043) and €723.00 (045) respectively on the above described relevant properties.

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

VA07/2/043 - "On the basis that the RV as assessed is excessive and inequitable and not in line with comparable property already in the list. That the relative worth of the property is such that the RV/NAV as estimated by the Commissioner is out of line with similar type properties in the area."

VA07/2/045 - "On the basis that the RV as assessed is excessive and inequitable and not in line with comparable property already in the list. That the relative worth of the property is such that RV/NAV estimated by the Commissioner is out of line with comparable value properties elsewhere in the rating area and in the immediate vicinity."

With the consent of the parties these appeals were held contemporaneously at an oral hearing held at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 3rd day of September, 2007.

1. At the hearing the appellants were represented by Mr. Eamonn Halpin, B.Sc (Surv.), ASCS, MRICS, MIAVI, of Eamonn Halpin and Company Limited. Mr. Frank O'Connor, ASCS, MRICS, a District Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.
2. Prior to the oral hearing written préces and valuations in respect of the two properties subject to appeal were submitted by the valuers and these were subsequently received into evidence under oath at the hearing. From the evidence so tendered the following material facts were established or so found.

The Subject Properties

3. The subject properties are two recently constructed warehouses located in North Park Industrial Estate which is a new mixed use development on the west side of the N2 close to its intersection with the M50 about 2 kilometres north of Finglas. Within the estate there are a number of light industrial/warehouse buildings of various sizes laid out mainly in terrace configuration.
4. The properties concerned in these appeals are similar in construction and of steel portal frame construction with part concrete block and part steel cladding infill walls under a pitched metal deck roof with an eaves height in each instance of 13 metres. At the front of each building there is a three storey office building.

Rating History

5. On November 13th, 2006 the Revision Officer appointed pursuant to Section 28(2) of the Valuation Act, 2001 issued certificates to the effect that the properties occupied by Shoe Rack Limited and Richard Clarke & Co. Ltd. had been valued at €409 and €17 respectively. Following appeals to the Commissioner of Valuation new certificates were issued on 28th May, 2007 to the effect that the valuation of the property occupied by Shoe Rack Limited had been reduced to €406 and that occupied by Richard Clarke and Co.

Ltd. to €723. It is against these determinations of the Commissioner of Valuation that these appeals to the Tribunal now lie.

Accommodation

6. The accommodation and areas measured on a gross external area basis were agreed as follows:

(a) VA07/2/043

Occupier: Shoe Rack Limited

Areas:

Warehouse: 836 sq. metres

Offices (3 Storey): 367 sq. metres

(b) VA07/2/045

Occupier: Richard Clarke and Co. Ltd.

Areas:

Warehouse (Full height): 680 sq. metres

Warehouse (Under mezzanine): 1,000 sq. metres

Mezzanine Store: 977 sq. metres

Offices (3 Storey): 393 sq. metres

Appellant's Evidence

7. Mr. Halpin in his evidence contended for the following rateable valuations:

(a) VA07/2/043 - Shoe Rack Limited

Warehouse: 836 sq. metres @ €41.00 per sq. metre = €34,276

Offices: 367 sq. metres @ €47.85 per sq. metre = €17,561

Net Annual Value €1,837

RV @ 0.63% = €26

Say €25

(b) VA07/2/045 - Richard Clarke and Co. Ltd.

Warehouse

(Full height): 680 sq. metres @ €41.00 per sq. metre = €27,880

Warehouse

(Under mezzanine): 1,000 sq. metres @ €27.34 per sq. metre = €27,340

Mezzanine Store: 977 sq. metres @ €17.08 per sq. metre = €16,687

Offices (3 Storey): 393 sq. metres @ €47.85 per sq. metre = €18,805

Net Annual Value €90,712

RV @0.63% = €571.48

Say €570

8. In support of his opinions of net annual value Mr. Halpin introduced six comparisons, details of which are contained in Appendix 1 attached to this judgment. Mr. Halpin's comparison No.1 is a mid-terrace unit in North Park Industrial Estate, whilst the others with the exception of Comparison No. 4 are located in other similar developments elsewhere in the same rating authority area.
9. Mr. Halpin said that his comparison No.1 was one of the first units valued in North Park at the 2003 revision and this effectively set the valuation levels for this estate. Whilst the eaves height in this building was 9 to 9.5 metres as against 13 metres in the subject buildings, he was of the opinion that any premium for the extra height would not exceed 10%. This opinion, he said, was borne out by some of his other comparisons where buildings with an eaves height of 11 metres located in similar estates were valued at €41 per sq. metre.

The Respondent's Valuation

10. Mr. Frank O'Connor in his evidence valued the properties concerned as follows:

(a) VA07/2/043 - Shoe Rack Limited

Warehouse: 836 sq. metres @ €54.66 per sq. metre = €45,696

Offices

(Three Storeys): 367 sq. metres @ €51.24 per sq. metre = €18,805

Net Annual Value €64,501

RV @ 0.63% = €406

(b) VA07/2/045 - Richard Clarke and Co. Ltd.

Warehouse

| | |
|------------------------------|---|
| (13 metres high): | 680 sq. metres @ €4.66 per sq. metre = €37,167 |
| Warehouse (Under mezzanine): | |
| (6.5 metres high): | 1,000 sq. metres @ €4.16 per sq. metre = €4,160 |
| Mezzanine Storage area: | 977 sq. metres @ €3.91 per sq. metre = €3,360 |
| Offices | 393 sq. metres @ €1.24 per sq. metre = <u>€20,137</u> |
| Net Annual Value | €114,824 |
| RV @ 0.63% | = €723.00. |

11. In support of his opinions of net annual value Mr. O'Connor introduced six comparisons, details of which are set out in Appendix 2 attached to this judgment. All of Mr. O'Connor's comparisons are units located within the North Park Industrial Estate and are units similar to the property concerned which were valued in the years 2004 and 2006.

12. Mr. O'Connor said that a total of 19 buildings including the properties concerned had been valued on the same day and of these only 4 were subject to appeal to the Commissioner of Valuation. No further appeals have been lodged in respect of two units whilst the other two are the properties concerned in these appeals to the Tribunal. Mr. O'Connor said that in his opinion the assessments made in 2004 and 2006 represented the tone of the list and hence no reduction in the assessments of the subject properties could be justified.

13. Mr. O'Connor under examination agreed that whilst Mr. Halpin had represented the appellants on his comparisons No. 2 and No. 4, he (Mr. Halpin) had not agreed the valuations. Be that as it may, he said, the fact is that the other appellants, for whatever reason, had decided not to take any further action.

14. When questioned about his valuation report prepared for revision purposes and dated 8th December, 2006 Mr. O'Connor agreed that it contained no explicit information as to how he had arrived at his opinion of net annual value in relation to those properties that he cited in his report as being comparable.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced at the oral hearing both written and oral and finds as follows:

(1) The properties which are the subject of these appeals are two warehouses of similar construction and finish in a new development just south of the M50 intersection with the N2, about 2 kilometres north of Finglas.

(2) Section 49(1) of the Valuation Act states:

“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.”

(3) Section 60 of the Valuation Act states:

“A copy of a valuation list or part of such a list which is certified by an officer of the Commissioner, duly authorised by the Commissioner in that behalf, to be such a copy shall, until the contrary is proved, be regarded as a true copy of that list or part.

(2) The production to the Tribunal or a court of a document purporting to be a copy of a valuation list or part of such a list and to be certified as such a copy by an officer of the Commissioner shall, without proof of the signature of that officer or that he or she was an officer of the Commissioner duly authorised by the Commissioner to so certify the document, be sufficient evidence, until the contrary is proved, of the matters stated in the document.”

(4) In rating appeals the onus is on the appellant to prove that a valuation determined by the Revision Officer or the Commissioner of Valuation as the case may be is incorrect. Having regard to Section 49(1) this means that the appellant must show that the valuation is not in accordance with what is known as the tone of the list for properties of a similar mode and construction, etc. as the property concerned. In regard to these appeals the two properties concerned are essentially standard warehouse units within the North Park development. The units in this development were first valued at the 2004 revision at which time units with an eaves height of 9 metres to 9.5 metres were valued at €38.80 per sq. metre and €48 per sq. metre for the warehouse and office space respectively. Subsequently,

in 2006 a further 19 units were valued all of which had 13 metre eaves and of these only 4 occupiers saw fit to appeal and in all instances the appellants were represented by Mr. Halpin. In due course the only appeals to this Tribunal were lodged in respect of the properties concerned.

- (5) As a consequence of Section 49(1) and Section 60 the correctness or otherwise of a challenged assessment must be decided *prima facie* by reference to the levels of valuations appearing in the valuation list. In relation to North Park a number of properties were valued at the 2004 and 2006 revisions and relatively few of these have been challenged and thus it is fair to say that the prevailing levels of value within the estate have been established through acceptance or non challenge.
- (6) Having regard to the foregoing the Tribunal accepts Mr. O'Connor's evidence that the tone of the list has been established in North Park and that the valuations of the properties concerned have been valued in accordance with that tone. Mr. Halpin's evidence and argument whilst well presented and marshalled was not sufficient to show that the tone of the list was incorrect, either in itself or by reference to other similar developments in the Fingal rating authority area, having regard to the location of North Park and the nature and quality of the properties concerned.
- (7) During the course of the hearing reference was made to the valuation reports prepared by Mr. O'Connor at revision stage in September, 2006 in respect of the properties concerned. Whilst each report lists three comparisons there was no indication within the report as to how Mr. O'Connor had analysed his comparisons so listed so as to arrive at his opinion of the valuation of the properties concerned. This absence of analysis is a practice which occurs quite frequently at all stages in the valuation appeal process. Given the heterogeneous nature of property it is the Tribunal's opinion that a valuer must use his/her experience and judgment in order to analyse the facts in relation to each comparison and make such adjustments as are necessary and appropriate to reflect differences in scale, quality, location and/or other relevant factors that may have a bearing on the hypothetical rent of the property concerned. Whilst the above merely represents good valuation practice greater adherence to it would in our

opinion lead to an increase in agreements at representation or appeal stages and, in those cases where the matter comes before the Tribunal, make its task easier. The free exchange of information at all stages in the valuation process can only lead to a greater understanding and acceptance of the assessment of the property under consideration.

Determination

Having regard to the foregoing the Tribunal affirms the valuations of the properties concerned as follows:

(a) VA07/2/043 - Shoe Rack Limited – RV €406.

and

(b) VA07/2/045 – Richard Clarke and Co. Ltd. – RV €723.

And the Tribunal so determines.