

Appeal No. VA07/3/007

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

eBay Europe Services Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office(s), Yard at Lot No. 6.7.8.9AC/2, The Atrium Building, Coolmine,
Blanchardstown Coolmine, Blanchardstown, County Dublin

B E F O R E

Michael P.M. Connellan - Solicitor

Chairperson

Damian Wallace - QFA, MIPAV, Valuer

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF JANUARY, 2008

By Notice of Appeal dated the 4th day of July, 2007 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €4,730 on the above described relevant property.

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

"On the basis that the valuation as assessed is excessive and inequitable given the properties relative value and the established tone of the list for comparable property".

This Appeal proceeded by way of an oral hearing in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 12th day of September and the 4th day of October, 2007. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surv), ASCS, MRICS, MIAVI, of Eamonn Halpin and Company Limited. Mr. Brian O'Floinn, a District Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.

The Property Concerned

The building is comprised of two rectangular five storey blocks with full height dramatic atrium feature. There are 110 surface car spaces to the rear of the building. The agreed net floor area is 6,007.15 sq. metres (including 443.2 sq. metres in the atrium). The offices are finished to a high modern standard with raised access floors and air conditioning as standard (with the exception of the atrium area). There is full lift service to all floors. The ground floor of the RHS office block is fitted out and used as a gymnasium. In addition there are four training rooms, phone booths, inspiration room and in the LHS office block there is a restaurant/canteen and changing room.

Location

The subject property is located on the periphery of the Blanchardstown Shopping Centre near the junction of the slip road from the N3 to the Blanchardstown Town Centre. It is approximately 1 mile from the M50/N3 junction. Access is gained from the Snugborough Road extension. It is about 6 miles from Dublin City Centre.

Tenure

The property is held on a 20 year 1 month FRI lease with 5 year reviews from the 3rd March, 2006 at an annual rent of €1,202,859.80 per annum. The building was fitted out internally by the landlord in accordance with the Sixth Schedule of the said lease, a copy of which Schedule is attached hereto at Appendix 1 to this judgment.

The Appellant's Case

Mr. Eamonn Halpin having taken the oath adopted his written précis and valuation, which had been received by the Tribunal, as his evidence-in-chief. He said that the subject building was a well designed, constructed and laid out building. It was in a reasonably good location in the Blanchardstown complex. It had to be viewed against the general city and county

context. It would be regarded as outer suburban and very moderate in terms of rental value. He said if you devalue the rental by the agreed area it comes out at about €18.60 per sq. foot or €200 per sq. metre. This, he maintained, tells us a lot in isolation in relation to the property and its relative worth as well as telling us a lot in relation to the general location. He maintained that if this building, a third generation building, can only reach €200 per sq. metre then it must be, in the Dublin context, in a moderate outer suburban location.

In reply to a question from the Tribunal, concerning the fact that the building was vacant prior to the lease to the appellant, Mr. Halpin said that the premises were vacant for 2-3 years prior to the letting. He further said that this reflected the poor perception of the outer suburban area as an office location and even in the outer suburbs there would be a preference for areas such as Sandyford because of its proximity to the Luas, etc. He said that the office market in the Dublin 2 and 4 areas had “hotted up” in the last number of years but the outer suburbs, particularly in the West, had fared worst by way of tenant demands. That appeared to be the reason why the premises were vacant. He also said that the adjoining Quinn Building proved difficult to let and was still only partly occupied.

He then referred to an extract from Savills HOK Review Spring 2007, a copy of which was included in his précis and is again set out in Appendix 2 hereto. On page 2 of the extract, under “Offices Market” it says demands are up, supplies are up and values are up. In the context of the article it shows “prime rents”. This, he maintained, is really the key. The Dublin 2 and 4 rents are shown at €560 per sq. metre. The M50 which is loosely where the subject is (the outer edge of the M50) is shown at €220 per sq. metre and Regional at €160 per sq. metre. It is significant, he said, that the appellant’s property was let a year earlier at €200 per sq. metre. It is in and around the amount expected for the outer suburbs.

He went on to state that the very large area of the subject offices (just over 6,000 sq. metres) means that the rental value is reduced vis-à-vis similar smaller units due to the application of a quantum allowance. In the suburbs this letting was a monumental letting. He maintained that the quantum allowance in the outer suburb was higher than in Dublin inner City. The rent in this case is moderate and not out of line with what’s going on in the outer suburbs. He then referred to an extract from the Sunday Business Post of 22nd February, 2004 (contained in his précis and included herein at Appendix 3 hereto). This relates to the Quinn Building.

The rent quoted therein is €215 per sq. metre for the office space and this approximates to €200 per sq. metre in the subject. It's not significantly different from the subject offices.

Mr. Halpin then referred to his 5 comparisons:

1. Comparison No. 1 is the appellant's European Corporate Headquarters in Blanchardstown Corporate Park. This is a very fine 3 storey building which has been extended since first construction. It's about 1 mile from the subject premises. It's very similar to the appellant's premises; in fact it's hard to spot the differences. It is a secure office campus. It has 500 car spaces. It is also a very large building of 7,997.34 sq. metres. The level of assessment in respect of these premises is €82 per sq. metre.
2. Comparison No. 2 is the Interactive Services premises. It is about 1½ miles from the subject property. It's in a slightly more mixed area – partly industrial, partly office. It's not in a secure campus. It is in a recognised office location. It is a high specification building and it's only about a sixth of the size of the subject. The passing rent from 2001 is €2.86 per sq. foot, a better time for office rentals.
3. Comparison No. 3 is Modus Media situated beside Swords in the Airside Business Park. It is approximately 39,000 sq. metres (1st phase 20,000 sq. metres, 2nd phase 19,000 sq. metres). This is in a dedicated and significant office campus. The Kellogg's European headquarters is there and NCR and Ingersoll Rand, etc. have headquarters there also. The Kellogg's building was let in 2006 at €61 per sq. metre. The valuation was agreed at €82 per sq. metre in 2004.
4. Comparison No. 4 is part of the Quinn Building. Its valuation was assessed at €109.54 per sq. metre.
5. Comparison No. 5 is a small office suite occupied by An Bord Glas and close to the subject premises. It's only 380 sq. metres and the valuation was agreed at €16.17 per sq. metre in 2004. It is held on a 25 year lease from 2001 at a passing rent of €14,000 or €300 per sq. metre. The market was stronger in 2001.

Mr. Halpin's estimated NAV/RV based on 1988 tone is as follows:

Offices	6,007.15 sq. metres	@ €82 per sq. metre	€492,586.30
NAV @ 0.63%			€3,103
Say RV	€3,100		

Cross examined by Mr. O'Floinn

Mr. Halpin said that people take a low yield for property in the expectation of making capital gains. In the office section there are different yields and these depend on location or better prospects of either rental growth or capital growth or both. He further agreed that the country we are living in now is vastly different from the country in 1988 in property terms and in the level of the economy. He said that he could not determine if there was a rent free period in relation to the payment of the rent on the subject property. The subject premises are close to Blanchardstown Shopping Centre. In fact a road goes right past the front of the premises. It is close to the Quinn Building. As you approach from the slip road leading into the premises you can clearly see the Quinn Building but you cannot see the front of the appellant's premises. In relation to location his comparison No. 5 is the nearest. The Quinn Building is the second nearest. The eBay main building is the next nearest with the Interactive Services Building in Damastown next in line. Comparison No. 5 is a very small premises, smaller by far than the subject premises. His comparison No. 4 was not a shared tenancy. There was however, a common lobby, lifts, etc. with shared access. The appellant's property was a single letting. He agreed that the building was well constructed and designed. The location was, however, on the edge of Blanchardstown and its value is therefore capped by its location.

The Respondent's Evidence

Mr. O'Floinn having taken the oath adopted his evidence as set out in his précis as his evidence-in-chief. He reiterated that the subject premises was an excellent property and was very impressive. It was finished to a very high standard. He contended that all of his comparisons were valued on a shell basis. In this property there was very considerable expenditure by the tenant for improvements. He contended for two valuations in his précis. The first was for an RV of €4,730 which is the figure set out in the Valuation Certificate from the Valuation List and is under appeal herein.

His second valuation, an alternative valuation was for an RV of €5,255 which included improvements of over €8 million. He said that he was relying (in support of this approach) on the Tribunal decision in **VA97/2/009 - Ulster Bank (Terenure Road East)** heard on the 4th February, 1998. He said that he took 5% of the expenditure for improvements which amounted to €13,115. He pointed out that there was a huge expenditure on improvements and that he got the figure from a Mr. Jack Meehan, an employee of the appellant company.

He said that his comparisons were in the local area and were very close to the subject premises.

His Comparison No. 1 is from the Quinn Building and is part of an eleven storey office block. This devalued at €109.34 per sq. metre. Comparison No. 2 is Cape House which is in the Westend Office Park. This also devalues at €109.34 per sq. metre. It is close to the subject premises but is inferior in profile and appearance. It is a third generation 3 storey office building with a car park for 200 cars. This building was valued on a shell basis. He reiterated that he was valuing the subject premises not in its shell state but rather in its actual state. The actual state is the state which was brought about by and after the expenditure of over €8 million. This, he pointed out, was the root of the case as far as he was concerned. In reply to the Tribunal, Mr. O'Floinn explained that the €8 million expended on improvements included ceilings, wiring, carpets, in other words everything which he saw. At this stage, after some consideration, the Tribunal adjourned the hearing to enable Mr. Halpin to obtain a copy of the lease and further information as to details of the expenditure of €8 million.

At the resumed hearing on 4th October, 2007 a certain amount of documentation was made available including a photocopy of the certified copy of the lease, and by agreement with Mr. O'Floinn, a copy of a letter dated 1st October, 2007 from KMCS, the Project Managers and Quantity Surveyors of the fit out of the subject premises, a copy of this is attached at Appendix No. 4 hereto. By way of an explanation, Mr. Halpin stated that the premises were not a shell premises and that the rent was not a shell rent. He referred to page 37 of the said lease wherein the Sixth Schedule referred to therein sets out in detail the Landlord's Schedule of Finishes – (see Appendix 1 hereto).

The letter therein from KMCS, he said, threw some light on the expenditure of €8 million. The construction costs come to over €3 million. Over €4.8 million was expended on lighting, emergency lighting, fire detection, etc., and this included the fitting out of a cafeteria, coffee dock and tea stations. He maintained that the fit out incurred by the landlord was €1.35 million and that this sum covered the items set out in the Sixth Schedule of the Lease. This took the building, he said, to the normal acceptable standards that any tenant would have gone in at. The remaining €6.5 million was actually spent to customise the building to the appellant's requirements. He also pointed out that in the lease there was a condition that in the event of a surrender of the said lease the appellant could be asked to return the building to

the state it was in when they first leased same. Mr. O’Floinn continued his evidence and said that he was valuing the premises as he found them, which was the actual state of valuation. It was not in a shell state but in a finished state. He again pointed out that when he valued the premises the appellant was in occupation and using the premises as their business premises.

Cross examined by Mr. Halpin

Mr. O’Floinn said that none of his comparisons were valued to include a sum for “improvements” but that this was, in his opinion, an error. He further said in relation to Mr. Halpin’s comparison No. 1 (eBay’s main office headquarters in Blanchardstown Corporate Park) that he could not say if a figure for “improvements” was included in the valuation. After further cross examination by Mr. Halpin, Mr. O’Floinn informed the Tribunal that he was not relying on his second or alternative valuation. He was not contending for an increase in valuation over and above the figure of €4,730 as set out in the Valuation Certificate.

Findings

The Tribunal having carefully considered all of the evidence and arguments adduced by the parties make the following findings:

1. The subject premises is a large, modern, well built, well designed and fitted out premises.
2. It is located on the periphery of Blanchardstown Shopping Centre. This is a moderate secondary/tertiary outer suburban location in terms of the Dublin market.
3. The premises were vacant for a period of 2-3 years prior to the letting to the appellant.
4. Because of its large size a quantum allowance must be made.
5. Mr. Halpin’s comparison No. 1, eBay’s European Corporate Headquarters, is the most similar in size to the subject and is the best comparison and it was valued in 2005 at €82 per sq. metre. However, the subject property is in a better location within Blanchardstown and is somewhat better and more recently completed than Mr. Halpin’s Comparison 1.
6. The comparisons offered by the respondent are both valued at €109.34 per sq. metre and are much smaller premises. Comparison No. 1 is 2,516 sq. metres and Comparison No. 2 is 2,787 sq. metres.

Determination

Having regard to the above findings, the Tribunal determines the rateable valuation of the subject property to be €3,785, calculated as set out below.

Offices	6,007.15 sq. metres	@ €100 per sq. metre	€600,715
NAV @ 0.63%			€3,784.50
Say RV	€3,785		

And the Tribunal so determines.