

Appeal No. VA08/5/003

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

Heiton Buckley Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 401814, Store at Robinhood Road, Clondalkin, County Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Brian Larkin - Barrister

Member

Patrick Riney - FSCS.FIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF OCTOBER, 2008

By Notice of Appeal received on the 11th day of June, 2008, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €699,000 on the above-described relevant property.

The Grounds of Appeal are set out in a letter enclosed with the Notice of Appeal, a copy of which is attached at Appendix 1 to this Judgment.

1. At the mutual request of the parties, the oral hearing in relation to this appeal was held contemporaneously with that in relation to appeal reference **VA08/5/004**. The oral hearing was held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 29th day of July, 2008.
2. At the oral hearing the appellant was represented by Mr. Thomas Davenport, ASCS, MRICS, Chartered Surveyor of Lisney Estate Agents, Auctioneers and Surveyors. Ms. Claire Callan, BSc, a District Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation. Mr. Seamus Connolly, Managing Valuer, Revaluation Unit, Valuation Office, also gave evidence.

Property Concerned

3. The property concerned in this appeal is a builders providers premises comprising of a two-storey office building, showroom, sawmill and timber preparation shed, a number of warehouse buildings and surface storage area located on the southern side of Robinhood Road immediately adjacent to the Robinhood Industrial Estate.
4. The Robinhood area is a long established industrial/warehouse location convenient to the Naas Road, Long Mile Road and the Lower Ballymount Road where there are a number of large industrial estates.

Accommodation

5. Immediately before the oral hearing the witnesses agreed a common schedule of areas measured on a gross external area basis as follows:

Showroom - 1,075 sq. metres

Offices and Canteen - 913.70 sq. metres

Warehouses and Stores - 4,649 sq. metres

Canopy - 124 sq. metres

Portacabin - 93.60 sq. metres

Surface Storage Yard - 8,000 sq. metres

Rating History

6. On 5th June, 2007 the Valuation Office issued a Valuation Certificate to the effect that it was proposed to value the property concerned at a rateable valuation of €699,000. Following unsuccessful representations by the appellant a Valuation Certificate was

issued on 12th September, 2007 confirming the rateable valuation at €699,000. The subsequent appeal to the Commissioner of Valuation was unsuccessful and it is against this decision by the Commissioner of Valuation that the appeal to this Tribunal lies.

Appellant's Evidence

7. Mr. Davenport having taken the oath adopted his précis of evidence and valuation which had previously been received by the Tribunal and the respondent as being his evidence-in-chief.
8. In his evidence, Mr. Davenport contended for a rateable valuation of €505,000.00 calculated as set out below:

| | |
|---------------------|---|
| Showroom | 1075 sq. metres @ €80 per sq. metre = €86,000.00 |
| Offices and Canteen | 865 sq. metres @ €80 per sq. metre = €69,200.00 |
| Office | 48 sq. metres @ €60 per sq. metre = €2,880.00 |
| Warehouses & Stores | 4649 sq. metres @ €60 per sq. metre = €278,940.00 |
| Canopy | 124 sq. metres @ €10 per sq. metre = €1,240.00 |
| Portacabin | 93.60 sq. metres @ €32 per sq. metre = €2,995.00 |
| Yard | 8,000 sq. metres @ €8 per sq. metre = <u>€64,000.00</u> |
| Total | = €505,255.00 |
| NAV Say | €505,000.00 |

The above figure is slightly higher than that contained in his written précis as a result of agreeing the schedule of areas.

9. In support of his opinion of net annual value Mr. Davenport introduced three comparisons, details of which are contained in Appendix 2 attached to this judgment.
10. In his oral evidence Mr. Davenport said that the property concerned consisted of a complex of buildings some 30 to 40 years old. The warehouse buildings, he said, were of basic construction and specification with pitched asbestos roofs, with eaves height of between 5 and 5.5 metres. Whilst the showroom had been refurbished in recent times it was still an old building of very basic construction.
11. Mr. Davenport said that in arriving at his opinion of net annual value he had had regard to a number of factors which a hypothetical tenant in the market would take into account at the relevant date:

- The fact that the overall area of the buildings was approximately 7,000 square metres.
- That the buildings were to some extent functionally and physically obsolete due to their age, layout, specification and restricted eaves height.
- That the surface storage area had not been well maintained so that the top surface was uneven in places.

12. Mr. Davenport said that in his opinion the levels of value applied to warehouses and light industrial buildings in the Robinhood area by the Valuation Office in the revaluation programme were fair and not unreasonable. However, in regard to the property concerned he felt insufficient allowance had been made for the scale of the complex and the size, layout and specification of the warehouse and storage buildings. Whilst he agreed with the valuation attributed to the offices and other elements of the property, he could not accept that the showroom be valued at a square metre rate which was 50% in excess of that applied to the office accommodation. His opinion, he said, was borne out by an examination of the valuation of the three comparisons introduced by him.

Respondent's Evidence

13. Ms. Claire Callan having taken the oath adopted her précis of evidence and valuation which had previously been received by the Tribunal and the appellant as being her evidence-in-chief.

14. In her evidence Ms. Callan contended for a rateable valuation of €674,000.00 calculated as set out below:

| | | | |
|----------------------|-------------------|----------------------|---------------------|
| Showroom | 1,075 sq. metres | @ €120 per sq. metre | = €129,000.00 |
| Offices | 913.70 sq. metres | @ €80 per sq. metre | = €73,096.00 |
| Warehouses & Stores | 4,649 sq. metres | @ €80 per sq. metre | = €371,920.00 |
| Canopy | 124 sq. metres | @ €10 per sq. metre | = €1,240.00 |
| Portacabin | 93.60 sq. metres | @ €32 per sq. metre | = €2,995.00 |
| Surface Storage Yard | 8,000 sq. metres | @ €12 per sq. metre | = <u>€96,000.00</u> |
| Total | | | = €674,251.00 |
| NAV Say | €674,000.00 | | |

The above figure is slightly below that currently appearing in the valuation list; this is as a result of the agreed schedule of areas.

15. In support of her opinion of net annual value Ms. Callan introduced three comparisons, details of which are set out in Appendix 3 attached to this judgment.
16. Ms. Callan in oral evidence said that in arriving at her valuation of the property concerned, she had regard to the analysis of rental evidence in the South Dublin area carried out in preparation for the revaluation programme. She accepted the fact that the property concerned was a large complex of buildings in excess of 30 years old, and said that she had taken this into account in arriving at her opinion of net annual value. In this regard she considered her valuation to be well supported by the three comparisons introduced by her, all of which were of similar size, age and type.
17. Under examination Ms. Callan said that in analysing rents the same square metre rate was applied to the warehouse area and offices. This policy, she said, was in line with prevailing market practice.
18. Mr. Seamus Connolly, a Managing Valuer in the Revaluation Unit, in his evidence outlined in some detail his role in analysing all available rental evidence in the various industrial estates in the South Dublin area at or about the relevant valuation date (i.e. 30th September, 2005) in order to establish appropriate valuation levels within each estate which would reflect age, construction, specification, size, eaves height and other material factors. This analysis, he said, took place at team level and included the Revaluation Manager, Team Leaders and Valuers engaged in the revaluation programme.
19. In carrying out the analysis, Mr. Connolly said, rents were devalued on an overall basis to include the office content. Where there was a higher or lower than normal office content an appropriate allowance would be made. Similarly, when it came to analysing areas used as showrooms the practice was to attribute an uplift over and above basic warehouse and office levels to reflect the enhanced fit out and quality of finish.
20. Once the analysis was completed, Mr. Connolly said, patterns of value emerged within and between the various industrial estates and details of these patterns or “schemes of valuation” were made available to the individual valuers in order to assist them in arriving at the appropriate rateable valuation for each industrial or warehouse building. It would, however, be up to the Valuer to employ the “schemes of valuation” as considered appropriate and to make such allowances as judged necessary having regard to all relevant factors which could have a bearing on the valuation of each individual property.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced including the comparison evidence and makes the following findings:

1. The statutory basis of valuation is set down in Section 48 of the Valuation Act, 2001 wherein at subsection 3 the net annual value of a property is defined as being “ *the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant.* ”
2. In the rating appeal process the onus of showing that the valuation of the property concerned appearing in the valuation list is incorrect lies with the appellant.
3. Mr. Connolly’s evidence in relation to the analysis of rental evidence in order to establish patterns of value was most helpful to the Tribunal and indicated that the Valuation Office had approached the revaluation programme in a highly proper and professional manner. Whilst valuers engaged in the revaluation programme were aware of the details of the analysis and its conclusions, there existed within the system a large degree of flexibility so as to ensure that the valuation of each property was individually assessed in accordance with the provisions of section 48 taking into account all relevant factors and circumstances which would have a bearing on its value. It is a vital principle of the law of rating “*that each hereditament should be independently assessed*” (**Ladies Hosiery & Underwear Ltd. v West Middlesex Assessment Committee** [1932] 2KB 679 CA).
4. Mr. Davenport in his evidence acknowledged that in general the levels of value established by the Valuation Office in the Robinhood area were fair. However, in relation to the subject property he felt insufficient regard had been had to the scale of the property, the age, specification and layout of the warehouse buildings and the state of the surface storage area. He was also of the view that the differential of 50% in the square metre rate applied to the showroom space over and above that applied to the office accommodation was not warranted having regard to the age and specification of the showroom buildings. The Tribunal having considered the matter is of the opinion that there is indeed some merit in his arguments in relation to these matters.
5. It has to be said that Mr. Davenport and Ms. Callan were good witnesses and their evidence was helpful to the Tribunal in arriving at its determination. Nonetheless, the

Tribunal feels it timely to set down some guidelines for valuers when appearing before the Tribunal.

Firstly, all facts in relation to the property concerned and comparables must be agreed before the oral hearing so that they are put before the Tribunal as agreed facts in evidence. In relation to comparison evidence, if there is an absence of agreement then the facts must be proved by the party relying upon them.

Secondly, in relation to the property concerned where there are genuine differences of opinion as to the circumstances in respect of some particular element of that property, then the facts in relation to that evidence should be separated out and addressed accordingly. All calculations in relation to the property concerned and comparisons introduced by both parties should be set out in full.

In relation to comparison evidence the valuers should limit the evidence to comparisons which are truly relevant. There is a tendency for some witnesses to take the view that quantity is better than quality and hence provide a vast number of comparisons with little or no comment leaving it up to the Tribunal to sort it all out. In most instances such evidence is superficial and little weight is attached to it.

When it comes to dealing with comparison evidence, it is not sufficient to say that a particular building occupies a better location than the other or is of a superior specification unless such differentials are expressed in qualitative terms. These are judgments that a competent rating valuer should be able to make and express in relevant terms.

Valuers coming before the Tribunal in most instances have engaged in negotiations and have failed to resolve the matters in dispute. That being the case, it should be possible for the valuers to include in their respective précis of evidence an agreed statement of facts in relation to the property concerned, thus leaving the Tribunal to deal solely with those issues where there are genuine and sustainable differences of opinion.

Determination

Having regard to the above findings the Tribunal determines the rateable valuation of the property concerned in accordance with Section 48 of the Valuation Act, 2001 to be €620,000.00 calculated as set out below:

| | | |
|----------------------|-------------------|---|
| Showroom | 1,075 sq. metres | @ €105 per sq. metre = €112,875.00 |
| Offices | 913.70 sq. metres | @ €80 per sq. metre = €73,096.00 |
| Warehouses & Stores | 4,649 sq. metres | @ €75 per sq. metre = €348,675.00 |
| Canopy | 124 sq. metres | @ €10 per sq. metre = €1,240.00 |
| Portacabin | 93.60 sq. metres | @ €32 per sq. metre = €2,995.00 |
| Surface Storage Yard | 8,000 sq. metres | @ €10 per sq. metre = <u>€80,000.00</u> |
| Total | | = €618,881.00 |
| Net Annual Value Say | €620,000.00 | |

And the Tribunal so determines.