

Appeal No. VA09/2/015

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

**Gerri Cobbe & Mary McGibney t/a The Park Academy**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2196331, Creche at Lot No. Unit 1,2,3,22,23,24 The Cubes 1, Beacon South Quarter, Blackthorn, Dundrum Balally, Dundrum, County Dublin.

**B E F O R E**

**John Kerr - Chartered Surveyor**

**Deputy Chairperson**

**Patrick Riney - FSCS FRICS FIAVI**

**Member**

**Niall O'Hanlon - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 1ST DAY OF DECEMBER, 2009**

By Notice of Appeal dated the 5th day of June, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €430.00 on the above described relevant property.

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

The appeal proceeded by the way of an oral hearing held in the Tribunal offices, Ormond House, Ormond Quay Upper, Dublin 7 initially on the 17<sup>th</sup> day of September 2009 and adjourned to the 27<sup>th</sup> day of October 2009. The appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), ASCS, MRICS, MIAVI, of Eamonn Halpin & Co. Ltd., Chartered Valuation Surveyors and Estate Agent. At the hearing on 27<sup>th</sup> October, 2009 Ms. Mary McGibney the proprietor of the property also attended. The respondent was represented by Mr. Christopher Hicks, a Valuer in the Valuation Office.

The Tribunal were furnished with submissions in writing on behalf of both parties. Both adopted their submission as their evidence-in-chief at the oral hearings.

### **The Property**

The property is located in the Beacon South Quarter mixed-use development in Sandyford, Dublin 18. It comprises a modern two-storey crèche occupying the ground and first floor of a multi-storey office/apartment block. The Beacon South Quarter development, which was only partially completed at the relevant date, comprised of the subject unit and various live/work office/apartments, together with a mixed retail element which is anchored by a branch of Dunnes Stores. There is a very small outside play area for use by the children in an inner courtyard which gives access to the live/work units. Access to the crèche is from the side of the development just off Blackthorn Road beside the now closed South Bar and Restaurant.

### **Hearings**

At the first Tribunal hearing held on the 17<sup>th</sup> September 2009, Mr. Halpin stated that in the interest of equity and in view of the fact there was a difference of 17% in the calculation of the subject floor use submitted by both representatives, he had contacted the Valuation Office in order to explain his client's position. However, Mr. Hicks stated he did not keep contemporaneous notes and had no record of the stated contact. In view of the lack of agreement between the parties in regard to:

1. the basis of measurement i.e. the gross internal area, or net internal area
2. the floor area

the Tribunal determined the hearing would be adjourned to 27<sup>th</sup> October 2009, which would allow the parties adequate time to agree the foregoing two important points.

At the resumed hearing it was confirmed that the following had been agreed by both parties:

1. The basis of measurement of the subject property is net internal area (NIA)
2. The area of the subject property is 470 sq metres
3. The property is served with six underground parking spaces

### **Appellant's Case**

Mr. Halpin adopted his précis of evidence and referred to a number of sections therein. In particular, he referred the Tribunal to the following points which were detailed in his submissions:

1. The location of the subject property is moderate, being inside the confines of the Beacon South Quarter development with a low profile.
2. The crèche primarily serves the residents of this development which remains only partially occupied/completed, even after a number of years.
3. The layout of the crèche is poor, mainly arising from the conversion and amalgamation of the former live/work units located in two storeys. He confirmed the revised agreed floor area is 470 sq. metres served with the six car-parking spaces and his client was seeking a revised rateable valuation of €214.00.
4. He also stated that the level adopted by the Commissioner was excessive in view of the established "tone-of-the-list" of comparable and even superior properties to which he mentioned. Mr. Halpin introduced his comparisons, details of which are attached at Appendix 2 of this judgment.
5. He stated that the subject property was not at all comparable to the property the subject of the Valuation Tribunal determination **VA04/1/024 – Gerri Cobbe & Mary McGibney** for a number of reasons, including:
  - The subject property does not benefit from exclusive vehicular access to drop of and collect children.
  - The ceiling heights of the subject property were much lower and there was no lift.

Mr. Halpin contended there should be a 50% differential between the subject property and this comparison.

6. Mr. Halpin asserted that when the Giraffe Childcare unit at Cherrywood Business Park was considered and compared, it indicated the subject property was overrated.

7. The Commissioner concluded that the live/work areas of the Beacon South Quarter units should be assessed at €125 per sq. metre and Mr. Halpin stated such a level was not sustainable and represents an over-estimate of its relative worth.

### **Cross-examination by Mr. Christopher Hicks**

Mr. Halpin was not sure whether the first two comparisons submitted by him were either six or seven kilometres distant from the subject property. However, whilst he accepted that they were some distance away, he submitted the profile and size of the comparisons were comparable to the subject property. He also stated those two comparisons were within a Science Technology Park where in general the tone set was between 30% and 35% less than in the Sandyford area. He also confirmed he had measured the subject property on two occasions.

### **Respondent's Case**

Mr. Hicks took the oath, adopted his précis as his evidence-in-chief and acknowledged an error in his comparison 2 which should correctly read 268 sq. metres and was measured on a gross external area basis. Mr. Hicks introduced his comparisons, details of which are attached at Appendix 3 of this judgment. Mr. Hicks referred to his submission in some detail and in particular pointed out that the appeal to the Commissioner made by the appellant included comparisons from several miles away, but makes no reference to another branch of the Park Academy located 200 metres from the subject and in a similar building. He emphasised that the appeal to both the Commissioner and the Valuation Tribunal had as its principal grounds “comparable properties already in the list” and yet made no reference to the Tribunal decision **VA04/1/024** on a very similar property in the same general location as the subject, where the same appellant was represented by the same agent as in the present instance. In view of the now-revised agreed areas, he had re-calculated his calculation, the rateable valuation which now results in a revised RV of €382.

### **Cross-examination by Mr. Eamonn Halpin**

Mr Hicks confirmed his opinion that the Beacon Court comparison was compelling and had been evaluated by the Valuation Tribunal. However, he did accept there were some physical differences between the subject property and the Park Academy in Beacon Court such as:

- The inclusion of a lift in the latter
- Additional fire requirements on the subject

- An outside play area where lighting was superior at the latter
- Some car-parking facilities immediately outside the Beacon Court property whereas at the subject property, the six car-parking spaces were located some distance away from the property in the underground car-park.

### Findings and Determination

1. The Tribunal having considered all of the evidence finds that comparison (B) in the respondent's précis - **VA04/1/024**, which is located within a three-storey building in the Beacon Court office/apartment complex is of most assistance. This unit is circa 679 sq. metres and was valued at €25.00 per sq. metre. There were also 5 car-parking spaces at €17.43 per sq. metre.
2. The Tribunal accepts the arguments made by the appellant that there are considerable differences between the subject property and the respondent's comparison (B) and finds that the main differences between these properties were those cited by Mr. Halpin in his evidence.
3. Having heard all of the oral evidence and submissions and having considered the précis provided by both parties, the Tribunal determines the rateable valuation of this property as follows:

Crèche Agreed Area	470 sq. metres @ €10 per sq. metre	= €51,700.00
6 car-parking spaces	@ €17.43 each	= <u>€ 1,904.58</u>
Total		= €53,604.58
RV @ 0.63 %		= € 337.71
Say RV	€38	

And the Tribunal so determines.