

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

Charles Crowley

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 963933, Office(s) at Lot No. 22c1[Fl. 0-2], (VA09/3/028), and Property No. 2198362, Office(s) at Lot No. 22c1 [3rd Fl.], (VA09/3/029), New Road, Cloghmacsimon, Bandon, County Cork.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Damian Wallace - QFA, MIPAV, Valuer

Member

Fiona Gallagher - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF JANUARY, 2010

By Notices of Appeal dated the 4th day of August, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing valuations of €78.00 (VA09/3/028) and €25.00 (VA09/3/029) on the above described relevant properties.

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

"On the basis that the RV as assessed is excessive and inequitable. The Commissioner has made insufficient allowances for the actual location and the type and nature of the premises"

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 18th day of November, 2009. Mr. Eamonn Halpin, B.Sc (Surveying), ASCS, MRICS, MIAVI, represented the appellant. Mr. Charles Crowley (Principal, Charles Crowley & Co.) also attended. Mr. Daniel Griffin, B.Comm, MIAVI, a Valuer in the Valuation Office, represented the respondent. At the hearing, having taken the oath, both parties adopted their précis as their evidence-in-chief.

The Property

The subject property is a four-storey building which was a former Grain Store/Mill and has been completely restored and converted to office use. The structure is protected and as part of the planning conditions the front facade and internal beams had to be retained. A lot of the internal work was new build and a four-storey block was constructed to the rear to accommodate the lift, stairs and toilets. The overall finish is to a high, modern office specification standard. The ground, first and second floors are in use as offices for a firm of chartered accountants. The third floor is currently vacant and was valued separately at the request of the appellant at representations stage. The windows at third floor level are small and extend below floor level. The measurements have been agreed by the parties, as set out in their précis of evidence.

Location

The subject property is located on New Road in Bandon, Co. Cork. Bandon is situated about 32km southwest of Cork City and is a market town with a population of approximately 6,000. The property is located approximately 180m from the centre core of Bandon.

Valuation History

The property was valued in early 2009. Following representations by the owner Mr. Crowley regarding subdivision of the building, Valuation Certificates proposing values of €78 (VA/09/3/028) and €25 (VA/09/3/029) were issued. The appellant appealed the proposed valuations. On 8th July the Commissioner of Valuation dismissed the appeal and issued the valuations unchanged. On 4th August, 2009 the appellant appealed the Commissioner's decision to the Valuation Tribunal on the issue of quantum.

Appellant's Case

Mr. Eamonn Halpin, having taken the oath, commenced his evidence by advising the Tribunal of some amendments that he wished to make in his précis of evidence. He stated that he was happy to accept the areas as presented by the Valuation Office; that there was a large degree of agreement in the overall valuation; that there was no disagreement on the ancillary space; and that the only issue was that the level applied to the office space by the Commissioner of Valuation was too high. Mr. Halpin advised that a key element in the whole issue is location and that the subject property is located in an area that is beyond what would have been the old walled town, while the other comparisons are all within the old walled town area. The location of the subject property on the Clonakilty Road is not a favoured location for office accommodation and is the only commercial property in this block.

Mr. Halpin added that the building has a long history of industrial-type uses and, despite the redevelopment of Bandon over the last few years, was not redeveloped until recently - a fact which supports his point regarding the location. The fact that the property is a listed building posed difficulties from a redevelopment point of view and the completed product is not a showcase development, but offers mundane office accommodation. Mr. Halpin then referred to the photos attached to his précis, which outline the disadvantages of the property including retained beams, low ceiling height, thick walls and, in particular, the windows on the third floor which extend below floor level. He then referred to the map attached to his précis and outlined the fact that the windows are relatively small and few in number and are located predominately on the front of the building with two small windows on the back wall of each floor. This, he suggested, is evidence of the lack of natural light and confirms the fact that the hypothetical tenant would have to rely on artificial light. Mr. Halpin further advised the Tribunal that there are particular difficulties at ground and first floor level with dampness, caused by the fact that the ground rises very steeply at the rear of the property, with the effect that both the ground and first floor are below the external ground level at the rear of the property.

Mr. Halpin then introduced his comparisons, details of which are attached at Appendix 1 hereto. He outlined the details of three comparisons in Bandon and two in Bantry and outlined details regarding car spaces on one property which do not appear to have been valued and also the fact that there was no mention of a basement in the valuation details of another property.

Mr. Halpin then referred the Tribunal to the map attached to his précis and said that the core area of the town is quite small and even though on the map the subject property may look quite close to the comparisons, in reality they are like chalk and cheese from a location point of view. Mr. Halpin also added that he wished to rely on the Tribunal's determination in **VA08/3/015 - Sean Harrington Architects and VA08/3/016 - MCO Projects Limited**, where it was found that secondary located conversions of similar type units are, and should be, valued at less than modern well-located offices, despite their quality and he said that this is a critical factor which must be taken into account fully when assessing a fair NAV.

Mr. Halpin then set out details of his valuation and said that he had adopted a different approach to the Valuation Office as the ground floor is inferior to the first and second floor. He also said that it is inappropriate to take the third floor at a similar level given the disadvantages as already outlined regarding windows, etc., and he did not believe that the basement in his comparison No. 1 was any better or worse than Floor 3 in the subject property. Mr Halpin contended for the following valuation:

Property No. 963933

Offices - Gr, 1 st & 2 nd Floor	207.22 sq. metres @	€54.68 per sq. metre	= €1,331
Kitchen & Stores	17.78 sq. metres @	€27.34 per sq. metre	= € 478
Total NAV			= €1,809
RV @ 0.5%			= € 59.03
RV Say			€9

Property No. 2198362

3 rd Floor			
Offices/stores	72 sq. metres @	€41.00 per sq. metre	= €2,952
Store	2.42 sq. metres @	€27.34 per sq. metre	= €66.16
Total NAV			€3,018.16
RV @ 0.5%			= €15.09
RV Say			€15

In summarising his case Mr. Halpin concluded his evidence by making the following points.

1. The location of the subject property is moderate, being removed from the established office area of the town. This is outside what would be in the core office area.
2. The area immediately surrounding the subject is not a recognised office location.
3. There is no on-site parking with the property. Parking on the street outside the main door is Pay and Display parking. The car park of the church adjoining the property is private property and not available for use.
4. The main front building, although renovated and improved internally, is still not as good as modern office space as the confines of the structure such as small window openings, lower than average floor to ceiling height and retained beams, all serve to constrain the internal use and enjoyment of the building.
5. The level applied by the Commissioner is excessive in view of the established tone of the list for even superior properties. It is also excessive in view of the level applied to other similar type properties around the county.
6. It is accepted that with this type of property, as with all others, there is a range of values. However, this property would definitely be at the lower range.
7. The Commissioner has not attached sufficient weight to the actual location and internal features of the structure in this case.
8. The original basis relied upon by the Commissioner when formulating the rateable valuations of €78 (VA09/3/028) and €25 (VA09/3/029) is not sustainable and is a complete over-estimation of the properties' relative worth.
9. The owner's enthusiasm, expenditure and hard work may have been misplaced at this location as it may not have been strictly economic in commercial terms. A commercial developer looking at it in economic terms may not have taken it on. The client's own enthusiasm for the project should not be used against him.
10. The hypothetical tenant would thus only be interested in this property if offered on very favourable terms due to the location and other drawbacks associated with the property.
11. Great care must be taken when considering the subject against the tone of the list as this type of premises is different from some of the others already assessed. When the actual location and potential for trading is taken into account it is clear that a simple application of a rate per sq. metre throws up too high of a figure. To be fair to the property this should be tempered.

12. The appellants were also relying on the Tribunal's recent determination in **Sean Harrington Architects and MCO Projects Limited**, which dealt with a similar converted office building in a secondary location in Dublin.
13. The appellants were seeking a substantial reduction to more fairly reflect their properties' relative values against the broader tone of the list.

Cross-examination

Under cross-examination by Mr. Daniel Griffin, Mr. Halpin confirmed that the last time he had valued property in Bandon was approximately 3 years ago. He accepted that the distance of the subject property from Main Street area was approximately 180m and not 600m as he had outlined, but made the point that it is almost a Grafton Street/Dawson Street (in Dublin City Centre) comparison i.e. the locations are very close, but there is a huge difference in values. Mr. Halpin did not accept that the comparisons in Bantry were inappropriate and he clarified that the car-parking in the church, adjacent to the subject property, is private property and not available for use. Mr. Halpin finally confirmed that he would value the ground floor at a lower level to the first and second floor if he had not used an overall valuation method.

Respondent's Case

Mr. Daniel Griffin, having taken the oath, adopted his précis as being his evidence-in-chief and assessed the rateable valuation of the subject property as follows:

Valuation

VA09/3/028

Ground Floor

Offices, reception waiting, front room 67.75 sq. metres @ €82 per sq. metre = €5,555.50

Stores 2.45 sq. metres @ €27.34 per sq. metre = € 66.98
= €5,622.48

First Floor Offices 68.06 sq. metres @ €88.31 per sq. metre = €4,649.17

Store 5.85 sq. metres @ €27.34 per sq. metre = € 159.94

Second Floor Offices 71.4 sq. metres @ €88.31 per sq. metre = €4,877.33

Kitchen 9.48s sq. metres @ €41 per sq. metre = € 388.68

Total NAV = €15,691

Say €15,600

RV @ 0.5% = €78

VA09/3/029

Third Floor Offices	72.5 sq. metres @ €68.31 per sq. metre	=	€4,952.47
Stores	2.4 sq. metres @ €27.34 per sq. metre	=	<u>€ 65.61</u>
Total NAV		=	€5,018.08
Say €5,000			
RV @ 0.5% = €25			

Mr. Griffin provided details of the purchase and renovation costs of the building to the Tribunal. Mr. Griffin referred to his précis and confirmed the location and description of the property in broad terms as outlined by Mr. Halpin. He said there is a clear pattern in the valuation of offices in the Bandon area, where the rate varies from €68 to €82 per sq. metre. To his knowledge there are no modern high spec offices in Bandon valued and all the offices in Bandon are older buildings, typically conversions from former residential units. Mr. Griffin acknowledged that this building was a protected structure but said within the walls it was a blank canvas, as the protected portion is the external façade and some of the internal beams. He referred to the question of light penetration and suggested that this was a design choice and any lack of natural light was because of the design used. He added that there could have been open plan offices and this would have improved the light situation. Mr. Griffin then introduced details of his six comparisons, set out at Appendix 2 attached hereto, all of which are office premises in Bandon and he argued that the tone of the list was clearly set in this area.

Cross-Examination

In response to questions from Mr. Halpin, Mr. Griffin accepted that the original purchase price of the property is not relevant when looking at the tone list. Mr. Griffin said that the tone was clearly set in the area and that there are sufficient comparisons in Bandon to value in line with the tone. Mr. Griffin did not accept that the Kilbrogan Hill area in his Comparison No. 6 was equal to the top floor of the subject property and he concluded by stating that the valuation was correctly valued in accordance with the provisions of section 49(1) of the Valuation Act, 2001 and that the valuations are reasonable and are well supported by the tone of the list.

Findings

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

1. The Tribunal considered all of the comparisons offered and preferred the common comparisons which were the most relevant to the subject property. While we noted the Bantry comparisons put forward by the appellant there are enough comparisons in the Bandon area to establish the appropriate tone.
2. The Tribunal accepts that the tone of the list for converted offices in the Bandon area is circa €68 per sq. metre.
3. The Tribunal has noted the comments regarding location being off-centre but the Tribunal feels that the location of the subject property is sufficiently close to the centre core of Main Street, Bandon not to be at a disadvantage.
4. The Tribunal accepts the appellant's contention that the ground floor, given its limitations, is not of a superior standard to the first and second floors so as to warrant a higher valuation.
5. The Tribunal accepts that the third floor, though finished to a high standard, has design difficulties in relation to the windows which make it an inferior standard to the other accommodation, though not equivalent to basement type accommodation.
6. The Tribunal has noted the reference to **Sean Harrington Architects and MCO Projects Limited**, but has decided that the subject properties in that case were in a tertiary location and shared access with 40 residential units, facts not relevant to the subject property.

Determination

The Tribunal having regard to the foregoing determines the rateable valuation of the subject properties to be as follows:

Property No. 963933

Ground Floor

Offices, reception waiting, front room 67.75 sq. metres @ €68.31 per sq. metre = €4,621.17

Stores 2.45 sq. metres @ €27.34 per sq. metre = € 66.98

First Floor offices 68.06 sq. metres @ €68.31 per sq. metre = €4,649.17

Store 5.85 sq. metres @ €27.34 per sq. metre = € 159.94

2 nd Floor offices	71.4 sq. metres @ €88.31 per sq. metre	= €4,877.33
Kitchen	9.48 sq. metres @ €41 per sq. metre	= <u>€ 388.68</u>
Total NAV		= €14,763.27
Say €14,700		
RV @ 0.5% =	€73.50	
RV Say	€73	

Property No. 2198362

3 rd Floor Offices	72.5 sq. metres @ €50 per sq. metre	= €3,625.00
Store	2.4 sq. metres @ €27.34 per sq. metre	= <u>€ 65.61</u>
Total NAV		= €3,690.61
Say €3,600		
RV @ 0.5% =	€18	

And the Tribunal so determines.