

Appeal No. VA10/3/025

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

Rochefreight Ireland Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2179790, Office(s), Warehouse/Warerooms at Lot No. Part 1S,
Ballygillane Little, St Helens, Wexford, County Wexford

B E F O R E

John Kerr - Chartered Surveyor

Deputy Chairperson

Patrick Riney - FSCS FRICS FIAVI

Member

James Browne - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF FEBRUARY, 2011

By Notice of Appeal dated the 13th day of August, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €1,300 on the above-described relevant property.

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

"On the basis that the RV as assessed is excessive and inequitable. Greater allowance must be made for the size and location of the property."

The appeal proceeded by way of an oral hearing, which took place in the Offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 8th day of October, 2010. The appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), ASCS, MRICS, MIAVI, and the respondent was represented by Ms. Fidelma Malone, BSc (Hons) Estate Management, MIAVI, a Valuer in the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

The Property

The subject is a modern warehousing facility, built and completed in two phases in 2005 and 2009. The former includes warehouse accommodation, two-storey office and loading bay constructed of steel frame and perimeter walls of concrete block and part insulated metal deck cladding with an insulated metal decked roof and concrete floor. The eaves heights in that older section are circa 6.8 metres. The more recent extension, sited at the rear of the original warehouse, is a steel portal frame structure with an extension to office accommodation on ground and first floor. The new warehouse has raised eaves heights of circa 10 metres. A garage/workshop was built to the rear of the site featuring eaves heights to circa 6.5 metres, built to a similar specification as the original warehouse. A steel frame supported mezzanine, with timber floor decking, features within the two warehouse units. The complex is served with extensive parking and circulation concrete yards to the side and rear.

Location

The subject property lies adjacent and enjoys profile to the N25, approximately 2 km from Rosslare Harbour, on the outskirts of Kilrane village. The sparse development in the area is represented by primarily one-off detached housing in a ribbon development style formation along the N25, with a limited number of commercial properties in the area.

Services

All usual required services are available and connected to the subject property.

Tenure

Freehold

Valuation History

2005:	Initial phase of the property revised at a proposed RV of €30. Representations were lodged by Eamonn Halpin & Co, agent for the appellant, and RV was agreed at €500.
June 2009:	Ms. Fidelma Malone, Revision Officer, was appointed at the request of Wexford County Council, to value new warehouse building and extension to existing property.
November 2009:	Draft Valuation Certificate issued with a proposed RV of €1,370.
December 2009:	Representations made by appellant's agent. Commissioner of Valuation increased valuation to €1,460.
January 2010:	Appeal submitted to the Commissioner of Valuation by appellant's agent.
July 2010:	The Commissioner of Valuation determines the First Appeal, reducing the Rateable Valuation to €1,300.
August 2010:	The appellant, through their agent, appeals the valuation to the Valuation Tribunal by Notice of Appeal received by the Tribunal on 17 th August, 2010.

Floor Areas

The subject was measured on a gross external area basis.

Original Complex (completed 2005):

Warehouse: 2,750 sq. metres

Office: 360 sq. metres

Loading Bay: 690 sq. metres

(The foregoing were assessed under a 2005 Revision.)

New Complex (completed 2009):

Office:	378.00 sq. metres
Warehouse: (Eaves c. 6.8 metres)	900.00 sq. metres
Warehouse link: (Eaves c. 5 metres)	50.00 sq. metres
Warehouse: (Eaves c. 10 metres)	3,870.40 sq. metres
Garage / Workshop:	437.00 sq. metres
Security Office:	13.23 sq. metres

The parties further agreed four mezzanine areas comprising of:-

- (a) 120.4 sq. metres
- (b) 71.52 sq. metres
- (c) 419.84 sq. metres
- (d) 95 sq. metres

The parties disagreed as to which areas, described as mezzanine floor or mezzanine storage areas, should be considered rateable. Mr. Halpin argued that a considerable area of the mezzanine structure was portable and demountable, and accordingly in his opinion, not rateable. The respondent contended that following due consideration, 286.92 sq. metres of mezzanine area was rateable, whereas Mr. Halpin argued that only 95 sq. metres should be considered as rateable.

Appellant's Case

Mr. Eamonn Halpin took the oath, adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission. In his opening remarks he noted some corrections to be made to his précis, as follows: Page 8, Comparison No. 2, the Weatherglaze premises, to read; a passing rent of €15.71 per sq. metre, correcting the typing error which formerly read €157.19 per sq. metre, and three corrections on Page 9, as follows:- Comparison property 4, Strokestown Port Services, described as “a warehouse near to Private Jetty, not far from the subject”. He requested the word “subject” be replaced with the words “New Ross”; Comparison No. 5, Goulding Chemicals, in the NAV calculation provided, he noted that the warehouse should be corrected to read 1,711.63 sq. metres @ €21.77 per sq. metre and office 36 sq. metres @ €30.85 per sq. metre; and finally, that the final comment line should correctly read as follows:- “Warehouse adjacent to Comparison No. 4 above, 6m – 7m eaves”. Mr. Halpin also entered into evidence a replacement Page 10 for his précis,

which included a revised valuation section including the Loading Bay previously omitted, and declared that the Valuation Office acknowledged that an area comprising 419.84 sq. metres, previously treated and described as floor racking, was now, with the consensus of the respondent, no longer considered as rateable. The foregoing issues were outlined in a cover e-mail from Mr. Halpin sent to the Valuation Tribunal on 5th October, 2010, at 15.01 pm, entered into evidence, and attached herewith as Appendix 1.

Then Mr. Halpin circulated and entered into evidence a further revised valuation calculation page combining all areas in the complex and revising his computation of Net Annual Value from a figure of €188,885 to €190,687, which produced an RV sum of €950. This revised page of calculations is enclosed herein as Appendix 2.

Mr. Halpin then opened his case by summarising the three headings on which he would argue his client's position, as follows:-

1. Quantum allowance.
2. Base figures or rates per sq. metre applied.
3. Floor Racking.

Referring to Page 5 of his précis, Mr. Halpin provided the Tribunal with a summary of all of the salient points therein. He explained that though the relevant property is approximately 2 km from Rosslare Port, it is also approximately 17 km from Wexford town and situate in an area of very limited development. He argued that the Commissioner of Valuation had employed base rates per sq. metre as set out in the respondent's précis, which were addressed in points 5, 6 and 7 in Section 3, page 6 of his own précis. He explained that he applied an overall quantum allowance of 15% on the NAV calculated by him, whereas the Valuation Office had applied a discount figure of only 6%, and contended that the Commissioner had not attached sufficient weight to the actual location and very unusual size and scale of the subject.

He referred to a recent Tribunal decision on his Comparison Property No. 1, namely; **VA10/1/029 - O'Leary International Ltd.** and expressed the view that though the Tribunal noted that that premises is located in a potential flood plain zone, it had not made, in his opinion, sufficient allowance for same in its Findings and Determination.

Mr. Halpin contended that there has been a serious contraction in levels of demand in recent years for very large premises similar to the subject in the region, and in particular for the actual subject complex. He referred the Tribunal to a Property Review document published by Hamilton Osborne King, dated 1988, copy extract of same attached to his précis as Appendix IV, attached hereto as Appendix 3. He noted that that Report cited rents in the market place for Dublin Region industrial properties ranging from £2 to £4 per sq. foot for units sized up to 5,000 sq. feet, decreasing to a range of £1 to £2.25 per sq. foot on industrial buildings of over 25,000 sq. feet. He argued that this reflected a quantum allowance of approximately 50% and also brought to the attention of the reader that, notwithstanding a concentration of improving market conditions and values bolstered by a shortage of spacing in particular in the Dublin region, there continued at that time i.e. 1988 and 1989, strong and growing levels of demand for space, including warehouses. He also stated that the Commissioner had failed to factor in the explosion in the demand for industrial/warehouse space during the period 2001 – 2007, which, he stated, was the period during which the “tone-of-the-list” was established for large industrial/warehouse units in areas including County Wexford and which, in his view, became an artificial or unrealistic rental sum which a hypothetical tenant would be expected to pay if considering the rental of a premises, particularly in this current year. Mr. Halpin also argued strongly that the principle of quantum allowance did not prevail back in 1988/1989 as demand levels were high, and supply of suitable properties was limited. He stated that large warehouses in Co. Wexford have rates per sq. metre applied at less than €2 per sq. foot and referred in that context to the Weatherglaze building in Gorey, being his Comparison Property No. 2, noting a passing rent on that factory/warehouse complex of almost 5,000 sq. metres, reviewed in 1992, at €1.46 per sq. foot. Providing further details in his précis of comparison properties Nos. 3, 4 and 5, he concluded that the rate per sq. metre range applicable to warehouses in the subject rating area was €20.50 per sq. metre up to €25 per sq. metre, with the rate generally dependent on quality, specification, size and location. He also contended that offices attached to industrial/warehouse units are levied within the range of €27.34 per sq. metre for older type complexes, up to €37.50 per sq. metre for the more modern offices.

Mr. Halpin cited his Comparison Property No. 1, as above noted, being his primary comparator.

Cross-examination by Ms. Fidelma Malone

Ms. Malone cross-examined Mr. Halpin, who responded to her queries as follows:

1. In the context of page 4, item 4 of his précis, he acknowledged that his client is bound to consider Section 49 (1) of the Valuation Act 2001, but argued that the NAV should be calculated on the basis of “one year with another” which, in his view, rules out the influences of high and low rental years and in effect should produce a figure equivalent to an average annual rent, and accordingly, in his opinion, a creeping “tone-of-the-list” should be considered on such a basis, even at a consequence of overlooking current distressed rental values.
2. Mr. Halpin agreed that the influences of the recession should be ignored, but also argued that the “tone-of-the-list” should consider rental values stretching all the way back to 1988 and not the period 2001 – 2009, which, he suggested, were most relied upon in rating valuation practice.
3. The current occupier may be considered the hypothetical tenant. Mr. Halpin acknowledged that the expanded facility was needed by a toys distribution firm seeking such a large warehouse facility two years ago, but stated that the tenant no longer requires or occupies the facility and maintained that the hypothetical tenant, in today’s market place, would scale back his bid to reflect a substantial quantum allowance.
4. Mr. Halpin would not agree with Ms. Malone’s assertion, with reference to item 6 on page 6 of Mr. Halpin’s précis, that the major RORO (roll-on, roll-off) facility at the nearby Rosslare Port heavily influenced the development, location and sizing of the subject premises, and, accordingly, that its value was not necessarily influenced by development characteristics of the immediate area, being primarily one-off detached housing. Mr. Halpin would not agree with such assertion and argued conversely that RORO, by its very nature, does not require portside or warehouse facilities nearby such a port.
5. In response to Ms. Malone’s assertion that rates per sq. metre were established at Revision stage in the valuation of the first phase of the development of the subject, Mr. Halpin argued that, though established, they were set at base levels that were far too high in his view and, in any event, should be now considered in the context of the scope and scale of the current relevant property.

6. Mr. Halpin acknowledged that his Comparison No. 2, namely the Weatherglaze facility, is approximately 70 km distant from the subject, and also acknowledged that he was not aware of rental arrangements, reliefs, subsidies, and/or capital allowances applicable to the lease of that premises, but agreed that the specification of that building is not as high as that of the subject and the circulation and yard space not as significant.
7. Mr. Halpin stated that he chose comparison properties closer to New Ross than to Rosslare for his précis as he felt they were better suited with respect to comparative floor areas, but accepted that the premises at Stokestown (namely his Comparison No. 4), and also Goulding Chemicals (Comparison No. 5), were of poorer quality and informed Ms. Malone that he was not aware that two blocks of the latter were constructed of corrugated iron cladding only.
8. Mr. Halpin contested Ms. Malone's view with respect to the value and weight of stage one of the Rochefreight complex being employed as a suitable comparison for the subject, revised as it was in 2005, expressing his opinion that the Valuation Act, 2001, Section 49(1), directs the parties to consider "other properties comparable to that property", and accordingly, in his view, not the subject or its 2005 Valuation.

Respondent's Case

Ms. Malone took the oath, adopted her précis as her evidence-in-chief and reviewed her submission. She opened her case by referring to a copy e-mail, attached herein as Appendix 4, circulated to Mr. Halpin and the Tribunal and issued by her to the Registrar on 7th October, 2010, at 12.26 pm, wherein she provided a breakdown of the Schedule of Areas prepared by the Valuation Office Revision Officer at representation stage during 2005 on the original phase of the development, which at the time led to an agreement with Mr. Halpin of a Rateable Valuation of €500. In particular she drew attention to the mutual agreement of the parties on:

- a) The Loading Bay at a rate per sq. metre of €6.83;
- b) The Warehouse area, as it was then, comprising 2,750 sq. metres @ €30 per sq. metre; and
- c) The Offices of 360 sq. metres at €41 per sq. metre.

Outlining the information contained in page 5 of her précis, Ms. Malone explained that a proposed RV of €1,344.42 was computed by reference to a proposed total NAV of €268,885.30. She confirmed that the rateable areas were now agreed with Mr. Halpin and

also advised that the foregoing RV sum, though previously calculated at a higher level, was now being rounded down to €1,265 to allow for a quantum allowance, which was a reduction of 5.9%.

Referring to the 3 comparison properties detailed in her précis, Ms. Malone argued that the rates per sq. metre applied to the subject office and warehouse areas of €41 and €30 per sq. metre respectively, on the subject premises, were fair and reasonable when compared with similar rates per sq. metre applied on her comparisons Nos. 2 and 3. She explained that both such properties, like the subject, are located near Kilrane, but are each burdened with shared yard facilities and poorer access arrangements than those of the subject and that both, unlike RocheFreight, are located within a Business Park well set back from the main Rosslare to Wexford National Route N25. She acknowledged that agreement had been reached with the parties with respect to the €6.83 per sq. metre applied to the Loading Bay.

Noting that a rate of €25 per sq. metre on the warehouse space was determined by the Tribunal in the aforementioned **O’Leary International Ltd.** case, while noting the acknowledged fact that the general area was prone to flooding, Ms. Malone indicated that such a rate per sq. metre was higher than any of the comparison properties cited for the New Ross area, in that case.

Ms. Malone concluded that:-

- The Valuation on the subject premises was carried out by reference to Section 49(1) of the Valuation Act, 2001.
- The various issues raised by the appellant had been adequately reflected in her opinion of value and that in her view, there appeared to be no grounds for adjusting the valuation levels applied by her.

Cross-examination by Mr. Eamonn Halpin

Mr. Halpin declined the opportunity of cross-examining Ms. Malone.

Findings

The Tribunal has carefully considered all the evidence and arguments submitted and adduced by the parties and finds as follows:

1. In the instant case and as confirmed by the parties, the Valuation Act, 2001, Section 49(1) applies.
2. Based on the evidence, it would appear that the subject premises is substantially larger than any of the comparisons relied upon by the appellant or the respondent.
3. Based on the foregoing, the Tribunal must presume that there is no other complex similar in scale and structure in the Wexford County Council Rating Authority area and, accordingly, that a hypothetical tenant would factor such fact into his computations of what he might be prepared to bid on a rental basis for such property.
4. While the Tribunal views phase one of the subject (2005 Revision) as a useful guide to the current revision of both phases of the now completed complex, it considers it prudent not to apply a substantial weighting on the first phase revision in the exercise of seeking to determine a fair and equitable valuation of the subject relevant property.
5. The Valuation Act, 2001 Section 49(1) directs the parties to consider the values of other properties comparable to that property being the subject of the revision, and such values should bear a weighting to guide the valuation exercise with much greater influence than an earlier revision of a part or phase of the subject.
6. Though useful as they are as guides to rates per sq. metre applicable to other warehouses in the Local Authority area, the Tribunal is of the opinion that Mr. Halpin's Comparisons 4 and 5 may not be as relevant as his first 3 comparison properties, but also notes that those 3 comparisons are quite some distance away from the subject, with two located near New Ross and one near Gorey.
7. Conversely, the respondent's Comparisons Nos. 2 and 3 are properties located in close proximity to the subject, though much smaller than the subject.

8. The extract Hamilton Osborne King Market Report of 1988, submitted as Appendix IV in Mr. Halpin's précis was of considerable assistance as a contemporaneous professional assessment of supply and demand levels and trends of industrial/warehouse units in the Dublin region and beyond.
9. The Tribunal shares the view of Mr. Halpin, as outlined above, with respect to the principle and practice of calculating Net Annual Value in relation to a property 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". The Tribunal considers it appropriate that the parties should take heed of the average rent on a year-to-year basis, and in so doing, smooth out the crests and troughs created by unique market and economic conditions, which may prevail from time to time.
10. The Tribunal thanks the parties for their detailed submissions, the quality of the evidence both submitted and adduced at hearing and the manner in which they presented their respective arguments.

Determination

Having regard to all of the above, the Tribunal has concluded that the Net Annual Value of the subject property should be calculated as follows:-

Warehouse	7,381.40 sq. metres	@ €27.34 per sq. metre = €201,807.47
Loading Bay	690 sq. metres	@ € 6.83 per sq. metre = € 4,712.70
Offices	738 sq. metres	@ €34.17 per sq. metre = € 25,217.46
Garage / Workshop	437 sq. metres	@ €25.00 per sq. metre = € 10,925.00
Mezzanine	95 sq. metres	@ € 6.83 per sq. metre = € 648.85
Security Office: 1	13.23 sq. metres	@ €34.17 per sq. metre = € <u>452.07</u>
		€243,763.54
Less quantum allowance of 15% =		Net NAV = €207,199.01
RV = NAV @ 0.5%		RV Say €1,035.99
RV Say €1,035		

And the Tribunal so determines.