Appeal No. VA11/3/013

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 2001

VALUATION ACT, 2001

State Street International (Ireland) Ltd. **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Property No. 791037, Office(s), Carpark at Lot No. 78-80, Sir John Rogerson's Quay, South Dock, South Dock, County Borough of Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS **Deputy Chairperson**

James Browne - BL **Member**

Frank Walsh - QFA, Valuer **Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF JANUARY, 2012

By Notice of Appeal dated the 18th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €14,835 on the above described relevant property.

The grounds of appeal are on a separate sheet attached to the Notice of Appeal, copies of which are attached at Appendix 1 to this judgment.

This appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 9th day of November, 2011. At the hearing the appellant was represented by Mr. Aidan Reynolds, MSCSI, MRICS, Associate Director of Savills. The respondent was represented by Mr. Patrick Nolan, BSc (Hons) Property Valuations and Management, a Valuer in the Valuation Office.

Prior to the commencement of the oral hearing and in accordance with the rules of the Tribunal, Mr. Reynolds and Mr. Nolan forwarded to the Tribunal and exchanged a copy of the précis of evidence they proposed to adduce under oath at the oral hearing. From the evidence so tendered the following facts material to and relevant to the appeal were agreed or are so found.

The only issue in dispute is the quantum of the valuation of the property concerned determined in accordance with Section 49(1) of the Valuation Act, 2001.

The Property Concerned

The property concerned is a recently constructed eight-storey, over two basement level, office building located on Sir John Rogerson's Quay at the corner of Benson Street. The property lies within the Grand Canal Dock area which is being redeveloped under the aegis of the Dublin Docklands Development Authority which is charged with procuring the redevelopment and renewal of the Dublin Docklands on both sides of the river. It is common case that comprehensive development has taken place along the South Quays in an eastward direction towards Britain Quay where the proposed U2 building is to be located. It is also common case that the property concerned is the last such building to be constructed with frontage onto Sir John Rogerson's Quay and given the current economic circumstances it is unlikely that further development will take place in this location for several years. The parties are also agreed that this lack of development gives the general area surrounding the property concerned an unkempt appearance and restricted public lighting and a lack of usually expected urban facilities and services. The building is rectangular in configuration with a frontage of circa 31 metres and a return frontage of circa 66 metres onto Benson Street. Access to and egress from the two level basement car parking area is off Green Street East at the rear. It is common case that the building has been constructed and fitted out to the highest modern standards and specification, similar to those found in other office buildings nearby which also enjoy frontage onto the river.

Internally, the building contains a spacious access lobby with a staff coffee dock off, which overlooks the river. Elsewhere the office accommodation is to a high standard with suspended ceilings and raised access flooring. A highly sophisticated mechanical and electrical service system is installed so as to provide air-conditioning and a rain-water harvesting system, high performance glazing to reduce air-conditioning costs and eliminate office glare and air handling units which provide heat recovery efficiencies.

Accommodation

The agreed accommodation measured on a net internal area basis has been agreed as follows:

Level	Use	Area (sq. metres)
0	Office/Coffee dock	1,782.21
1	Office	1,841.09
2	Office	2,013.84
3	Office	2,013.84
4	Office	2,013.84
5	Office	2,013.84
6	Office	2,013.84
7	Office/Canteen	1,380.52
-1	Car Parking	140 Spaces

Total NIA 15,073.02 sq. metres

The Appellant's Evidence

Mr. Reynolds, having taken the oath, adopted his précis which had previously been received by the Tribunal and by the respondent as being his evidence-in-chief.

In his evidence Mr. Reynolds put forward the following valuation in respect of the property concerned, in accordance with Section 49(1) of the Valuation Act, 2001:

Offices – 15,073.02 sq. metres	@ €145 per sq. metre	=	€2,185,588
Car Spaces – 140 spaces	@ €635 per space	=	€88,900
Total NAV			€2,274,488

Adjustments:

Less quantum discount @ 5% = €2,160,764

Less adjustment for circumstances @ 10% = €1,944,687

Less adjustment for Lively Use Area @ 2.5% = €1,896,070

NAV Fraction 0.63

Total RV €11,945

"Or an analysis based on the rate € per sq. m would:"

NAV €psm say	Quantum @ 5%	Circumstances @ 10%	Lively Use Area @ 2.5%	NAV €psm say
€145	€137.75	€123.98	€120.88	€120

RV say €11,995

Mr. Reynolds said that in his opinion the end allowances specified by him in his valuation should be made in order to reflect the various matters referred to in his evidence. In support of his opinion of net annual value, Mr. Reynolds introduced ten comparisons details of which are contained in Appendix 2 attached to this judgment. He also provided to the Tribunal a number of schedules in relation to these comparisons and the property concerned, so as to provide a comparative analysis under several headings, including size, frontage to Sir John Rogerson's Quay and an overall ranking/net annual value pattern basis. Copies of these schedules are also to be found in Appendix 2.

Mr. Reynolds said that in arriving at his opinion of net annual value in accordance with Section 49(1), he had regard to the assessments of other similar buildings in the South Docks area that are located relatively close to the property concerned. On balance, he thought, as a starting point the appropriate rate per sq. metre should be €145, but to that figure a number of allowances were necessary in order to reflect the various matters referred to in his valuation. In his evidence, Mr. Reynolds contended that the Valuation Office did not appear to have any regard to two important factors – the size of the property concerned relative to the comparisons introduced by him and, indeed, to those introduced by the Valuation Office, and most importantly of all, the location of the building in what was a redevelopment site. The last mentioned factor, he said, coupled with the probable lack of further development in the area for the foreseeable future would be a major deterrent and a consideration to which a hypothetical tenant would have regard to when forming an opinion of rental value. In this regard, he drew attention to the fact that the lease terms in respect of the property concerned had been agreed in 2007, at which time development activity in the Docklands was buoyant and the prevailing property market sentiment was one of increasing rents and demand.

In relation to his allowance of 2.5% for the "lively use area" to be provided in the subject building as a condition of planning, Mr. Reynolds said that he had regard to a comment made by the appeal valuer in relation to the Dillon Eustace building (Comparison No. 3), 33/34 Sir John Rogerson's Quay, which resulted in a reduction of 2.5% to the valuation applied to that building: *"An end allowance was applied to the valuation due to limitations of the property ………..…It was also a condition of the planning permission that a lively use area is provided at the front of the building……. The lively use area dramatically reduces the frontage of the building to Sir John Rogersons Quay."*

When questioned about this end allowance, Mr. Reynolds acknowledged that it was not solely in respect of the "lively use" but included an allowance for the restricted access and egress to the basement car park and the presence of the Munchies restaurant in the ground floor layout. Mr. Reynolds also agreed that the requirement for a "lively use" element in the subject building had largely been ameliorated by the introduction of the coffee dock at the entrance lobby following negotiations and discussions with the Planning Authority.

The Respondent's Evidence

Mr. Nolan, having taken the oath, adopted his written précis which had previously been received by the Tribunal and the appellant as being his evidence-in-chief.

In evidence Mr. Nolan stated that, in his opinion, the net annual value of the property concerned in accordance with Section 49(1) of the Valuation Act was as set out below:

Eight Storey Office – 15,073.02 sq. metres	@ €150.34 per sq. metre	=	€2,266,077.82
Basement Parking – 140 spaces	@ €635 per space	=	€88,900.00
Total NAV			€2,354,977.82

Total NAV €2,354,977.82 @ 0.63% = €14,836.36

Rounded to €14,835

In support of his opinion of net annual value Mr. Nolan introduced five comparisons, four of which also appear on Mr. Reynolds' list of comparisons. Details of these comparisons are contained in Appendix 3 attached to this judgment.

In relation to the quantum allowance in respect of the subject property, as put forward by Mr. Reynolds, Mr. Nolan said that, whilst he acknowledged that it was the largest building in the area, others such as Riverside IV (12,387 sq. metres) and Riverside I (9,026 sq. metres) were each valued at a uniform rate of €150 per sq. metre despite their substantial differences in area. In his opinion, there was no evidence of a quantum allowance in the Sir John Rogerson's Quay area and no such allowance was justified in this instance. Mr. Nolan said that in his opinion, prospective tenants in this area were prepared to pay premium rents for office accommodation which enjoyed the benefit of river frontage regardless of size. Mr. Nolan stated that he was aware that the existing tone varied from €127 to €157 per sq. metre in the general area but said that in his opinion the property concerned was similar in quality, location and size to the Matheson Ormsby Prentice and McCann Fitzgerald buildings, which are both valued at €150 per sq. metre. In the circumstances it was fair to say that, the tone of the list for high quality office buildings with river frontage onto Sir John Rogerson's Quay, such as the property concerned, was €150 per sq. metre regardless of size. Furthermore, he did not agree with the end allowances made by Mr. Reynolds which he said could have the effect of reducing the overall rate per sq. metre to €120 per sq. metre. Such a rate per sq. metre could not be justified under any circumstances for a building such as the subject in this location. Nonetheless, Mr. Nolan agreed that perhaps some minor allowances could be made for the lack of development activity in the immediate vicinity of the property concerned for the foreseeable future and the unkempt appearance of the area in close proximity to the property concerned.

Findings

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

1. This appeal arises from a request for a revision of valuation following which the rateable valuation of the property concerned was assessed in accordance with Section 49(1) of the Valuation Act, 2001 which states as follows:

*“**49.**—(1) If the value of a relevant property (in subsection (2) referred to as the ‘‘first-mentioned property’’) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.”*

In other words, the valuation is to be determined in accordance with what is commonly referred to as the tone of the list.

2. It is common case that Sir John Rogerson’s Quay is a prime office location and those offices which have frontage onto the river attract a premium rent.

3. It is common case that the property concerned is a modern eight-storey office building over a two-storey basement car park. It is also common case that the office accommodation is fitted out to what is commonly referred to as “third generation standards” to include air conditioning, raised access floors, plastered and painted wall finishes and suspended ceilings incorporating light units.

4. It is common case that part of the ground floor area adjacent to the entrance and reception area is used as a coffee bar for the sole use of the staff and visitors. A staff canteen and associated kitchen areas are also provided at seventh floor level.

5. It is common case that the use of that part of the ground floor as a coffee bar was agreed with the Dublin Docklands Development Authority and is in substantial compliance with the planning requirement that a section of the ground floor at the rear of the ground floor be used for “lively use”.

6. It is agreed that the frontage of the property concerned to Sir John Rogerson’s Quay is 31.93 metres with a substantially larger return frontage onto Benson Street. It is agreed that the property concerned is located at the North West corner of a large development site fronted by Sir John Rogerson’s Quay, Britain Quay, Green Street East and Benson Street. The parties also agree it is most unlikely that development of the remainder of this area and the proposed U2 development at Britain Quay will take place within the next five years or so due to underlying adverse economic conditions.

7. It is common case that public street lighting and other public facilities do not extend beyond Benson Street which effectively marks the end of the development drift towards Britain Quay.

8. Both valuers introduced a comprehensive range of comparisons, the details of which have been carefully examined and in our view supports the respondent's assertion that the tone of the list for modern third generation office buildings in this location and of the like of the property concerned is circa €150 per sq. metres. In arriving at this conclusion, we have had regard to the assessment of the Matheson Ormsby Prentice building close by and other buildings of a similar size and quality to the property concerned, the Fitzwilliam Business Centre building, a building without river frontage and valued at €141.20 per sq. metre, and several other properties fronting onto the river.

9. The appellant's valuer, Mr. Reynolds, initially assessed the net annual value of the property concerned at €145 per sq. metre, but to the valuation so determined, applied what might be best described as being three end allowances, totalling approximately 17.5% to reflect those factors which he considered a hypothetical tenant in the market would have regard to in formulating an opinion of rental value – namely:

   (i) An adjustment of 5 % for quatum.
   (ii) An adjustment10% for adverse location characteristics.
   (iii) An adjustment of 2.5% to reflect the requirement for "a lively area" within the ground floor of the property.

   Taking all of the above adjustments into account, Mr. Reynolds agreed this would have the effect of reducing his square metre rate to approximately €120 per sq. metre.

10. In regard to the first adjustment, a perusal of the comparison evidence introduced by both parties does not give any support to an adjustment for quantum. Indeed it would appear that at the relevant valuation date, there was a demand for larger office buildings in this location to meet the demands of major space users.

11. In relation to the end allowance to reflect adverse locational factors, the Tribunal finds that such an allowance is justified. So too did Mr. Nolan when under examination, but he suggested that the allowance would be in the order of 3% to 5% as against the 10% sought by Mr. Reynolds.

12. In regard to the adjustment of 2.5% for the "lively use" requirement, Mr. Reynolds relied upon an extract from the appeal valuer's report in respect of the Dillon Eustace building which states, "*An end allowance was applied to the valuation due to limitations of the property…. It was also a condition of the planning permission that a lively use area is provided at the front of the building…The lively use area dramatically reduces the frontage of the building to Sir John Rogersons Quay.*"

    Under examination Mr Nolan said that the end allowance of 2.5% referred to in the appeal valuer's report was in respect of a number of elements, namely the "Munchies" coffee shop at ground floor level, the "lively use" area at ground floor level within the building and most importantly of all the difficulty associated with vehicular access to and egress from Sir John Rogerson's Quay to the basement car- park. In the circumstances, the Tribunal considers any adjustment for the provision of the coffee area at ground floor level and adjoining the main entrance to be minimal.

13. In arriving at its determination, the Tribunal has considered details of all the comparisons put forward by the parties and attaches most weight to those in respect of buildings of a size similar to that of the property concerned and which also enjoy the benefit of a river frontage. Lesser weight is given to the remaining properties, as they are not truly comparable by virtue of size and other considerations. The Tribunal notes that offices in Portview House, Thorncastle Street are valued at €130 per sq. metre - a location that would not have the same prestige from an office location point of view as Sir John Rogerson's Quay.

14. Finally, the Tribunal would compliment the valuers for the quality of the evidence they presented to the Tribunal, especially that of Mr. Reynolds who went to great lengths in producing schedules of comparative analysis under various headings. All of the evidence introduced by both valuers was of assistance to the Tribunal in arriving at its determination as set out below:

Determination

Offices	15,073.02 sq. metres @ €140 per sq. metres	= €2,110,222
Cars	140 spaces @ €635 per space (agreed)	= € 88,900
Total		= €2,199,122
Net annual value, say		€2,200,000
Rateable valuation at 0.63%		= €13,860

And the Tribunal so determines.