

Appeal No. VA11/5/005

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

International Fund Services Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2193590, Office at 2nd & 3rd floors, The Herbert Building, The Park,
Carrickmines, County Dublin

B E F O R E

John F Kerr - BBS, FSCSI, FRICS, ACI Arb

Deputy Chairperson

Frank O'Donnell - FRICS, B Agr Sc, MIREF

Member

Veronica Gates - Barrister-at-Law

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF DECEMBER, 2011

By Notice of Appeal dated 9th June, 2011, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €727,000 on the above described relevant property.

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

"The valuation is excessive. There has been no regard to the available open market rental evidence".

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay, Dublin 7, on the 26th day of September, 2011. The appellant was represented by Mr. Aidan Reynolds, MSCSI., MRICS., an Associate with Savills, and the respondent was represented by Mr. Dean Robinson, BSc, (Hons) Surveying, 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 at, or between the hearings 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 relevant property comprises purpose-built office accommodation located on the second and third floors within a third generation, five storey block of offices known as the Herbert Building. This building forms part of a mixed-use development known as The Park, Carrickmines, Dublin 18, which features retail warehousing units and three large office buildings known as The Ivy, The Hyde and The Herbert. Fifty car parking spaces are provided in the basement car park of the subject relevant property.

Location

The subject relevant property is located on the Glenamuck Road, just off the M50 from the Carrickmines exit J15, and approximately 13 kilometres south of Dublin City Centre. The Green Luas Line is situated approximately 500 metres east of the subject property.

Services

The property is served with mains power, water, telephone, storm and foul sewer. The subject office accommodation is accessed via two lifts and two stairwells.

Tenure

The property is understood to be held under a 25 x 5 FRI lease commencing on 1st September 2007 at a headline rent of €710,967 p.a. for the designated second and third floor office areas comprising 2,988 sq. metres Gross Internal Area (GIA) 2,542.18 sq. metres Net Internal Area

(NIA), together with and including 50 basement car spaces. The tenant was provided with a break option at the end of year 10 and an 18-month rent free period.

Floor Areas

The agreed floor areas, measured on a NIA basis, are as follows:-

Level	Accommodation	Area sq. metres
2	Offices	1,271.09
3	Offices	1,271.09
-1	Car Parking spaces	50
Total NIA:		2,542.18 sq. metres

Valuation History

June 2010: Valuation Certificate (proposed) was issued with an RV of €812,000.

July 2010: Representations lodged to the Commissioner of Valuation by the appellant's agent. Following consideration, the valuation was reduced to €720,000.

February 2011: Appeal submitted to the Commissioner of Valuation. Following consideration, the valuation was increased to €727,000 after first appeal.

June 2011: The appellant appealed the decision to the Valuation Tribunal by Notice of Appeal received on 13th June, 2011.

Appellant's Case

Mr. Aidan Reynolds took the oath, adopted his précis as his evidence-in-chief, attached hereto as Appendix 1, and provided the Tribunal with a review of his submission. Mr. Reynolds acknowledged that the terms GIA and NIA had been erroneously juxtaposed in his précis, as follows:

5th paragraph under heading “Valuation Methodology / Considerations – Rental Evidence of the Subject Property”,

6th paragraph under heading “Valuation Methodology / Considerations – Other Relevant Open Market Letting Evidence”,

5th paragraph under heading “Conclusion”, and

1st paragraph under heading “Estimate of NAV @ 30th September, 2005”.

Mr. Reynolds then addressed the details of his précis and acknowledged that the location, description, floor areas and valuation history of the subject property was common case for the parties. Mr. Reynolds also confirmed that there was no dispute between the parties on the Net Annual Value (NAV) of €800 applied to each parking space and that the difference between them may be summarised as a NAV of €30 per sq. metres on the office area, as his client was seeking a reduction in the NAV of €230 per sq. metres down to €200 per sq. metres.

Mr. Reynolds then made the following points:-

1. His primary evidence was that based on an analysis of the rent of the subject property, as detailed in his précis.
2. Extrapolating information from a database maintained by his firm, namely Savills, his knowledge of the office market in the Dun Laoghaire – Rathdown County Council rating authority area over the past 10 years and interpreting information from the IPD index of office lettings in the Dublin market for the period 2005 – 2007, he concluded that there was a very limited number of market lettings in the subject rating authority area during the period, though the supply of new third generation office accommodation had increased significantly.
3. Having regard to the foregoing, he argued that:-
 - (a) rental rates appeared to have increased nominally in the greater Dublin region for new office accommodation up to 3% over the period 2005 – 2007,
 - (b) rental levels in the area of the subject, namely The Park in Carrickmines, had not increased during that period and accordingly a letting such as the subject,

4. Amortising the value of the rent-free period of 18 months over the initial term of 5 years and then to the term of the break representing the first 10 years, he determined the average rent at the mid-point of both terms to reflect, in his opinion, the true value of the passing rent for the purpose of establishing the NAV of the subject property. This approach by him produced a proposed NAV figure of €548,400 rounded to €548,000, which is the value being sought by the appellant.

Mr. Reynolds also submitted during the course of the hearing a copy of the Valuation Office Appeal Report and concluded that the dispute between the parties fell to a difference in the analysis of passing rent and in particular with respect to the manner of dealing with the rent-free period of 18 months granted in the said lease.

The consultant valuer also drew upon an analysis of the rent passing on two comparison properties, namely 1,536 sq. ft. (GIA) and 58 parking spaces within Block E at Cherrywood and 313 sq. metres (NIA) with 3 car spaces office accommodation in North Block, Rockfield, Dundrum. However, during the course of the hearing it appeared that his Block E comparison, ground and first floors, are not yet on a Valuation List and a property number has not issued on same. In addition, the Consultant Valuer was not in a position to analyse the rent on it, calculated on a Net Internal basis. Mr. Reynolds confirmed that a valuation has not yet been determined by the Commissioner of Valuation on this property.

The other rental analysis exercise contained in the North Block, Rockfield, comparison property included in the appellant's précis, addressed the rent only and Mr. Reynolds did not dispute the NAV on this property as advised by the respondent, calculated at a rate of €260 per sq. metres.

Cross-examination of the Appellant

In response to questions put by Mr. Robinson and the Tribunal, Mr. Reynolds stated that:-

1. Current new office accommodation vacancy in the Dublin region is approximately 23%.

2. His primary evidence was based on the 2007 passing rent without adjustment to 2005 on the subject property.
3. He stated that the rent-free period would normally be amortised by the tenant during the first five years of a term and the landlord over ten years or more. He considered it reasonable to adopt a median position in the instant case to analyse and establish the value of the subject.
4. He acknowledged that his précis did not cite examples of specific quantum area allowances being provided for in new office accommodation rentals within the rating authority area, and also confirmed that the headline rent in the subject would have included such an allowance.
5. He confirmed that this case would be considered as a test case for 3 other large office demises within the Carrickmines Park development.
6. Market rents at Rockfield would, in his opinion, be higher than those established at The Park at Carrickmines, as indicated in his précis. Office vacancy rates in Cherrywood in 2011 are plus or minus 30% whereas the vacancy level within the Office Park at Carrickmines, with only three occupiers, excluding The Hyde building, is currently in the region of 54%.
7. Following lengthy debate, Mr. Reynolds concluded that there had been a significant increase in the supply of office accommodation in the Dun Laoghaire – Rathdown County Council rating authority area during the period 2005 – 2007, and the rental rates had increased only marginally, if at all, during the same period and in fact had declined in Cherrywood.
8. The fit-out provided by the landlord to complement the third generation specifications of the building was not, in his opinion, user specific and merely represented normal services standards and specifications for firms seeking new office accommodation, based on a predominant open plan layout with ancillary kitchenette and canteen areas,

but also included the provision of conference, display, and audio visual rooms with limited partitioning.

Respondent's Case

Mr. Dean Robinson then took the oath and adopted his précis as his evidence-in-chief. Confirming agreement again between the parties on the location, description, condition, valuation history and lease terms on the subject property, Mr. Robinson advised the Tribunal that the valuation of the relevant property since First Appeal was determined by reference to values of comparable properties stated in the Valuation List in which the property appears. He stated that there was no dispute between the parties on the value of the car parking spaces, and explained that the rate of €230 per sq. metre applied on the two office floors each measuring 1,271.09 sq. metres was determined by the Commissioner of Valuation by reference to three comparison properties (attached hereto as Appendix 2), as follows:-

1. Block A Cherrywood, Dublin 18. Lease on 4,910 sq. metres with a NAV of €240 per sq. metre set at the valuation date of 30th September, 2005, initially without an allowance made for quantum of area. However, following discussions with the occupier's agent, Mr. Reynolds of Savills in this case also, a quantum allowance of 5% was agreed between the parties, which equated to an NAV calculated at a level of €228 per q. metre. He explained that this property is very similar to the subject in terms of quality and build.
2. His second comparison was an office of 1,601 sq. metres within South Block of The Rockfield Centre in Dundrum, with a NAV calculated at a level of €260 per sq. metre and again this property was described as very similar in terms of quality and build to the subject.
3. His comparison property No. 3 comprised 1,245 sq. metres at Sandyford Industrial Estate, with the NAV determined on the basis of €280 per sq. metre.

Mr. Robinson provided rental details on each of his three comparisons, which range from a low of €39.30 per sq. metre and €1,000 per car space, to a high of €74 per sq. metre with car spaces rented at €1,250 p.a. He also advised the Tribunal that the foregoing NAVs were determined post representations in each case.

The respondent noted that the appellant's comparison property Block E at Cherrywood, had not been allocated a property number and was not considered by him a valid comparison for the present case as its value is not on the Valuation List.

The respondent's précis also provided a rental analysis of the subject property which concluded that the headline rent would value at the equivalent of €263.94 sq. metre and the 50 car spaces at €800 per space. Mr. Robinson then provided further analysis to reflect the rent-free period on a straight line basis to the lease break at the end of year 10. In so doing he employed three approaches, calculating a rent-free period at 12, 15 and 18 months, and demonstrated a range of rates per sq. metre of €37.55 to €24.33 p.a., respectively.

He concluded his evidence by confirming that it was the position of the respondent that the rent-free period should be reduced in the analysis from 18 months to 15 months to reflect a normal commercial fit-out period granted rent-free to a tenant in similar circumstances,

- at or about September 2005,
- for a like third generation office demise
- on a new long lease within the subject rating authority area,
- for a period of three months.

This resulted in a figure of €30.95 rounded to €30 per sq. metre used on the subject to calculate the NAV of the subject 2,542.18 sq. metres of office space.

Cross-examination of the Respondent

Responding to various questions asked by the Tribunal and the appellant's agent, Mr. Robinson responded as follows:-

1. Referring to the foregoing rental analysis exercise carried out on the notional rent free periods of 12, 15 and 18 months noted above, he acknowledged that the rental figures applied to the 50 car spaces should have been calculated on a constant basis at €40,000 p.a. Accordingly, he explained that the NAV rates per sq. metre adjusted in line with the foregoing sequence to €35.97, €28.98 and €21.98 p.a.

2. Mr. Robinson stated that, notwithstanding the early phase of appeals on the recent Revaluation of the Dun Laoghaire – Rathdown County Council rating authority area, there is a sufficient number of properties comparable to the subject on the Valuation List to establish a “tone-of-the-list” and the value of this property was established by reference to same.

Findings

The Valuation Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions at hearing.

The Tribunal finds that:-

1. The comparison property cited as Block E in Cherrywood by the appellant was not admissible based on the acknowledgement of both parties that its value is not yet on the Valuation List.
2. The Tribunal was not convinced by the contents of the précis and the evidence adduced by the parties at hearing that there were sufficient properties comparable to the subject on the Valuation List when the subject property was valued for the purposes herein to rely exclusively upon the “tone-of-the-list”.
3. Having regard to the foregoing, the Tribunal is of the view that in this case regard must be had for not only the values of properties comparable with the subject on the List when the property was valued, but also rental evidence of other properties, again comparable with the subject.
4. The analysis of rentals provided by the parties and in particular the respondent was helpful to the Tribunal in determining what the NAV of the subject should be.
5. The Tribunal is satisfied that rental levels had increased in the region of 3% in the subject Dun Laoghaire – Rathdown rating authority area during the period 2005 - 2007.

6. The Tribunal is satisfied that any quantum area allowance negotiated between the parties on the subject was included, as common practice, in the headline rent.
7. The Tribunal is also satisfied that the 18-month rent-free allowance for the purpose of analysing the rent herein may be amortised over the extent of the break period, namely 10 years, on a straight line basis.
8. Based on a headline rent of €10,967 paid over the first 10 years, and factoring the 18-month rent-free period over the 10 years, the NAV of the property should be calculated as follows:-

$$\begin{aligned}
 (\text{€}10,967 \text{ rent / p.a.} \times 10 \text{ years}) - (\text{€}10,967 \times 1.5 / \text{rent free allowance}) &= \text{€}6,043,219.50 \\
 &= \text{€} 604,321.95 \text{ p.a.} \\
 \text{Less } \text{€}40,000 \text{ parking} &= \text{€} 564,321.95 \text{ p.a.}
 \end{aligned}$$

$$\text{Office area} = 2,542.18 \text{ sq. metres}$$

$$\text{Rate per sq. metre} = \frac{\text{€}64,321.95}{2,542.18} = \text{€}21.98$$

$$\begin{aligned}
 \text{NAV} &= \text{€}21.98 \text{ per sq. metre} \times 2,542.18 \text{ sq. metre} &= \text{€}64,321.95 \\
 &\text{plus } \text{€}40,000 \text{ p.a. parking (50 spaces} \times \text{€}800) &= \text{€}604,321.95
 \end{aligned}$$

NAV Say €604,000

And the Tribunal so determines.