

Appeal No. VA11/5/012

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

Cerdera Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2202968, Clinic at Floor 2, Suite 9 and 10, Concourse Building, Beacon Court, Sandyford, County Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Veronica Gates - Barrister-at-Law

Member

Mairead Hughes - Hotelier

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 12TH DAY OF DECEMBER, 2011

By Notice of Appeal dated the 13th day of June, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €43,900 on the above described relevant property.

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

"The valuation does not make sense as rents per sq m are not comparable to other clinics in the area. ie VHI Swiftcare @ €400." "The valuation should only be €29,300."

This appeal first came before the Tribunal on the 29th day of September, 2011 when the appellant was represented by Mr. Robert O'Farrell, the Construction Director of Cerdera Limited. Mr. Dean Robinson, BSc (Hons) Surveying appeared on behalf of the respondent, the Commissioner of Valuation.

At the outset of the hearing Mr. O'Farrell sought an adjournment as he said he was not yet in a position to proceed with the appeal nor had been able to furnish the Tribunal and the respondent with a précis of the evidence he proposed to adduce at the hearing as required under the Rules of the Tribunal. Mr. O'Farrell acknowledged that he had not advised the Valuation Office that he would be seeking an adjournment and agreed that his behaviour in this regard was discourteous to the Valuation Office and the Tribunal. Mr. Robinson opposed the request for the adjournment and said that he was in a position to proceed with the hearing and give evidence in accordance with the précis he had forwarded to the Tribunal on the 15th September.

Having considered the application the Tribunal, with some reluctance, granted the adjournment sought by Mr. O'Farrell. The Tribunal advised the parties that they would be informed of the date of the resumed hearing in due course.

The Tribunal told Mr. O'Farrell that he must forward to the Tribunal a précis of the evidence he proposed to introduce at the resumed hearing at least fourteen days before the date set down for the hearing. He was also told that no further applications for an adjournment from him would be entertained and if he did not appear before the Tribunal on the date set down for the resumed hearing, then the Tribunal would proceed to deal with the appeal in his absence. Mr. Robinson was advised that in the light of the adjournment granted by the Tribunal, he (Mr. Robinson) would be afforded an opportunity to submit a supplementary précis dealing with any matter arising out of Mr. O'Farrell's précis.

In due course the hearing resumed on the 24th day of October, 2011, when the appellant and the respondent were again represented by Mr. O'Farrell and Mr. Robinson respectively. On the 10th October Mr. O'Farrell forwarded to the Tribunal a précis of the evidence he proposed to introduce at the hearing, a copy of which was forwarded to Mr. Robinson. On the 17th October Mr. Robinson availed of the opportunity to submit an addendum to his original précis, a copy of which was forwarded to Mr. O'Farrell.

At the oral hearing, the Tribunal received under oath the précis prepared by Mr. O Farrell and Mr. Robinson. From the evidence so tendered and from additional evidence given orally, the following facts material to the appeal emerged or are so found.

The Property Concerned

The property concerned is a clinical suite consisting of two consulting rooms and a reception area located on the second floor of the Concourse Building of the Beacon development at Sandyford, Dublin 18.

The Beacon development is a very large mixed use complex including the Beacon Private Hospital, the Beacon Clinic and Beacon Hotel, a neighbourhood shopping centre and several hundred apartments many of which have not been completed and are at various stages in the construction process. The Concourse Building is largely unoccupied and several suites – such as the property concerned - has the benefit of planning permission for medical use and others are in conventional office use.

The Concourse Building is a five-storey over basement structure, built and finished to a high standard and specification. Each suite is accessed from a common entrance lobby which provides lifts and staircases to units at all levels.

Accommodation

It is agreed that the accommodation consists of two consulting rooms and a reception area. It is also agreed that the area of the property concerned measured on a net internal area basis is 61.5 sq. metres. This area is less than that stated in Mr. Robinson's précis which included what he described as a "Shared Area" and which he agreed at the hearing was not in the sole occupation of the appellant.

Rating History

The property concerned was valued as part of the revaluation of all relevant properties in the Dun Laoghaire Rathdown rating authority area proposed under Section 19 of the Valuation Act, 2001. The specified valuation date under Section 20 of the Act by reference to which all property must be valued is 30th September, 2005.

In the first instance, it was proposed to value the subject property at €8,600. Following representations by the appellant a valuation certificate was issued on 12th July, 2010 to the effect that the valuation of the property concerned had been determined at €43,900. No change in this valuation was made following an appeal to the Commissioner of Valuation under Section 30 of the Act. The appellant being dissatisfied with the Commissioner's decision lodged a further appeal to this Tribunal in accordance with Section 34 of the Valuation Act, 2001.

The Appellant's Evidence

In his sworn testimony Mr. O'Farrell said the Concourse Building provided a total of twelve medical suites of which only three were occupied. The remaining nine units were currently available on the market on a purchase or letting arrangement.

Mr. O'Farrell said that the medical suites were provided in order to provide accommodation for consultants who could avail of the use of the nearby Beacon Hospital. It was, he said, obvious that the demand for such suites was over-estimated – this was in sharp contrast to the Beacon Clinic building where all the suites were occupied. Mr. O'Farrell said that from a physical point of view the medical suites were identical to conventional office suites in the same complex which were valued at considerably less than €600 per sq. metre.

When questioned about his comparisons (details of which are contained in Appendix 1), Mr. O'Farrell said those in Bracken Business Park and Heather House (Comparisons Nos. 1, 2 & 3) were not located in the Beacon development complex and were in conventional office use. In relation to his other comparisons (Nos. 4 to 7), Mr. O'Farrell was unable to add any additional information to the facts therein set down.

Mr. O'Farrell also provided additional information in relation to other transactions in Beacon Court but agreed that these were of limited assistance, in that in once instance, they consisted of a letter of offer and in another a summary of the principal terms in respect of “part of the ground floor of Suite 36, the Mall, Beacon Court.” The demised area which has a permitted use as offices was let at €30 per ft. – i.e. €322 per sq. metre for an area of 1,953 sq. ft (181 sq. metres).

The Respondent's Evidence

Mr. Robinson, having taken the oath, sought leave to adjust his valuation as submitted to the Tribunal having regard to the fact that it included "a shared area" which was not in the rateable occupation of the appellant. Accordingly, he recast his valuation as set out below:

Medical suite – Total area – 61.5 sq. metres

Valuation – 61.5 sq. metres @ €600 per sq. metre = €36,900

In support of his revised estimate of net annual value, Mr. Robinson introduced 8 comparisons details of which are contained in Appendix 2 attached to this judgment.

Mr. Robinson said that in arriving at his estimate of net annual value of the subject property he had regard to two important factors.

- The Concourse Building was situated close to the Beacon Private Hospital.
- The subject property had the benefit of planning permission for medical/clinical use.

In his opinion, therefore, the property would be of particular interest to consultants who could avail of the facilities at the nearby private hospital.

Referring the Tribunal to his comparisons, Mr. Robinson said he was relying principally on Comparisons Nos. 1, 2 and 3, in as much as each was a medical suite in buildings located close to a private hospital. To that extent they were the same as the subject property and it followed therefore that Suite 9 and 10 should be valued at the same rate per sq. metre, i.e. €600.

In regard to his comparisons Nos. 4, 5 and 6, these were introduced to show that there was a "premium value" attaching to accommodation which had planning consent for medical use. His other comparisons (7 and 8) which are located in Beacon Court also supported this differentiation. The fact that medical suites in Rockfield were valued at €400 per sq. metre reflected the fact that they were not located convenient to a private hospital.

Findings

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

1. The valuation of the property concerned in this appeal was made as part of the revaluation of all relevant property in the Dun Laoghaire Rathdown rating authority area.
2. The basis of valuation is set down in Section 48 of the Valuation Act, 2001 which states as follows:

(1) The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.

(2) Subsection (1) is without prejudice to section 49.

(3) Subject to section 50, for the purposes of this Act, ‘net annual value’ means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant.

3. The specified valuation date by reference to which each property is to be valued is 30th September, 2005 in accordance with Section 20 of the Act.
4. The area of the property concerned measured on a net internal area basis is 61.5 sq. metres and not 73.26 sq. metres as originally stated by the respondent.
5. It is common case that the Concourse Building is in mixed use, in that some of the accommodation provided therein, is in conventional office use, whilst some other parts are in medical/clinical use. It is common case also that those suites which have the benefit of planning permission for medical use are of particular interest to medical

6. It is common case that the Concourse Building has been constructed to a high specification and fitted out so as to provide good quality accommodation and facilities at all levels. It is agreed that there are no material physical differences between those units or suites which are in office use and those used for medical/clinical purposes.

7. The valuation evidence introduced by the parties is confusing and inconclusive – particularly that introduced by the appellant which was imprecise, incomplete and in some instances inadmissible. Nonetheless, the Tribunal considers the following facts to be material.
 - Medical suites in the Beacon Clinic and at the Blackrock Clinic share a common characteristic in that they are both located in close proximity to a private hospital. Suites in both these properties are valued at €600 per sq. metre.
 - The Concourse Building is a mixed use property and to that extent is different from the Beacon Clinic which is solely in medical use.
 - Typical office suites in the Rockfield Centre are valued at €300 per sq. metre (Valuation Office Comparison No. 5).
 - Medical suites in Rockfield are valued at €400 per sq. metre (Valuation Office Comparison No. 6). This indicates a premium for medical use of 33%.
 - Wellington Eye Clinic – Suite 36, The Mall, Beacon Court is valued at €370 per sq. metre for a suite some four times the size of the property concerned (Valuation Office Comparison No. 8).

8. The Tribunal attaches little weight to the evidence of lettings of office accommodation at Bracken Business Park and Heather House at Sandyford by virtue of the fact that they are located in developments that are different in scale and content to the Beacon complex.

9. Having regard to the foregoing, the Tribunal has come to the conclusion that the property concerned should be valued at a lower rate per sq. metre to similar sized suites in Beacon Clinic. The Tribunal is also of the view that the property concerned should be valued at a higher rate per sq. metre than medical suites at Rockfield.

Determination

Having regard to these findings the Tribunal determines the net annual value of the property concerned in accordance with the relevant statutory provisions contained in the Valuation Act, 2001 to be as set out below:

Medical Suite – 61.5 sq. metres @ €500 per sq. metre = €30,750

NAV €30,750

And the Tribunal so determines.