

Appeal No. VA11/5/120

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

Cerdera Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2202964, Clinic at Vacant Part Second Floor, Concourse Building, Beacon Court, Sandyford, County Dublin

B E F O R E

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

Deputy Chairperson

Joseph Murray - BL

Member

James Browne - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF FEBRUARY, 2012

By Notice of Appeal received on the 2nd day of August, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €175,900 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 of rents per sq. m are not comparable to other offices in the area. ie at €200 per sq. m."

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 7th day of December 2011. The appellant was represented by Mr. Robert O'Farrell of Cerdera Ltd. The respondent was represented by Ms. Fiona Quinn, BSC, ARICS, a Valuer in the Valuation Office. Both parties adopted their written submissions, which had previously been exchanged between them and submitted to the Tribunal, as being their evidence-in-chief given under oath.

The Property

The property concerned comprises medical suites located in the Concourse building of the Beacon Medical Development. The unit is built to a high standard. The area sizes are agreed between the parties. It is noted that it was agreed prior to commencement of the hearing that the parties agreed to remove the common areas from the valuation and the total area on a net internal area basis was agreed at 212.93 sq. metres, for the purposes of the Tribunal hearing.

Location

The property is located in the Concourse Building of the Beacon Medical Development on Blackthorn Road in Sandyford. The unit is approximately 580m from the M50 and 1.9km from the N11. The main access route is along Blackthorn Road. The property is situated on the second floor of the Concourse Building.

Tenure

The property is held under a long lease.

Basis of Valuation

The Rating Authority is Dun Laoghaire / Rathdown County Council. The property was the subject of revaluation as one of all rateable properties in the rating authority area. The valuation order for Dun Laoghaire Rathdown County Council specifies 30th September 2005 as being the valuation date.

The valuation levels were derived from analysis of the available open market rental information for comparable properties and applied to the subject property. The valuation of this property, on appeal to the Commissioner of Valuation, was determined by reference to the values of comparable properties stated in the Valuation List in which the property appears.

Valuation History

The proposed valuation certificate issued on the 15th June 2010 which stated that the property had a valuation of €234,000. Representations were lodged by the appellant's Agent, Mr. Robert O'Farrell for the subject property on the 6th October 2010 and at that stage the valuation was reduced to €175,900. An appeal was lodged by the appellant's Agent to the Commissioner of Valuation on the 8th day of February 2011. The valuation remained unchanged at €175,900 after first appeal.

An appeal was lodged with the Valuation Tribunal on the 2nd August 2011. Immediately prior to the hearing of the appeal it was agreed between the parties that the common areas would no longer be valued reducing the total area to be valued to 212.93 sq. metres and thus reducing the valuation on the property to €127,700. The valuation per sq. metre remained unchanged at €600 per sq. metre.

The Issues of Appeal

The appellant alleges that the valuation does not make sense as rents per sq. metre are not comparable to other offices in the area, i.e. at €200 per sq metre. It is alleged by the appellant that the valuation should be only €6,648.

The Appellant's Case

Mr. Robert O'Farrell, having taken the oath, adopted his written précis which had previously been received by the Tribunal, as being his evidence-in-chief.

In his evidence, Mr. O'Farrell stated that the rents as suggested by the Valuation Tribunal were not achievable at the valuation date of the subject property. He believed that the correct rent would be about €30 per sq ft. He stated that the office had been vacant since completed and that the market is in a depressed state. He stated that no medical procedures were carried out in these offices or on this floor of the Concourse Building.

Mr. O'Farrell stated that the offices were for examination and / or consultation purposes only. He stated that the subject property has raised floors and suspended ceilings. He stated that only the second floor of the Concourse Building was for medical purposes, and that the other floors were for office use only. He stated that the third floor had recently obtained planning permission for a change of use to medical purposes. He provided a number of comparable

properties. His comparisons did not in fact provide the rateable valuations of these properties but instead provided only the rents on these properties.

The appellant's comparisons are attached at Appendix 1 herewith.

Cross-examination

Ms. Fiona Quinn cross-examined Mr. O'Farrell on his submissions. She suggested that his comparable properties were not in fact comparable to the subject property. He agreed that all of the Concourse properties were valued at €600 per sq. metre, but stated that he did not accept that this was a correct valuation. He also pointed out that the valuations on these properties had not been appealed to the Valuation Tribunal stage. He confirmed that the Concourse was not part of the Beacon Hospital. He agreed that the property was of a high quality.

Mr. O'Farrell agreed that his comparisons nos. 4, 5 and 6 in Beacon Court were valued all as one unit for the purpose of valuation, however he stated that it was under appeal. At this stage the Tribunal questioned Mr. O'Farrell as to whether or not his comparisons were relevant as on one hand he was suggesting that they should be not considered because they were under appeal, yet he had put the comparables forward. Mr. O'Farrell did not give a direct answer to this question. The Tribunal pointed out to Mr. O'Farrell that it was his duty to bring in comparisons and relevant information for the purposes of this appeal.

The Respondent's Case

Ms. Fiona Quinn having taken the oath adopted her written précis, which had previously been received by the Tribunal, as being her evidence-in-chief. Ms. Quinn stated that :-

- a. There was not a lot of rental information available for properties in this area.
- b. She applied a premium of 37% on units granted the benefit of medical service uses over comparable office accommodation.
- c. The floors had medical planning permission which permitted the occupiers to do either consultation or procedural work. However, she agreed that she did not look at the detail of the medical planning permission to see what it actually stated and, accordingly, did not know if medical procedures may be permitted to be carried out there.

- d. She applied a 47% premium for medical services units at the Beacon Concourse Building as it was associated with a hospital.
- e. She was not familiar with the Blackrock Clinic, internally.
- f. She did not actually have any rental evidence for the Concourse Building.

In support of her opinion of a NAV of €127,700 on the subject property, Ms Mullins put forward 4 comparisons, details of which are attached at Appendix 2 to this judgment. Two of these comparisons are located in Beacon Court and valued at €600 per sq. metre. The third comparison, in the Blackrock Clinic, is also valued at €600 per sq. metre. The final comparison, valued at €400 per sq. metre, is located in the Rockfield Centre, Dundrum.

The Tribunal pointed out that there was no rental evidence available and that the level of €600 per sq. metre ascribed to the subject property had not been tested at final appeal stage to the Tribunal for any other property on this floor.

Under cross-examination she agreed that there was a Luas stop on the door of the Rockfield Clinic comparison. However she stated that the Beacon complex was a better development and had a hospital adjacent to it. She also stated that there was a Luas stop quite close to it, namely the Central Park stop.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing and makes the following findings:

1. The statutory basis of valuation is set down in section 48 of the Valuation Act, 2001 wherein at section 48(3) the net annual value of property is defined as 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, 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”*.
2. Section 63(1) of the Valuation Act, 2001 states:

“The statement of value of property as appearing on a valuation shall be deemed to be a correct statement of that value until it has been altered in accordance with the provisions of the Act”. Therefore the onus is on the appellant to prove that the valuation under appeal is not correct.

3. The areas are agreed between the parties.
4. The subject is situated in a mixed-use building, which is of primarily office use, with one floor only at the valuation date dedicated to medical services.
5. In common with the Clinic Building, the subject is located within the Concourse Building adjacent to the Beacon Hospital.
6. The appellant advises that consultants within the Concourse Building may derive privileges from the medical, clinical, diagnostic and theatre services offered at the adjacent Beacon Hospital but that these privileges are not necessarily exclusive to the consultants who have their rooms or clinics in the Concourse Building.
7. The appellant failed to provide evidence of any comparable values of other relevant properties as he relied exclusively on rental evidence.
8. The appellant’s case was predicated exclusively on unvouched rental evidence and hearsay and the appellant could not confirm that the leases referred to were concluded on an arms’ length basis.
9. The appellant acknowledged a lack of familiarity with the Valuation Act, 2001.
10. The respondent confirmed that there was a paucity of rental evidence available, especially with respect to leases at the subject Concourse complex and accordingly values were benchmarked there by reference to:
 - a. €600 per sq. metre agreed with 38 occupiers of the Clinic Building previously;
 - b. NAV levels for offices in the Concourse Building established on the list at €320 per sq. metre together with a premium factor to reflect the medical use.

11. The respondent advised that the premium apportioned to the medical services units at Rockfield equalled 37% over the standard office levels applied per sq. metre there and considered an appropriate minimum premium of 47% to apply on the subject office levels and other properties at the Beacon complex.
12. The propinquity of the subject to the Beacon Hospital should also warrant a further premium.
13. The Tribunal is of the view that the Blackrock Clinic medical suites together with the medical suites at the Beacon Clinic Building may be considered equivalent to each other, as reflected in their current valuation at €600 per sq. metre.

Determination

In reaching its determination the Tribunal has been required to consider only the evidence submitted and adduced. In so doing the Tribunal has made the foregoing findings and in light of those findings determines the valuation of the respondent is not fair when compared to other relevant properties in the area. All of the foregoing considered, the Tribunal concludes that based on the evidence submitted and adduced at the hearing, a fair and reasonable level of €500 per sq. metre should apply to the subject relevant property.

Accordingly, the Tribunal determines that the valuation of the subject property should be calculated as follows:

Offices 212.93 sq. metres @ €500 per sq. metres = €106,465

NAV say €106,000

And the Tribunal so determines.