

Appeal No. VA14/2/009

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

Colm O'Cochlain & Co. Solicitors

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 1141233, Office(s) at 1st Floor, First Active House, Main Street,
Tallaght, County Dublin

B E F O R E

Niall O Hanlon - BL

Deputy Chairperson

Michael Lyng – Valuer

Member

James Browne - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF DECEMBER, 2014

By Notice of Appeal received the 26th day of June, 2014, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €19,690 on the above described relevant property on the grounds as set out in the Notice of Appeal attached to this judgment at Appendix 1.

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Holbrook House, Holles Street, Dublin 2 on the 11th day of November 2014. The Appellant was represented by Mr Eamonn Halpin of Eamonn Halpin & Company Limited. The Respondent was represented by Mr Martin O'Halloran, a Valuer at the Valuation Office. Both parties adopted their written submissions as their evidence in chief given under oath, the submissions having previously been exchanged between them and submitted to the Tribunal.

THE PROPERTY

The subject property is the middle of three first floor office units. The first floor was previously a single unit and the subject property came into being as a result of the subdivision. The subject unit was measured on a net internal area [NIA] basis. Total floor area: 75.76 sq. metres.

LOCATION

The property is located in a two storey development on the Old Blessington Road, just off Main Street in Tallaght Village, Dublin 24. The area sizes are agreed between the parties.

TENURE

The property is held freehold by the Appellant.

VALUATION HISTORY

The Rating Authority is South Dublin County Council. The property was submitted for revision for the purposes of sub-division. Valuation history: 8th May 2012: Colm O'Cochlain submitted a revision request to have the property subdivided. 10th January 2013: The property was subdivided at a revision and draft certificate issued for the subject property at RV €20,400. 5th February 2013: Representations submitted. 30th May 2013: Valuation reduced at representation stage. Final certificate issued at RV €19,690. 8th July 2013: Appeal submitted. 30th May 2014: Appeal Officer made no change to the valuation. Subsequently an appeal was lodged with the Valuation Tribunal.

THE GROUNDS OF APPEAL

The Appellant clarified the grounds of appeal at the hearing on the 11th day of November 2014. The Appellant stated that the grounds of appeal centred on the assertion that the valuation was incorrect on the basis that:

- a. The subject property was not valued in line with comparable properties;
- b. The Commissioner did not take fully into account the consequences of the sub-division of the subject property and in particular, the loss of its own door entrance;
- c. The building had no parking and stopping outside the property was prohibited, which is a major drawback;
- d. The level suggested by the Commissioner was excessive in view of the relative value of the offices.

THE APPELLANT'S CASE

Mr Halpin provided the Tribunal with a review and synopsis of his submissions. He argued that a number of matters were not properly taken into consideration by the Respondent in reaching a valuation on the property. In particular, he made the following points:

- a. That the subject property was a 1980's first floor office located between the junction of Main Street and High Street in Tallaght Village. He felt this was only a reasonable office location owing to the decentralisation of commercial activity in Tallaght Village beginning in the early 90's with the opening of The Square.
- b. He suggested that the subject property was not valued in line with comparable properties. He argued that the original valuations during the revaluation of offices in this area had over-assessed the emerging tone and cited the case of VA08/5/013 as an example whereby the Valuation Tribunal, on appeal, had reduced the valuation on offices in the area.

He suggested therefore that the property requires adjustment in light of all comparisons within the broader and now fixed tone of the list, with greater emphasis being placed on those which were the subject of appeal, and especially those the subject of a decision by the Valuation Tribunal.

- c. He asserted that the first floor office space when first assessed by the Commissioner for the purposes of revaluation had its own door. However, following the sub-division of the first floor into three offices, the subject property was left with a shared entrance with another occupier and that this reduced the relative attractiveness of the property.
- d. The building has no parking and stopping outside the property was prohibited which was a significant drawback in terms of the area.
- e. He suggested that the level as suggested by the Commissioner was excessive in view of the relative value of the offices.

Mr Halpin also referred to the Valuation Tribunal appeal, VA08/5/013, which was attached to his submission. In particular he referred to Section 5 and the comparable evidence of first floor offices of eleven properties that were exhibited with the decision. It was noted by the Tribunal that the index containing these properties was not submitted with the Appellant's précis.

Mr Halpin brought the Tribunal through his comparisons.

- 1. Romaine Scally Solicitors, Main Street, Tallaght.
Property No. 464501.
NAV Basis: First floor offices 99 sq. metres at €220 per sq. metre.
- 2. BP O'Reilly Solicitors, Old Bawn Road, Tallaght.
Property No. 471665.
NAV Basis: First floor offices 223 sq. metres at €220 per sq. metre.
- 3. O'Donovan & Co., Solicitors, High Street, Tallaght.
Property No. 1141203.

NAV Basis: First floor offices 33.12 sq. metres at €250 per sq. metre.

Property No. 1141204.

NAV Basis: First floor offices 37.30 sq. metres at €250 per sq. metre.

4. Tom Maher & Co., Solicitors, Main Street, Tallaght.
Property No. 464502.
NAV Basis: Office 8.56 sq. metres at €72.50 per sq. metre.
First floor kitchen and offices 53.50 sq. metres at €150 per sq. metre.

Mr Halpin summed up his evidence by suggesting that the eleven properties in the index attached to the valuation precedent suggested an indicative valuation of €200. He summed up his evidence by stating that the maximum value he would put on this property was €220.

Under cross-examination, Mr Halpin agreed that the property was built in the late 80's or early 90's. He accepted there was a car park behind the property but not part of the development; he pointed out that this car park was in fact part of the Courthouse. He accepted that in his comparisons number 2 and 4 that the first floor to these properties could not be occupied separately and was part of, or ancillary, to the ground floor property. Furthermore, he accepted the valuation would be affected by this.

THE RESPONDENT'S CASE

Mr O'Halloran noted that the valuation on the property had been reduced from €270 to €260 on appeal to the Commissioner. He noted that the units that were also on the same property on the same floor had a valuation of €270. He took the Tribunal through his précis. He asserted that the valuation was determined by reference to the values of comparable properties stated in the valuation list for South Dublin County Council and in accordance with the provisions of Section 49(1) of the Valuation Act, 2001. He provided six comparisons. He pointed out that the subject property was 75.76 square metres at €260, giving a valuation of €19,697.60. He therefore said that the rate of valuation had a total NAV of say €19,690.00.

Mr O'Halloran had in his précis provided a first floor plan of the property within which the subject property was located.

Mr O'Halloran brought the Tribunal through each of his comparisons.

1. Vacant first floor office at First Active House, Old Blessington Road, Tallaght, Dublin 24.
Property number 5003800.
First floor office, 45.32 sq. metres at €270 per sq. metre.
2. Creely Fleming & Co., First Floor, First Active House, Old Blessington Road, Tallaght, Dublin 24.
Property number 1141232.
First Floor Office, 57.14 sq. metres at €270 per sq. metre.
3. Kevin Tunny Solicitors, Old Blessington Road, Tallaght, Dublin 24.
Property number 2162875.
First Floor Office, 69.38 sq. metres at €270 per sq. metre.
4. John O'Leary & Co., Old Blessington Road, Tallaght, Dublin 24.
Property number 2162876.
First Floor Office, 53.79 sq. metres at €270 per sq. metre.
5. Vacant, Old Bawn Road, Tallaght, Dublin 24.
Property number 471662.
First Floor Office, 44.14 sq. metres at €270 per sq. metre.
6. Permanent TSB, Old Bawn Road, Tallaght, Dublin 24.
Property number 471602.
First Floor Office, 168.12 sq. metres at €270 per sq. metre.

He concluded by stating that there was a clearly established tone for the first floor offices in the immediate vicinity of the subject property. He stated that he had full regard for the size and location of the subject unit when applying the net annual value per square metre. He stated that the level applied to similar office properties at this location was €270 per square metre. He further stated that the subject was valued at lower than all of the geographically near comparisons at €260 per square metre. He suggested therefore that the valuation was correct and fair.

He asserted that comparisons 1 and 4 of Mr Halpin's were too far away, and that comparisons 2 and 4 had its first floor offices as ancillary to the ground floor. He asserted

that comparator 3 of Mr Halpin's was in a different location and had its own tone for office space due to a different commercial mix.

Under cross examination Mr O'Halloran confirmed that the photos provided in the comparisons were old archived photos. He stated that he did not agree with the reduction from €270 to €260 but he was maintaining same. He accepted that there were no offices in Tallaght valued at more than €270 that he was aware of. He, however, asserted that the offices closest in proximity to the subject property were valued at €270. He stated the reason he did not show any comparisons with lower valuations was that these were the closest comparisons. He suggested that there were two distinct tones for offices in the area and that former domestic properties were valued differently than purpose built properties. Mr Halpin disputed this.

Mr O'Halloran accepted that there was greater footfall in areas where there was a lower valuation on similar type offices. However, he asserted that the better retail location does not indicate a better office location. While he accepted that the subject property had no parking, he pointed out that there was parking to the rear of the subject property in the Courthouse.

CLOSING

Mr Halpin suggested that the property had not been fairly weighed in line with the broad tone as established. He stated that there was now a fully settled tone. He stated that as the revaluation process proceeded, the tone for the office properties on first floor properties was reduced. He stated that the subject property should be weighed against a broad tone and not just the highest value or those closest in proximity. He pointed to a lack of parking, a shared entrance and a poor approach of the hall to the entrance door as indicators that the subject property should be valued lower.

He asserted that the maximum valuation he would place on the property was €220. He stated that the Commissioner can look at what went before, but must look at the broad tone and must also look at inferior properties to arrive at a fair valuation.

Mr O'Halloran stated that the tone was established and that all six comparisons were appropriate comparisons, that these set a tone of €270 and that the valuation set at €260 for the subject property was appropriate. He stated that he took into account the size and location of similar offices and these were all valued at €270. He stated that the subject property was valued at lower than all of the closest comparisons.

DETERMINATION OF THE TRIBUNAL

We have considered the written submissions and oral evidence offered by both parties and find as follows:

FINDINGS

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

1. The Tribunal has considered the comparisons offered by both parties and notes that it must make its findings in accordance with Section 49(1) of the Act;
2. The Tribunal accepts that the Valuation Act, 2001 which came into effect on the 2nd day of May 2002, sets down the principles for valuing properties for rating purposes and the procedures for revision and first appeal stages and dictates that values should be determined by reference to comparable properties in the same rating area;
3. The subject property was built circa late 1980's early 1990's;
4. The Tribunal notes the location and general description of the property and its size;
5. The Tribunal notes the location of the subject property and accepts that there are a number of comparator properties within close proximity and of similar construction;

6. The Tribunal accepts that in the absence of any definition in the Act as to what is comparable, the word must be given its normal meaning and means equivalence, likeness or sameness. That being the case, the comparable must be interpreted as being similar in use, location and nature of construction or any other factor which will have a bearing on value. In this respect the Tribunal is of the view that the Respondent's comparisons numbers 1 and 2 to be of the greatest assistance in determining a fair and reasonable valuation of the subject property. The Respondent's other properties are also of value in reaching an appropriate valuation. The Tribunal finds that comparisons 1 and 4 of the Appellant, being further away, while relevant, are to be given less weight, while comparisons 2 and 4 had their first floor offices as ancillary to the ground floor and are therefore qualitatively different. The Tribunal distinguishes the Appellant's comparator no. 3 on the basis that it is located in a different commercial mix.
7. The Tribunal finds that the eleven comparisons provided by the Appellant by way of an index to valuation determination number VA08/5/013 to be of no evidentiary weight. The argument that such comparisons, and alleged facts therein, could be used in the present case, is misconceived. Previous determinations of the Tribunal are relevant for the purposes of legal points made therein, but any facts therein are not of any evidential value to subsequent Tribunal hearings and cannot be relied upon.

In reaching this 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 it determines that the valuation of the Respondent is fair and reasonable. The Tribunal therefore affirms the valuation of €260.

And the Tribunal so determines.