

Appeal No. VA91/2/072

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**Canada Life Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Office (gr. floor) and 16 car spaces at Lot No. 35-37, Lower Grand Canal Street, Ward:  
South Dock A, County Borough of Dublin

**B E F O R E**

**Padraig Connellan**

**Solicitor (Acting Chairman)**

**Brian O'Farrell**

**Valuer**

**Joe Carey**

**P.C. M.I.A.V.I.**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 20TH DAY OF DECEMBER, 1991**

By notice of appeal dated 24th day of July, 1991, the appellants appealed against the determination of the Commissioner of Valuation in fixing the rateable valuation of the above described hereditaments at £450.

The grounds of appeal as outlined in the Notice of Appeal are that "based on the current Rent/N.A.V. the present Rateable Valuation is excessive".

### **THE PROPERTY**

The property comprises all the ground floor offices less shared reception areas of a six storey office block in Clanwilliam Place known as Marine House, plus sixteen basement car spaces. It is agreed that there are 6,600 sq.ft. of office space and the car spaces are located in the basement. The building fronts onto Clanwilliam Place. The property is held on a 35 year lease from the 1st July, 1978. The current rent, fixed at rent review on the 1st July, 1988 is £63,000. The premises were acquired by Canada Life in the Summer of 1989 on an assignment of the leasehold interest.

### **VALUATION HISTORY**

The recent valuation history of the property is that it was listed for revision by Dublin Corporation in 1989. The revision results issued in May, 1990 fixed the rateable valuation at £450. This was appealed to the Commissioner of Valuation who having considered the report of the appeal valuer made no change in the £450 Rateable Valuation. It is against this determination the appeal now lies with the Tribunal.

### **WRITTEN SUBMISSIONS**

A written submission was received from Mr. Frank O'Donnell of Frank O'Donnell & Company, Valuation, Rating & Property Consultants on the 31st October, 1991 on behalf of the appellants. In this submission Mr. O'Donnell said that there was a nil premium to the Vendors Ernst & Whinney when Canada Life acquired the subject premises in the Summer of 1989. He said that Canada Life officially took possession on 12th June, 1989. Mr. O'Donnell said that a joint inspection of the premises was carried out on the 21st November, 1990 with Mr. T. Dineen, District Valuer, Valuation Office and that on that date a floor area of 6,600 sq.ft. was agreed between the parties. He said that it was also agreed that a conversion factor of .63% of Net Annual Value be adopted in arriving at Rateable Valuation. He said that the relevant date was agreed at November, 1988 but that disagreement was recorded in the matter of the Net Annual Value of the premises. He said that this is the issue which is now before the Tribunal. Mr.

O'Donnell said that it was his contention that the best evidence of Net Annual Value available to comply with the relevant statute is found in the rent fixed at review in July, 1988, and the assignment of the leasehold interest in Summer of 1990 with no premium paid to the Vendor. He said that his estimate of the Net Annual Value passed the two crucial "market" tests, one of which was before and the other after the agreed relevant date in November, 1988. Mr. O'Donnell said that in his opinion the Net Annual Value of the property as at November, 1988 was £63,000 and applying a factor of 0.63% he concluded that the Rateable Valuation should be £397. Mr. O'Donnell supplied one comparison, that of Cablelink Limited, 33a, Ballsbridge Terrace (10, Pembroke Place), Pembroke West B, wherein the rent was reviewed on the 1st July, 1988 at £130,000 for an area of 15,450 sq.ft. and ten car spaces. The R.V. was agreed at 1990 revision at £820 issued on the 10th May, 1990, i.e.  $£130,000 @ .63\% = £819$ , say £820.

A written precis was received from Mr. Terence Dineen, B.Agr. Sc, District Valuer, Valuation Office on the 1st November, 1991 on behalf of the respondent. In this Mr. Dineen said that the property was first valued in 1979 together with the forth and fifth floors of Marine House and 42 car spaces at an overall valuation of £2,200 which was reduced on appeal to £2,140. He said that the portion of value of valuation on the ground floor and 16 car spaces was £720. In reply to the grounds of appeal he said that;

- (a) Rent may have increased from July to November, 1988
- (b) Rateable fit out should be taken into account in calculating N.A.V. and
- (c) The Rates Correction Factor should apply.

With regard to (a) above he said he would provide an example in the Royal Hibernian Way which would show that the second and fifth floors of Block B leased at £9.80 per sq.ft. in July, 1988 and that the fourth floor leased at £13.00 per sq.ft. from the 1st of December, 1988. The former involved landlord fit out and 6 months rent free while the latter conformed with a 3 month rent free period. With regard to (b) above Mr. Dineen gave examples of fit out at £21.00

per sq.ft. to which landlords fit out should be added giving a figure of £29.00 per sq.ft. not including carpets or blinds or wiring for telephones and V.D.U.'s. He said that in the case of the subject premises that because the lease was assigned at an nominal premium it could be claimed that there was no value attributable to tenants improvements but, he said then Canada Life proceeded to carry out improvements themselves. He said that the Rent/Rates equation allowed for an adjustment where the rateable valuation fluctuates. Mr. Dineen outlined the basis of valuation of the subject property as follows:

6671 sq.ft. @ £9	=	£60,039
16 Car Spaces @ £650	=	<u>£10,400</u>
		<b>£70,439</b>
at .63%	=	£443.70
		<b>Say   £450.00</b>

### ORAL HEARING

At the oral hearing which took place on the 6th November, 1991 Mr. Frank O'Donnell of Frank O'Donnell & Company represented the appellant and Mr. Terence Dineen of the Valuation Office represented the respondent. Mr. O'Donnell gave evidence as set out in his precis of evidence and summarised above. He laid great emphasis on the fact that in the case of Cablelink 33a, Ballsbridge Terrace the rent was reviewed on the same date as the subject property i.e. July, 1988 and that was taken by the Commissioner of Valuation as the Net Annual Value at November, 1988. In reply to Mr. Dineen, Mr. O'Donnell said that the only "fit out" was that Canada Life removed some of the partitions and made 3 open plan offices. In doing this they used the existing partitions removed some of them and discarded some. He said that they painted the building and put in new carpets. Mr. O'Donnell said that he would not call that "fit out". He said that if these things were to be valued then Canada Life would have paid a premium for the subject property. Mr. O'Donnell said that he doubted if Ernst & Whinney would give a present of the "fit out" to Canada Life.

Mr. Dineen introduced a number of comparisons which Mr. O'Donnell objected to on the grounds that these decisions in the cases concerned have not yet been issued by the Commissioner of Valuation and that it was unfair to use them. The Tribunal has already referred to the use of such comparisons in Appeal No. VA\91\2\1 Irish Shell Ltd., and as in that case it now rules that such comparisons can not be considered by the Tribunal.

Mr. Dineen gave evidence as set out in his precis of evidence. Mr. O'Donnell objected to the points being raised by Mr. Dineen with regard to fit out costs and to the Rent/Rates Factor on the grounds that these were not at issue at first appeal stage and that the only outstanding issue between the two parties was the Net Annual Value. Mr. Dineen agreed that these aspects were not taken into consideration when the Commissioner made his decision at first appeal, although he said that the Rent/Rates Factor was always there in theory but never formulated as an individual item.

### **DETERMINATION**

The Tribunal has found that it is appropriate that "fit out" of premises be taken into consideration in arriving at the Rateable Valuation of a property but it has come to the conclusion that the "fit out" costs in this case were minimal. The Tribunal finds that it is irregular that findings not considered by the Commissioner of Valuation in arriving at his determination be put in evidence before the Tribunal on behalf of the respondent. The Tribunal feels that it can not take such findings into consideration. The Rates Impact Factor was not taken into consideration by the Commissioner at the time of first appeal as stated by Mr. Dineen in evidence, and it is not taken into consideration in this judgment. The Tribunal has come to the conclusion that there was no significant increase in rent from the period July, 1988 to November, 1988 and holds that the rent of £63,000 agreed in July, 1988 should be considered as the Net Annual Value for the purposes

of this appeal. It therefore, decides that the Rateable Valuation of the subject property should be £400.