

Appeal No. VA93/4/035

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

**Equitable Life Assurance Society**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Offices and 5 Car Spaces at Map Reference: Block D, Third Floor, Earlsfort Centre (Alexandra Centre), Townland: Earlsfort Terrace, Ward: St. Kevin's, County Borough of Dublin  
Quantum - Passing rent, comparisons

**B E F O R E**

**Mary Devins**

**Solicitor (Acting Chairman)**

**Veronica Gates**

**Barrister**

**Paddy Farry**

**Solicitor**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF MAY, 1994**

By Notice of Appeal dated the 14th day of October, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £415 on the above described hereditament.

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

"the rateable valuation is excessive and inequitable".

**The Property:**

The property comprises offices on the entire third floor of Alexandra House located in the Earlsfort Centre with 5 car parking spaces in the basement. It is located to St. Stephen's Green, The National Concert Hall and Conrad Hilton Hotel.

**Tenure:**

The offices are held on a 35 year lease from 1st July, 1991 with reviews every five years at an annual rent of £89,432. In addition the occupier pays a service charge of approximately £2.60 per square foot.

**Valuation History:*****May 1991:***

A single valuation for the first, second, third, fourth and sixth floors of Alexandra House (Block D), was issued to Dublin Corporation.

***24th May 1991:***

An appeal against the revised valuation was received by Dublin Corporation. The appeal was lodged by the agent for the owners - Lisney.

***March 1992:***

Property was inspected by Appeal Valuer.

***October 1992:***

Commissioner issued his decision to value each of the floors separately.  
The valuation on the third floor was fixed at £415.

***November 1993:***

Agent for the occupier lodged an appeal to the Valuation Tribunal.

**Written Submissions:**

A written submission was received on the 22nd March, 1994 from Mr. Adrian Power-Kelly, A.R.I.C.S., A.C.S., an Associate of Harrington Bannon, Chartered Valuation Surveyors, on behalf of the appellant.

In the written submission Mr. Power-Kelly described the property and its location. He said the following factors, *inter alia*, affected the valuation:-

- 1) The subject property comprises part of third floor accommodation within an office development. However, the accommodation is longitudinal and angular in nature which affects the layout and use of the accommodation.
- 2) Access to the offices is via a ground floor lobby and lift accommodation which

is shared with all other occupiers to the building and occupiers of the subject accommodation have little opportunity to impose their own identity at the main entrance. Furthermore, toilet facilities are within a common area and are shared with other occupiers in the building.

Mr. Power-Kelly set out his calculation of the rateable valuation as follows:-

5,227 sq.ft. @ say IR £10 per sq.ft.	=	IR £52,270
5 Cars at IR £600 each	=	<u>IR £ 3,000</u>
<u>        </u> Total		IR £55,270
x .63%	=	R.V. IR £348
But, Say		<b>R.V. IR £350</b>

He also gave details of five comparisons as follows:-

**1) Block B, Hibernian Way**

<u>        </u> Occupier:	Friends Provident
R.V.:	IR£570
Devalues:	At IR£10 per square foot

**2) Block C, Hibernian Way**

Occupier:	Various
R.V.:	IR£550
Devalues:	At IR£11 per square foot and IR£630 per car space

**3) Fifth Floor, 60/63 Dawson Street**

R.V.:	IR£415 - Agreed at 1991 First Appeal
Devalues:	IR£9.35 per square foot

**4) First/Third Floors, 60/63 Dawson Street**

R.V.:	IR£1,130 - Agreed on Revision 1991
Devalues:	IR£9.35 per square foot

**5) First Floor, Nutley House, Merrion House**

Occupier:	Irish Life Assurance
R.V.:	IR£170

Devalues: IR£10.44 per square foot

A written submission was received on the 10th March, 1994 from Mr. Noel Lyons, B.Comm., a District Valuer with 20 years experience in the Valuation Office, on behalf of the respondent.

In his written submission Mr. Lyons described the property and its tenure. He set out the grounds of appeal and described the centre where the subject premises is located. He said that Earlsfort Centre comprised eight office blocks and Apart-Hotel, Apartments and the Conrad Hilton Hotel, with frontages to Earlsfort Terrace, Hatch Street Lower and Leeson Street Lower.

Mr. Lyons gave details of the lease and set out his calculation of the rateable valuation as follows:-

**(a) Estimate of Net Annual Value:**

Offices:	5,277 ft <sup>2</sup>	@	£12.00 per ft <sup>2</sup>	=	£63,324
Car Parking Spaces	5	@	£600.00 each	=	<u>£ 3,000</u>
					£66,324

**(b) Rateable Valuation:**

Estimate of N.A.V.	£66,324 x 0.63%	=	£417.84
Say		=	£415.00

Mr. Lyons offered comparisons of other offices within Alexandra House on the ground floor, first, second, fourth, fifth and sixth floor as follows:-

**1) *Alexandra House - Ground Floor Offices***

Occupier: Postgem Limited  
 R.V.: £380.00 fixed at 1991 First Appeal  
 Devalues: £16.00 per square foot and £1,000 per car space

**2) *Alexandra House - First Floor Offices***

Occupier: Investment Fund Administration Limited  
 R.V.: £400.00 fixed at 1991 First Appeal  
 Devalues: £15.30 per square foot and 3 car spaces at £1,000 each

**3) *Alexandra House - Second Floor Offices***

Occupier: Pfizer Service Company Ireland  
 R.V.: £410.00 fixed at 1991 First Appeal  
 Devalues: £16.00 per square foot and £1,00 per car space

**4) *Alexandra House - Fourth Floor Offices***

Occupier: Vacant  
 R.V.: £415.00 fixed at 1991 First Appeal  
 Fourth Floor Offices: 5,291 square feet @ £12 per square foot

**5) *Alexandra House - Fifth Floor Offices***

Occupier: Quintiles (Ireland) Limited  
 R.V.: £410.00 fixed at 1991 First Appeal  
 Devalues: £17.00 per square foot and 5 car spaces @ £1,000 each

**6) *Alexandra House - Sixth Floor Offices***

Occupier: Warner Music Ireland Limited  
 R.V.: £415.00 fixed at 1991 First Appeal  
 Devalues: £16.50 per square foot and £1,000 per car space

Mr. Lyons also gave a comparison of the National Treasury Management Agency, ***Appeal No: VA93/2/045 - John Ambiorix Limited***, fifth floor offices devalued at £16 per square foot.

**Oral Hearing:**

The oral hearing took place in Dublin on the 30th March, 1994. Mr. Adrian Power-Kelly, A.R.I.C.S., of Harrington Bannon, Chartered Valuation Surveyors, appeared on behalf of the appellant. Mr. Noel Lyons, B.Comm., a District Valuer with 20 years experience in the Valuation Office, appeared on behalf of the respondent.

The precis of evidence submitted by Mr. Power-Kelly on behalf of the appellant and by Mr. Lyons on behalf of the respondent, were opened to the Tribunal and were considered by the Tribunal.

Mr. Power-Kelly indicated that originally the subject property, as part of the entire block was valued at £2,050. In 1992 the subject property was assessed on apportionment by Dublin Corporation Rates Department at £410, which was increased by the Commissioner to £415.

Mr. Power-Kelly, referring to his precis, submitted that the office block at Hibernian Way was built to a high specification. He submitted that rents in Hibernian Way devalued at £10 per square foot for areas of approximately 9,000 square feet and at £11 per square foot for areas ranging between 1,500 square feet and 1,700 square feet. Mr. Power-Kelly submitted that these office premises in Hibernian Way were approximately one-fifth of the size of the subject property, and accordingly a discount for quantum should apply.

Mr. Power-Kelly furthermore submitted that his comparisons No.'s: 3, 4 and 5 were offices of good specification. In particular, No: 5 determined by the Valuation Tribunal (*VA91/4/030 - Irish Estates Management Limited*) was approximately 50% of the area of the subject property.

Mr. Power-Kelly submitted that the majority of the valuations agreed in respect of other floors in the subject hereditament were agreed with one consultant only. He honestly felt that the valuation was too high having regard to other comparisons. He said that he gave comparisons of other buildings outside of the subject block, and gave a fair range of comparable rents agreed with other consultants.

Mr. Power-Kelly, referring to the actual rent being paid, of £16 per square foot, stated that as the appellant had moved from one block to another block, there was a rent free period provided in the lease and an agreement in respect of V.A.T., and accordingly, to simply devalue the premises at £16 per square foot did not take account of these other factors affecting the reality of that rent.

Summarising his submission, Mr. Power-Kelly stated, that in his view, the rateable valuation and the N.A.V. were high having regard to other similar office blocks in the Dublin area. He furthermore submitted that while the evidence of actual rent contained in the precis was correct, this did not take into account private arrangements between tenants and landlords in respect of rent free periods, V.A.T. and other inducements which considerably watered down these rents in reality.

Mr. Lyons stated that it was not correct to say that rents at Earlsfort Centre had been negotiated with one Valuer only, and indicated that there were in fact two firms of Valuers involved, acting on behalf of the tenants.

Mr. Lyons stated that the Royal Hibernian Way, was first let in 1987, an area of 22,000 square feet, at £8.50 per square foot to Davy's, and commenting he said that the market was probably not ready for that building at that point in time, as this rent represented the same rent as much older buildings were then achieving.

Mr. Lyons furthermore commented that, at one stage a rent of £15 per square foot was being requested in 1991 in respect of Block C at Hibernian Way.

In relation to Mr. Power-Kelly's Comparison No: 5 hereinbefore referred to, Mr. Lyons said that the offices were situated over Merrion Shopping Centre. He was of the opinion that these were exceptional offices for which the rent in 1990 was £15 per square foot, but in fact this was an agreement between Irish Life and Irish Estates Managements Limited who were related companies and accordingly he did not know how valid a comparison this was.

Mr. Lyons submitted that the difference between £16 per square foot and £11 to £12 per square foot, could not be accounted for by inflation even accepting inflation between 1988 and 1991 at about 30% and must reflect the quality of the building.

Mr. Lyons submitted that he was bound by the market rent and by the comparisons from within the office block at the Earlsfort Centre and accordingly submitted that the valuation of £415 was reasonable.

In response Mr. Power-Kelly stated that the offices at Hibernian Way were the first third generation offices, and as such represented the best quality offices in the market in 1987, which in his opinion was a selling point rather than a disadvantage. The rent in 1987 in respect of Hibernian Way was £8.50 per square foot and reflected the then market rent.

Mr. Lyons indicated that the rent increased in respect of Block C in Hibernian Way to £16 per square foot in respect of smaller units by the year 1991.

Mr. Power-Kelly indicated that he could not agree with Mr. Lyons and stated that the market rents in respect of Block C in Hibernian Way were at a £11 per square foot in respect of much smaller areas. He furthermore stated that the fifth floor offices within this subject office block were valued at £410 and the subject £415.

Mr. Lyons stated that in respect of Comparison No: 7 of his precis, *Appeal No: VA93/2/045 - John Ronan, Ambiorix Limited* (National Treasury Management Agency), which was a decision of the Valuation Tribunal, these premises did not compare to Earlsfort Terrace in design, structure and location.

Mr. Power-Kelly indicated that in respect of the National Treasury Management Agency building, there was an abatement of rents and rent free periods given, and the contractor, in fact, paid the V.A.T. on behalf of the tenants, all of which factors would substantially reduce in real terms the rent of £16 per square foot which was being achieved.

**Determination:**

Bearing in mind the Judgment of Mr. Justice Barron in the I.M.I. -V- Commissioner of Valuation (1989 No. 372 SS) delivered on 9th March, 1990, it seems to the Tribunal that, in establishing the correct R.V. of the subject, regard must be had to the ratio of R.V.'s and N.A.V.'s in the closest comparable hereditaments, in an attempt to maintain uniformity. The Tribunal accepts Mr. Lyon's submission that there is no good reason to look behind the market rent in this case, particularly in view of the agreed N.A.V.'s and R.V.'s of the closest comparisons, namely; those within the same office block as the subject hereditament.

The Tribunal is satisfied that there is no substantial difference between the office suites on the third, fourth, fifth and sixth floor of Block D, Earlsfort Centre.

In the circumstance and having considered all of the evidence adduced, the Tribunal affirms the decision of the respondent herein and determines that the rateable valuation of the subject is £415.