

Appeal No. VA99/2/037

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

**QAD Ireland Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Office at Map Reference 5D.6B/2 (Ground floor-R.H.S.), Townland: Castletroy, ED:  
Ballyvarra, RD: Limerick No. 1., Co. Limerick  
Quantum - Impact of rent rebate

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Barry Smyth - FRICS.FSCS**

**Member**

**George McDonnell - F.C.A.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 14TH DAY OF DECEMBER, 1999**

By Notice of Appeal dated the 30th day of April 1999, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £160 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that;

- "1. This valuation is excessive, inequitable and bad in law.
2. No notification of this valuation was forwarded directly to QAD Ireland Ltd.
3. This section of the building was not the subject of a first appeal, therefore there is no jurisdiction to value it on appeal".

The appeal proceeded by way of an oral hearing, which took place in the Circuit Court Office, Merchant's Quay, Limerick on the 24<sup>th</sup> day of November 1999. Mr. Joseph Bardon F.S.C.S., F.R.I.C.S., Diploma in Environmental Economics appeared on behalf of the appellant. Mr. P. Power Chartered Surveyor also gave evidence. Mr. Brian O'Flynn, a District Valuer with 24 years experience in the Valuation Office appeared on behalf of the Commissioner of Valuation. In accordance with the Rules of the Tribunal, the valuers had prior to the commencement of the hearing exchanged their précis of evidence and submitted the same to this Tribunal. In his written submission Mr. Bardon for the appellant, indicated that he was not proceeding in relation to grounds of appeal numbers 2 and 3 relating to notification and jurisdiction. Both parties having taken the oath, adopted their written submissions as being their evidence in chief.

From the evidence so tendered the following emerged as being the facts relevant and material to and for the purposes of the appeal.

### **The Property**

The hereditament the subject of this appeal comprises the right hand portion of the ground floor of Hamilton House, a newly developed four-storey office block located in the National Technological Park in Plassey, Limerick.

### **Valuation History**

The Parent Lot 5D .6B Castletroy was listed for revision in August 1998.

Valuation List issued on 9<sup>th</sup> November 1998. The valuation was fixed at £780 and the entire was rated to Brookvale Trust Ltd.

On 4<sup>th</sup> December 1998 an appeal was lodged to the Commissioner of Valuation and on 30<sup>th</sup> March 1999 the Commissioner issued his decision on the appeal. Two new valuations were created, one of £640 relating to the lower ground floor and first floor and a new valuation was created of £160 for the subject property on the ground floor (right hand side).

The appeal to the Tribunal was lodged on 30<sup>th</sup> April 1999.

## Title

The entire ground floor, which includes the subject premises, is held under a twenty one-year lease from 20 July 1998 at the initial rent of £160,404 per annum. Copy of the lease was provided to the Tribunal

## Submissions of the Parties

**Mr. Bardon** on behalf of the appellant said that

1. The valuation should be struck out as no rent was payable on the subject hereditament at the revision date. He said that there was an abatement of the initial rent to £80,000 from 20 July 1998 to 1 April 1999 to allow for the fit out of the offices on the right hand side. As the entire left hand side offices were fitted out and ready for occupation by the commencement date of the lease in July 1998 and as both sides have roughly the same floor area, then the abatement must apply in its entirety to the subject premises. There was reference to the Craig Gardner Appeal (VA88/106) to support this contention.
2. If the above argument was not accepted, the appellant submitted that the valuation should be reduced in accordance with the Craig Gardner decision. The subject premises were in a similar condition to the property considered in the Craig Gardner case and he believed they should be treated in a similar fashion, being valued at 50% of the rate applicable to similar offices in the general Limerick area.
3. The level of valuation applied was excessive in comparison with levels applied to modern offices in Limerick City.
4. Details of three comparisons located in the city centre were given to the Tribunal (Appendix 1).

Taking the above considerations into account Mr. Bardon assessed the rateable valuation as follows:

6,416 sq.ft.	@	£6.50 per sq.ft	=	£41,704
			x	.5%
				£208.52
			x	50%
			=	£104.26 <b>Say £105.</b>

Under cross-examination Mr. Bardon agreed that the subject premises was a high-class facility located in an attractive parkland setting. He also accepted that the other occupiers of the park were mainly specialist computer facilities involved in software development. He further agreed that the subject property is close to the University and a high-quality hotel and in general, the overall development was top quality with a range of strong multi-national firms in place.

**Mr. Power** on behalf on the appellant gave evidence that the rent was an open market rent freely negotiated. He also said that a premium rent was paid to provide for a break-clause in the lease. He gave evidence that a rent-free period had been granted from 20 July 1998 to 1 April 1999. However Mr. Power was not able to produce any documentary evidence to substantiate the basis for the rent period. While Mr. Power indicated that the open-market rent for the premises would be at level of around £9 p.sq.ft., the lessee in this case was prepared to pay approximately £13 p.sq.ft. to include the premium for the break-clause.

**Mr. O' Flynn** on behalf of the respondent said that the property was part of a new purpose-built office in the National Technological Park. He said that the building had a prestigious central block with lift, stairs and reception area and generous parking. He gave details of the rent as set out above and said that in addition to the rent, a service charge of £11,027.77 was payable quarterly. He said that the lease made no reference to an abatement of rent and the lease and rental details therein contained, was the primary evidence of the NAV on the premises. In addition to the rent applying on the entire of the ground floor as a comparison, he supplied the Tribunal with details of five other comparisons in the Technological park. (Appendix 2).

He pointed out that the existing lessee controlled the entire ground floor under lease dated 20 July '98 and effectively had beneficial occupation of the full area, as no other prospective tenant could come on board. In Mr. O'Flynn's view, the fact the tenant decided not to occupy the right hand portion of the ground floor should have no bearing on the matter of it being subject to a rateable valuation.

In the light of these considerations he valued the premises as follows:

596.1 sq. metres	@	£52.75 =	£31,444
		or	
6,416 sq. feet	@	£4.90 =	£31,444
@ .5%		=	£157.19 say £160.

Includes 37 parking spaces

Under cross-examination, Mr. O'Flynn said that the existence or not of a rent-free period would make no difference to his valuation as it was based on a shell rent of £4.90. He said that his preferred comparison was the rent passing and comparison number 4, Lot 2E in the International Science Centre Plassey Technological Park. This was a purpose built office block valued at £4.91 in an unfinished state and agreed at 1991/4 First Appeal with Lisney.

### **Tribunal Findings and Determination**

We have considered the evidence submitted by the appellant and the respondent and also the written submissions of both parties. The Tribunal were asked to consider the issue of a rent-free period and oral evidence in relation to this matter was given to the Tribunal by Mr. Power. However no documentary evidence was produced as to the rent-free period. The Tribunal is of the view that even if the rent-free period had been established, it does not necessarily follow that the property does not have an N.A.V. We have distinguished this appeal from the decision of the Tribunal in the Craig Gardner case referred to by the appellant in that in this case we have evidence of the N.A.V. based on the shell rent of the hereditament and therefore the application of any discount is inappropriate.

In our view the most relevant comparable evidence is contained in Mr. O'Flynn's written submission. In particular we consider that his comparisons, reference no. 1, 2 & 4 are the most appropriate (refer to schedule of comparisons attached).

On this basis we affirm the decision of the Commissioner of Valuation and determine the rateable valuation of the subject hereditament to be £160.