

Appeal No. VA01/1/032

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

Reprocentre Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse/Warerooms at Map Reference B1 Nangor Road Business Park, Gallanstown, Clondalkin, Monastery, County Dublin.

B E F O R E

Frank Malone - Solicitor

Deputy Chairman

Finian Brannigan - Solicitor

Member

Michael McWey - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF FEBRUARY, 2002

By Notice of Appeal dated the 23rd April 2001 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €58.68 (£440.00) on the above described hereditament.

The grounds of Appeal as set out in the said Notice of Appeal are that :

"Rateable valuation is excessive having regard to the Rateable Valuation of other comparable properties in Nangor Road, Business Park, which were revised at the same time as the subject property."

The appeal proceeded by way of an oral hearing on the 17th day of October 2001. The appellant was represented by Mr. Conor O' Cleirigh MIAVI., ARICS., ASCS., as rating consultant for McCormick Estate Agents and the Respondent was represented by Mr. Joseph McBride B.Agr.Sc. (Hons), M.Sc. (Planning and Developing) MIAVI., who is a district valuer in the Valuation Office with over twenty years experience.

Valuation History

The property was revised at R.V £440.00 by the Valuation Office on the 9th November 1999. On the 1st December 2000 Appeal was lodged by McCormick Estate Agents against the assessment. On the 28th March 2001 the Appeal was issued unchanged at R.V. £440.00 by the Valuation Office. On the 23rd April 2001 an Appeal was lodged by McCormick Estate Agents against this assessment.

Location of Property

The property is located in the Nangor Road, Business Park. The Park is located to the North of the Nangor Road between the M.50 flyover and the Park West access road. The Nangor Road Business Park is a modern industrial development situated on an island site bounded by the new Nangor Road, the M.50 motorway and the Grand Canal approximately 8 kilometres from Dublin City Centre.

Description

The Property is described as Unit B.1 and is in a group of three Units B1-B3. It is a Warehouse Unit with a two-storey office accommodation to the front and side of the building. A Showroom, Offices and Workshops have been installed in the Warehouse adjoining the front office. The building is constructed of a concrete frame with concrete block and aluminium clad insulated walls to an eaves height of 7.5 metres. The roof is P.V.C. coated steel insulated sheeting. The offices are modern with a lift to the first floor. A section of the warehouse has been converted by the Tenant to Store, Toilet and Storeroom with no natural light.

The accommodation is agreed as follows: -

Offices 821 square metres.

Showroom/Workshop 224 square metres.

Warehouse 704 square metres.

The Total for Showroom Workshop and Warehouse exclusive of offices is 928 square metres, and the offices come to 821 square metres giving a Total of 1,749 square metres.

All main services are supplied and connected to the Property and heating is by way of radiator central heating to the offices and warm air heating to the Warehouse.

Title

The Property is held under a Lease between the Landlord Broadgold Developments Limited (of the one Part) and the Tenant, Reprocentre Group Limited providing for the following terms:

Commencement date July 1998.

Term: 25 years

Review: 5 yearly intervals

Rent

Year one £110,000.00 p.a.

Year two £120,000.00 p.a.

Year three/five £122,500.00 p.a.

Tenant's Obligations

The Tenant is responsible for rent, rate, insurance and all repairing obligations.

Break Clause: At Year ten

Tax designation – None

The Case for the Appellant

Mr. O'Cleirigh on behalf of the Appellant was sworn and adopted his précis as his evidence in chief. He said the Tenants were Tenants of Unit B1 in the Nangor Business Park where the Units were identical in structure and reasonable in size. He said that all the other Units were valued at £29.60 per square metre in respect of the warehouse areas and £37.67 per square metre in relation to the Offices.

He said the revising valuer worked off the floor plans and the floor area he adopted was excessive. He said that he accepted Mr. McBride's floor areas which are set out above. He said that on arriving at his opinion of Net Annual Value, he had regard to several factors but mainly, the rateable valuation of other units in Nangor Road Business Park which were assessed at the same time as the subject property. He said that these other Units in the Estate which were approximately nine in total were of similar construction and are all assessed at the standard rate per sq.m.

The details of two of these units are as follows: -

Comparison One

Property;	Unit A1, Nangor Road Business Park	
Occupier;	J.J. Sampson & Son Ltd.	
R.V.;	£120.00	
Analysis R.V.;	Warehouse 360 sq.m. at £29.60 per sq.m. = £10,656.00	
	Office 227.90 sq.m. at £37.67 per sq.m. =	<u>£8,584.00</u>
		£19,240.00
	x 0.63%	£121.00
	say	£120.00

Mr. O'Cleirigh commented that this premises was identical in construction and was revised at 1999/04

Comparison Two

Property;	Unit C2, Nangor Road Business Park.	
Occupier;	Featureline Limited.	
R.V.	£250.00	
Analysis R.V.	Warehouse: 900sq.m. at £29.60 per sq.m. = £26,640.00	
	Offices: 348 sq.m. at £37.67 per sq.m. =	<u>£13,109.16</u>
		£39,749.16
	x 0.63% =	£250.418
	say	£250.00

Mr. O'Cleirigh commented that this premises was of identical construction and also revised at 1999/04.

Mr. O’Cleirigh went on to state that he had two further comparisons in South Dublin, comparisons three and four which have broadly similar rates. He said his comparisons three and four being the Units at the Bluebell Avenue/Old Naas Road, Dublin 12 occupied by P.I. Pneumatics and Unit 2 City Link Business Park, Old Naas Road, Dublin 12 occupied by Industrial Logistics Limited respectively, are further away from the M.50 and that his main comparisons are comparisons one and two.

Mr. O’Cleirigh said that there was a standard rate per square metre for the Office and Warehouse areas which was £29.60 per square foot in relation to the Warehouse areas and £37.67 per square foot in relation to the Offices. He said that the rateable valuation of £440.00 was derived in the revising valuers notes as follows:

Warehouse:	965 sq.m. x £29.60 =£28,564.00
Offices	1,094 sq.m. x £37.67 = <u>£41,210.00</u>
	=£69,774.00
	x .63% = £440.00

Mr. O’Cleirigh accepted that this rate per square metre in respect of office and warehouse areas represented in his view the tone of the list for the Nangor Road Business Park and should be used in the assessment of N.A.V. on the subject property. He said that this valuation approach had been supported by the Valuation Tribunal in *Champion Sports -v- Commissioner of Valuation (VA95/1/104)* where he said it was held that it would be inequitable to depart from the tone of the List in that instance. He said it would appear that the sole reason for a higher level of assessment on the subject property related to confusion over the size of the Unit and the original revision by the revising valuer. He said that the revising valuers notes were available under the Freedom of Information Act. He gave an assessment of R.V. based on floor areas which were not in keeping with Mr. McBride’s but subsequently accepted that Mr. McBride’s floor areas were correct.

Under cross examination he agreed that the premises were a fine development but he said that the premises at Nangor Road Business Park were all valued at the same time, November 1999. He said that they never had been assessed before. He said that he believed in relation to the subject premises that it would not make a difference whether there was a concrete frame and Mr. O’Cleirigh said that he was not sure but suspected that the frame was made of steel and not concrete.

Mr. O’Cleirigh said that he believed that the best method was the comparative method. He said that he did not agree with the passing rent method and he did not think that the property indices method was appropriate. He said that he did not consider that J.L. LaSalle Index was appropriate and said that the valuation should be ascertained with reference to the tone of the list.

The Case for the Respondent

Mr. Joseph McBride for the Respondents was sworn and adopted his précis as part of his evidence in chief. He stated that the accommodation was agreed. He said that the rateable valuation of the units were assessed at £37.67 per square metre in relation to the Offices and £29.60 per square metre in relation to the Warehouse areas. He said that this was out of line with the “Tone of the List” in the surrounding areas which were agreed prior to this revision. The Tone prevailing in this location for a similar type of property is, offices circa £48.00 per square metre and warehouse circa £37.67 per square metre. He cited eight comparisons all valued in the 1999/4 revision. Four Appeals resulted from this revision. Three of the Appeals were withdrawn prior to the Appeal being dealt with. The Appeal on Reprocentre Group Limited was dealt with and it emerged that there was an error in the revising valuers areas and that as the Appeal Valuer he had to make a judgement as to whether a rateable valuation is fair and equitable or whether it should be adjusted downward or upward. He said that he made a decision that the rateable valuation was fair and equitable with the tone of the list for the area.

Mr. McBride stated that as a result of these Appeals it emerged that Nangor Road Business Park was out of line with the “Tone of the List” for the area and the entire of Nangor Road Business Park was revalued at 2001/2 revision resulting in increases in all the R.V.s as follows: -

R.V. assess 1999/4 Rev.	R.V. assess 2001/2 Rev.	
Unit A1: £120.00	£180	
Unit A2: £100.00	Ground Floor	£90.00
	First Floor	£90.00
		Total: £180.00
Unit B1: £440.00 (no change)		
(Subject Property)		
Unit B2 £540.00	£720.00	
Unit B3 not valued	£140.00	
Unit C1 £250.00	£345.00	

Unit C2 £250.00	£340.00
Unit C3 £525.00	£710.00
Unit D £95.00	£185.00

Mr. McBride said that two appeals resulted from this revision the subject property, Unit B2 and Unit C2. These Appeals he said were not dealt with as yet.

Mr. McBride said his belief was that the revising valuer adopted levels which were too low for the Nangor Road Business Park. He gave his valuation at Page 6 of his précis as follows: -

Method 1. Comparative Method

Offices:	821 sq.m. @ £43.00 per sq.m. =£35,303.00
Showroom/Workshop	224 sq.m. @ £37.67 per sq.m. = £8,438.00
Warehouse	704 sq.m. @ £37.67 per sq.m. = <u>£26,520.00</u>
	£70,261.00
	R.V. @ 0.63% = £442.64
	€58.68 (£440.00)

Method 2. Passing Rent

Average rent for first five years	=£119,500.00
Adjust to November 1988 using J.L. La Salle	
Industrial Index 302/525 equals a reduction of 42.5%	
	£119,500 less 42.5% =£68,712.00
	Say £70,000.00
	(to include Tenants improvements)
	R.V. @ 0.63% = £441.00
	Say €58.68 (£440.00)

Mr. McBride said that all his comparisons were within the vicinity and his comparisons one and two, William Blake Limited of Oak Close Western Business Park and Irish Food Services Limited, Oak Close, Western Business Park respectively, were nearby and had offices let at £48.44 per sq. metre and that the Warehouse in each of these premises had similar eaves height to the subject premises and the warehouse areas were valued at £37.67 per square metre. He said

that he was relying mainly on his comparisons but he was using the J.L. La Salle Industrial Index to back these up.

On cross-examination he said the November 1988 date was the relevant date for assessing N.A.V. He said he would agree that it was a fact that in November 1999 all the Nangor Road Properties were valued at £29.60 per square metre in respect of the Warehouse areas and £37.67 per sq. metre in respect of the Office areas but he said that he believed that they were wrongly assessed. He stated that he agreed that the November 1999 revision would be important provided they were properly assessed in the first place. He said his comparison number eight which is Season Control Limited Unit B2 Nangor Road Business Park was a 2001/2 assessment. Mr. McBride said there was obviously an error. He accepted that the 1999 valuations were agreed by a Staff Valuer and published but he said in his estimation they were wrong and they would have undermined the basis of valuations in the entire Clondalkin area. He said he had used comparisons in the same area and that it was his idea to revalue. He said that some weight should be given to the 2001/2 revisions and that in his opinion the error made in 1999 was made because of insufficient research and an opinion arrived at in error rather than an underestimate of size.

Determination

The Appeal before the Tribunal is an Appeal against the 1999 Revision which remained unchanged despite an appeal against the assessment on the 1st December 2000 following which the Appellants appealed through McCormick Estate Agents to the Tribunal on the 23rd April 2001.

It is noted that the Property was revised again at rateable valuation €58.68 (£440.00) by the Valuation Office on the 15th May 2001 following which an appeal was lodged by McCormick Estate Agents on behalf of the Appellants with the Valuation Office and at the time of hearing no decision had issued from the Valuation Office in respect of this particular Appeal.

The Appeal at hand, however, is against the 1999 decision to value the premises at €58.68 (£440.00) and in coming to its conclusion the Tribunal is of the opinion that the most reliable method of valuation is by reference to the Tone of the List. It appears clear that the Tone of the List in 1999 supports a valuation of £29.60 per square metre in relation to the Showroom and Workshop areas and a valuation of £37.67 per square metre in relation to the office areas.

Further the Tone of the List in 1999 supports the valuation of £29.60 per square metre in relation to the Warehouse area.

It appears clear from the figures presented to us that there was an error made in the assessment of the area of the subject premises in 1999 since the offices are agreed by both parties to day to have an area of 821 square metres whereas the Revision Valuer in 1999 put the area of the offices at 1,094 square metres. In addition the warehouse and showrooms/workshop areas are agreed today at 928 square metres whereas they were assessed at 965 square metres by the Revising Valuer in 1999.

It appears, therefore, that the valuation of the subject premises should be based on the figures derived from the Tone of the List in 1999 when applied to the area as agreed by both parties today which are as follows: -

Offices	821 sq.m. @ €47.83 (£37.67) per sq.m.	= €39,269.28 (£30,927.07)
Showroom/Workshop	224 sq.m. @ €37.58 (£29.60) per sq.m.	= €8418.87 (£6,630.40)
Warehouse	704 sq.m. @ €37.58 (£29.60) per sq.m.	= <u>€26,459.31</u> (<u>£20,838.40</u>)
		€74,147.46 (£58,395.87)
	at .63%	Say €469.8 (£370.00)

The Tribunal, therefore, determines the rateable valuation of the subject premises at €469.8 (£370.00).