

Appeal No. VA14/5/186

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

Mr Evan Newell

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

Property No. 1031184, Retail (Shops) Shop Units 3, 4 Wicklow Court 38/40 South Great George's Street, County Borough of Dublin.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF SEPTEMBER, 2016

BEFORE:

Niall O Hanlon – BL

Deputy Chairperson

Pat Riney – FRICS, FSCSI, ACI Arb

Member

Mairead Hughes – Hotelier

Member

By Notice of Appeal received on the 4th day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €27,600 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

“The propose (sic) figure of €27,600 is not reasonably obtainable in this location + the current lease realizes €15,872.”

Hearings in respect of this appeal were held on the 14th of July 2015, the 14th of August 2015 and the 23rd of October 2015. Mr. Evan Newell represented himself and Mr. Liam Murphy represented the Respondent.

Revaluation History

The Valuation Date is the 7th of April 2011. The proposed Valuation Certificate issued on the 23rd of October 2012 for €32,600. Representations were received on the 19th of November 2012. The Final Valuation Certificate issued on the 16th of December 2013 for €27,600. An appeal was submitted to the Respondent on the 6th of February 2014. On the 8th of August 2014, the Appeal Manager disallowed the Appeal and issued a Valuation Certificate in the amount of €27,600. This decision was appealed to the Valuation Tribunal.

The Tribunal notes that although the Certified Extract from the Valuation Lists, which was included in the Respondent's précis, indicated a valuation of €27,600 in respect of the subject property and that this was the amount appealed against by the Appellant that the valuation argued for by the Respondent before the Tribunal was in the amount of €26,700.

The valuation of €26,700 was arrived at following a joint inspection of the subject property by Mr. Murphy with Mr Newell on the 4th of March, 2015. Mr. Murphy indicated that the valuation had been arrived at after giving consideration to the area of the property measured on a net internal area basis, a discount to reflect the frontage to depth of less than 1:1 ratio and the inclusion of the basement in the valuation.

The valuation was advanced by the Respondent is as follows:

Zone A	44.72 sq. m	@	€550 per sq. m.	€24,596.00
10% discount frontage to depth				(€2,459.60)
Basement	57.09 sq. m.	@	€80 per sq. m.	€4,567.20
Total	101.81 sq. m.			€26,703.60

Say €26,700

The size of the subject property, which has been measured on a Net Internal Area basis, is agreed between the parties. The Tribunal also notes that Mr. Newell indicated that he was not contesting the Respondent's valuation of the basement. In his Notice of Appeal to the Tribunal Mr. Newell stated that the valuation of the subject property ought to have been €17,500, before the Tribunal he indicated that he would be satisfied with a figure of €20,000.

The Subject Property

The subject property consists of Units 3 & 4 Wicklow Court, South Great George's Street, Dublin 2, which are retail shop units occupying part of the ground floor in a five-storey over basement building. The building is part of mixed Commercial/ Residential accommodation. The subject is an amalgamation of 2 retail units, and is one of three retail properties valued in this development. The layout is rectangular with a staff toilet and access stair in the centre of the floor to the basement. The retail façade has a net frontage of 8.1 metres and a net depth of 6.1 metres.

The ground floor of the subject property was last valued by the Respondent in 1995. After 2004, the Landlord had acquired ownership of the basement area immediately below the ground floor. A direct stair access was created through the ground floor. There is also a door access into the basement.

Tenure

The subject property is held under a 35-year Internal Repair Insurance (IRI) lease from the 1st of November 1994. The rent review clause allows for the rent to be reviewed every five years, on an upward only basis, with the maximum increase at first and second review being 25%.

It was the Respondent's evidence that the current passing rent was unclear. The Respondent noted that the tenant of the subject property stated, in a Section 45 information form returned to the Respondent on the 9th of June, 2011, the passing rent to be €22,221 per annum, as determined by a rent review in 2004. However, this information is contradicted by Mr Newell's first appeal to the Commissioner where he stated the passing rent to be €15,872. Mr. Newell indicated in his précis that the rent was €22,224 per annum and that it was made up of a lease of the ground floor of the property of €15,876 and an amount of €6,348 to cover what was described as historical debt. He also referred to a debt of €10,000 which appeared to date from

2006. In cross-examination by Mr. Murphy, Mr. Newell referred to an additional amount of €20,000 which, Mr. Newell indicated, in both his précis and in cross-examination, was a rent rebate allowed to the tenant.

Factors Impacting upon the Rent Passing in Respect of the Subject Property

Mr. Newell adopted his précis as his evidence-in-chief. He stated that the tenant in the subject property had not been able to meet its debt obligations and, accordingly, the direct debit for the rent in respect of the subject property had been allowed to run unchanged for many years. It was likely that if and when there was a sufficient recovery in the economy that a finalising adjustment would be negotiated that incorporated significant debt forgiveness and the direct debit would be adjusted to accommodate only the remaining rent obligations under the terms of the lease. Mr. Newell also stated that there was no separate lease agreement in respect of the basement.

Methodology Adopted by the Respondent in Valuing the Subject Property

Mr. Murphy adopted his précis as his evidence-in-chief. He stated that the Respondent had relied on three key rental transactions to inform his estimate of the Net Annual Value of the subject property. Each of these transactions had been investigated and analysed in accordance with Valuation Office Policy and the principles set out in a *Joint Paper on the Adjustment of Rental Transactions for Non-Domestic Rating Valuations*.

The Tribunal was informed that this is a paper that deals with the adjustment of commercial lease transactions for the purposes of Non-Domestic Revaluation in Ireland, England, Wales, Scotland and Northern Ireland. The Tribunal was further informed that this was a paper produced by, and sought to promote consistency of approach between, the Valuation Office, Land and Property Services Northern Ireland, Valuation Office Agency (England & Wales) and the Scottish Assessors Association. No objection was made by the Appellant to reliance on this document by the Respondent.

Mr. Murphy stated that market rents were adjusted, where appropriate, to take account of; *firstly*, the date of the transaction relative to the statutory valuation date; *secondly*, any inducements which were included in the transaction, and; *thirdly*, any other individual features of the transaction. Mr. Murphy stated that the result of this investigation provided a net

effective rent in each case. The net effective rent equated to the basis of valuation as set out in section 48 of the Valuation Act, 2001, on the statutory valuation date.

Mr. Murphy stated that this collection of net effective rents provided the basis for determining the appropriate net annual value per square metre in terms of Zone A to be applied to the group of properties sharing similar characteristics, including the subject property. Following that, if there were any relevant individual considerations in relation to the subject property, relative to that group, further adjustments could be made to the subject property's net annual value. The Tribunal notes that although the Appellant argued for a lower valuation than that advanced by the Respondent, he did not contest the methodology adopted by the Respondent in valuing the subject property.

Comparable Properties

Mr. Murphy stated that the Zone A valuation applied to standard ground floor retail units on South Great George's Street East from Fade Street to Stephen Street, in which area the subject property is located, was €550 per square metre and that this rate also applied to properties on Aungier Street between Stephen Street and Longford Street. Mr. Murphy further stated that circa 21 properties were valued at this level in the immediate vicinity. Mr. Murphy indicated that Zone A rates of €700 per square metre applied to George's Street West and €750 per square metre applied to George's Street East between Dame Street and Fade Street. The Appellant did not adduce evidence in relation to any properties other than the subject property.

Conclusion

Mr. Newell as landlord of the subject property has, on his own evidence, facilitated the tenant of the said property, both in terms of the rent that he has collected and the accumulated debt that he appears to contemplate forgiving. His constructive approach is commendable and would, no doubt, be welcomed by many tenants. Unfortunately, however, the evidence led by Mr. Newell constituted an indication of the difficulties experienced by the particular tenant of the subject property rather than evidence pertaining to the net annual value of the subject property. Mr. Murphy gave evidence of both the methodology adopted by the Respondent and the rates applied to properties in the vicinity of the subject property. The Tribunal notes that the rate applied to the subject property is at the lower end of those rates.

ACCORDINGLY,

The Tribunal affirms the net annual value of €26,700 advanced by the Respondent.