

Appeal No. VA14/5/929

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

Curran Frozen Foods

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the issue of quantum of valuation in respect of:

Property No. 5004964, Industrial Uses (Warehouse) at Unit 619/1, Northern Industrial Park, Waterford, County Waterford.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18th DAY OF APRIL 2017

BEFORE:

Sasha Gayer – Senior Counsel

Chairperson

Brian Larkin – BL

Member

Frank Walsh – QFA, Valuer

Member

1. THE NOTICE OF APPEAL:

1.1. By Notice of Appeal dated the 4th day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €11,180 on the above described relevant property. The said valuation had been assigned to the Property on foot of the revaluation of commercial properties in Waterford. The Valuation Order for the Waterford Revaluation specified the 28th of October, 2011 as the date of valuation. The

Subject Property was, along with Property number 835798, originally valued as one property pursuant to a proposed certificate issued by the Respondent on the 31st of May, 2013. This provided for an NAV of €70,700. Representations were lodged by the Appellant on the 27th of June, 2013 seeking a reduced assessment and subdivision of the parts.

1.2. The Respondent published the Valuation List for Waterford on the 31st of December, 2013 in which the, at that stage still undivided property, was assigned a reduced NAV of €60,300. On the 7th of February, 2014 the Appellant lodged an Appeal to the Commissioner seeking a reduced assessment and subdivision of the parts. The results of this Appeal were published by the Respondent on the 8th of August, 2014, which confirmed that the property had been subdivided and the Subject Property now had an NAV of €11,180 (with Property No. 835798 having an NAV of €50,900). The Appellant has now appealed both assessments on both properties.

1.3. The grounds of appeal as set out in the Notice of Appeal as follows:

“The subject property’s estimate of net annual value is excessive and inequitable, The [sic] buildings here are old, inferior 2nd gen in type, part asbestos roof and are thus less valuable.”

“The subject property is a store with no natural light and no office content. It is worth significantly less than the adjoining units.”

2. THE HEARING:

2.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 29th day of June, 2015. The Appellant was represented by Mr. David Halpin of Eamon Halpin & Company Limited and the Respondent was represented by Ms. Gillian Beale BSc (Property Studies) ASCSI ARICS of the Valuation Office.

3. THE PROPERTY:

3.1 The Subject Property is a store, with no natural light and no offices. The property, which was constructed in the late 1970's, comprises of a double skin roof and single skin side panels all the way to the ground.

- 3.2 The Subject Property was the subject of a rental agreement, which was described as “*monthly rolling*”. It had commenced on the 1st of November, 2013 and the total monthly rent, including 23% VAT and management fee, was €1,053.49 plus rates and utilities.
- 3.3 The agreed floor area is 447.32 sq. metres.

4. THE RELEVANT STATUTORY PROVISIONS:

- 4.1 The rateable valuation of the Subject Property, with which the Tribunal is now concerned, was determined pursuant to Section 48 of the Valuation Act, 2001, which provides:-

“Section 48-(1) The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.

(2) Subsection (1) is without prejudice to Section 49.

(3) Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual costs of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant.”

5. THE APPELLANT’S EVIDENCE AND SUBMISSIONS:

- 5.1 The Appellant argued that it was inappropriate for the property to be valued at the same levels as the conventional and modern industrial buildings in the vicinity. The Appellant contrasted the Subject Property with what was described as the “*good quality new industrial units*” in the immediate vicinity at the Valuation Date. These modern industrial buildings on the adjoining site have been valued by the Respondent at €23-€25/m², which, in the Appellant’s submission, was supported by their rents at or around the Valuation Date and all had natural light, one of

them being completely glass fronted. It was argued that the hypothetical tenant would not pay the same for an older style of building such the Subject Property.

- 5.2 The Appellant argued that there was evidence from the Westside Business Park that older stores were valued at €15/m² and the standard modern industrial (warehouse/office mix) was valued at €25/m². It was argued that the Subject Property had been let on a month to month basis, devaluing at €23.22/m² from October, 2013 and that allowances had to be made for the superior stage of the market versus the Valuation Date and the month to month nature of the agreement – which in itself traditionally commanded a higher rent. The Appellant argued that taking the tone of the list evidence into account, the Appellant did not believe that the Subject Property was worth in excess of €15/m².

6. THE RESPONDENT'S EVIDENCE AND SUBMISSIONS:

- 6.1 It was indicated on behalf of the Respondent that he had, in estimating the NAV of the Subject Property, relied upon three items of market information. There were three so called “Informer” properties. The relevant information concerning each of these properties was investigated and analysed by the Respondent and the results of this analysis provided the Respondent with the Net Effective Rent (NER), which, it was stated, equated to the basis of valuation provided for in Section 48 on the relevant statutory Valuation Date.
- 6.2 This collection of NERs provided the basis for deciding what was the appropriate NAV per square metre, or Zone A, to be applied to a group of properties which the Respondent considered shared similar characteristics – including the Subject Property.
- 6.3 It was the Respondent's evidence that within Waterford City, a total of sixteen industrial units were valued at €25/m² and that an Appeal had been brought to the Valuation Tribunal in respect of the Subject Property only. The first Informer property was located in the northern extension of the Waterford IDA Industrial Estate and comprised a semi-detached industrial unit with warehouse and office element, which had been built in the mid 1990's. The second Informer property was located beside the Subject Property in a terrace of industrial units and had been constructed in the 2000's. This was a glass fronted property which might be described as being “modern industrial”. The third Informer property was located in Bilberry Business Park, which was approximately 3.5 kilometres north of the northern extension part of the IDA Industrial Estate and it comprised of recently constructed mid-terrace industrial unit

within a small enclave close to Rices Bridge in Waterford City. It included office and warehouse accommodation.

7. FINDINGS:

The Tribunal, having considered the evidence adduced and the Submissions made by the parties, finds as follows:-

- (i) The onus of proof in this Appeal rests with the Appellant;
- (ii) The Subject Property is a ground floor warehouse with no natural light and no office content;
- (iii) The Tribunal accepts that the commercial rental market at the valuation date, 28th October, 2011, was poor with very limited activity;
- (iv) The open market rental evidence of the Subject Property let on a month to month basis devaluing at €23.22 per sq. metre from October 2013 when the market had improved, was persuasive as to what a hypothetical tenant would pay by way of rent in accordance with Section 48 of the Valuation Act, 2001 and at the relevant valuation date;
- (v) The Tribunal is satisfied that the Subject Property, while built relatively recently, in the mid 1990's, is inferior to the Informer properties relied upon by the Respondent, which informed the basis of the NER of the Subject Property and, accordingly, the Tribunal is satisfied that a reduction in the rate per square metre of the Subject Property is warranted;
- (vi) The Tribunal is satisfied that given the findings set out above and the characteristics of the Subject Property, the valuation of the Subject Property should be calculated by applying a value of €20/m².

8. DETERMINATION:

Accordingly, the Appeal is allowed and the NAV of the Subject Property is calculated on the following basis:

447.32 sq. metres @ €20 per sq. metre = €8,946.40

Say €8,946.00

And the Tribunal so determines