

Appeal No. VA15/5/030

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001**

Stryker (Howmedica)

APPELLANT

And

Commissioner of Valuation

RESPONDENT

In relation to Quantum

Property No. 1240613, 8A/6 Cloughkeating Avenue, Raheen Business Park, st. Nessans Road, Limerick, County Limerick

BEFORE:

Rory Lavelle - M.A., FRICS, FSCSI, ACI Arb

Deputy Chairperson

Carol O'Farrell - BL

Member

Frank Walsh - QFA, Valuer

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF JANUARY, 2018**

1. THE NOTICE OF APPEAL

1.1 By Notice of Appeal dated the 10th day of September, 2015, the Appellant appealed against the determination of the Respondent pursuant to which the net annual value 'the NAV' of the Property was fixed in the sum of €722,000.00.

1.2 The sole grounds of appeal as set out in the Notice of Appeal is that the valuation of the Property is incorrect because: "*The valuation is excessive and inequitable*".

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €397,500.

2. THE HEARING

2.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Third Floor, Holbrook House, Holles Street, Dublin 2, on the 3rd May 2017. At the hearing the Appellant was represented by the Mr. Martin O'Donnell, FRICS FSCSI of CBRE who contended for a NAV of €492,000 and the Respondent was represented by Mr. Ian Power B.SC. (Property Valuation and Management) of the Valuation Office who contended for an amended NAV of €703,000 to reflect the reduced area of the clean rooms in the Property.

3. THE PROPERTY

3.1 The Property is located at Cloughkeating Avenue, in Raheen Business Park on the outskirts of Limerick City within easy access of the M20 motorway and National Primary Routes. Raheen Business Park was constructed 45 years ago and slowly developed over the years. The Property itself is a large purpose built part single-storey pharmaceutical factory which manufactures surgical orthopaedic implants. It was originally built in the 1970s, and was subsequently extended in a number of phases. It has a flat felt roof which requires regular repair but otherwise the Property is well laid out and in good condition. The composition and areas of the Property are agreed between the parties as follows:

Level	Usage	M²
0	Offices	2,619
0	Store	472.8
0	Factory, (Including packing area labs)	10,716
0	Plant room	109.1
0	Clean rooms	884

3.2 The Property is held freehold.

4. RE-VALUATION HISTORY

4.1 On the 10th June 2014 a copy of a Valuation Certificate proposed to be issued under section 24 of the Valuation Act 2001 ("the Act") in relation to the Property was sent to the Appellant indicating a valuation of €718,000. Representations were made to the valuation manager in relation to the matter, following which a Final Valuation Certificate issued on the 11th December 2013 stating a valuation of €722,000.

4.2 On the 8th February 2015 the Appellant appealed to the Respondent pursuant to Section 30 of the Act against the determination of value on the grounds that the valuation was incorrect based on matters of fact and by reference to the values of other properties in the Valuation List and was excessive and inequitable.

4.3 On the 14th August 2014 the Respondent disallowed the appeal.

5. THE ISSUE

5.1 The sole issue in dispute between the parties was the appropriate net annual value for the factory, office and clean room areas of the Property, the valuation of the plant having been agreed at €10,563 and the plant room and store at €15 per m².

6. RELEVANT LEGISLATIVE PROVISIONS

6.1 The net annual value of Property occupied by the Appellant must be determined in accordance with the provisions of section 48 of the Act. Section 48(1) provides as follows:

“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.”

6.2 Section 48(3) provides for the factors to be considered in calculating the net annual value:

“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 be expected to let from year to year, on the assumption that the probable annual cost 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.”

7. THE EVIDENCE

- 7.1 For the Appellant Mr. O'Donnell adopted his Prècis as his evidence in chief and also adduced oral evidence. He advised the rental market for industrial property in the vicinity on the valuation date, 1st March 2012, was non-existent and as a consequence he was not in the position to provide any rental evidence. Accordingly, he relied entirely on the *tone of the list* for industrial properties in the locality. Mr. O'Donnell concluded that good warehousing was valued at between €16 per m² and €26 per m² and pointed to the fact that the factory space in the Property was valued at €35 per sq.m. Based on these factors and in accordance with the principle of equity and uniformity, it was his view that €30 per m² representing a 15% increase on the higher warehouse valuation should be applied to the office and factory areas.
- 7.2 In relation to the valuation of the clean rooms, Mr. O'Donnell clarified that he was not disputing different rates per square meter on different classes of clean room, but was disputing the amount applied by the Respondent. Mr. O'Donnell contended that whilst the applied value of €95 per m² by the Respondent may appear to be consistent with levels applied to clean rooms in modern buildings in the Limerick area, it was his view that a lower rate of €80 per m² would be more appropriate to reflect the age of the Property notwithstanding the clean rooms are totally fit for purpose.
- 7.3 Mr. O'Donnell stated that the comparative method was the most appropriate method of valuation in this case and in that regard furnished a schedule of Rateable Valuations on 34 properties located within Raheen Business Park and stated that in his experience all standard industrial units have benefited from a reduction in rates as a result of the revaluation process, however this benefit did not extend to the Property as there had been a 45% increase in its rateable valuation.
- 7.4 Mr. Power on behalf of the Respondent adopted his Prècis as his evidence in chief and also adduced oral evidence. He stated that it is a common case that no open market rental evidence is available for this category of property.
- 7.5 He provided the Tribunal with an example of an estimated valuation based on Contractors Method and advised that although this method is accepted by the Society of Chartered Surveyors, he was not recommending that this method of valuation be used in this instance. It was his opinion that a 'stand back and look' approach had to be taken in determining valuation. He stated that a similar approach was taken in the revaluation of Waterford County and City Council and full details of the Waterford scheme were provided to the Tribunal. In addition, Mr Power provided six property comparisons from the Limerick area. The first three comparisons were under appeal to the Tribunal and he stated that the other three comparisons had been subject to representations, or a first appeal to the Respondent or a Valuation Tribunal Appeal, which was not disputed by Mr O'Donnell. He stated that these latter three

comparisons were evidence of the emerging *tone of the list* and were not necessarily incorrect and were similar to valuations of similar properties in Waterford.

- 7.6 Mr. Power also stated that the Property is in an excellent condition, the clean rooms had been upgraded and the Property had good road access being located at the front of the business park. The grading of the clean rooms in the Property was described as Class 8 clean rooms and were valued at €95 per m². He pointed out that the clean room in the Respondent's Comparison No 2, Analog Devices (also under appeal) which he described as a '*high spec clean room*' is valued at €140 per m². He stated that the clean rooms in the Waterford properties were described as Class D clean rooms and were valued at €95 per sq.m.
- 7.7 In summing up, Mr. O'Donnell stated that the Property is an old factory built in the 1970's. He had allowed €4 extra per m² for any areas that had been upgraded in the Property which was in addition to the established *tone of the list* of €26 per m². He stated that he applied the rate of €80 per m² to the clean rooms to reflect the age of the Property.
- 7.8 Mr Power in summing up stated that the onus of proof was on the Appellant and in his view the age and condition of the Property was reflected in the Respondent's valuation.

8. Tribunal Findings and Determination

- 8.1 The task of the Tribunal is to determine a fair and equitable Valuation on the subject property in compliance with Section 48 of the Valuation Act 2001.
- 8.2 It was common case that no open market rental evidence is available to assess the NAV of the Property.
- 8.3. The Contractor's method is usually employed in the case of properties which are normally never let and which by their nature do not lend themselves to valuation by comparison with other classes of properties where rental evidence does exist. However, that method of valuation was not considered useful by either Mr O'Donnell or Mr Power as it can lead to a significantly higher NAV.
- 8.4 There are a number of means by which RV can be assessed. Mr O'Donnell approached his valuation by looking at the revaluation of properties within Raheen Industrial Estate while Mr Power adopted a 'stand back and look' approach.
- 8.5 The main thrust of Mr O'Donnell's evidence is that the valuation of Property does not adequately reflect the age of the Property. Mr Power urged the Tribunal to have regard to the real world – what is termed the "stand back and look at it" approach. The key to the appeal is whether the Property should, in effect, be valued on a similar basis to pharmaceutical plants in Limerick and Waterford City and County.

- 8.6 The Tribunal will fix a rate at €40 per m² to the factory and office areas to reflect the condition and age of the Property and the fact that the building has been renovated over the years.
- 8.7 The final aspect of the valuation to be considered is the rate to be applied to the clean rooms. The basic function of a clean room is to protect the manufactured product from contamination. A clean room therefore is constructed and used in a manner to minimize the introduction, generation, and retention of airborne particles inside the room. Clean rooms are classified by the cleanliness of air but it would appear that clean rooms are graded using various categories and classes. For example, the Respondent comparison No 2a, Analog Devices, clean rooms are graded from c 10 to c 10,000. The Waterford properties are described as class D clean rooms whilst the clean rooms in the Property are described as class 8. There was insufficient evidence adduced before the Tribunal as to how the classifications of the clean rooms in the comparable properties compared with the Property's class 8 standard. The Tribunal has to consider what the hypothetical tenant would be willing to pay based on the evidence and market conditions at the relevant valuation date 1st March 2012. Taking a 'stand back and look' approach, the Tribunal prefers the evidence of Mr Power to that of Mr O'Donnell and adopts his €95.00 per m² as a fair and equitable rate for the Property's clean rooms.
- 8.8 Accordingly, the Tribunal determines that the appeal property should be valued as follows:

Level	Usage	Area (m ²)	€ per m ²	NAV
0	Offices	2,619.00	€40	€104,760
0	Store	472.80	€15	€ 7,092.00
0	Factory	10,716.00	€40	€428,640.00
0	Plant	109.10	€15	€ 1,636.50
0	Clean rooms	884.10	€95	€83,989.50
0	Plant, Tanks & Generators	-	-	€10,563.00

- 8.9 In conclusion, therefore, the appeal is allowed in part and the Tribunal amends the value of the Property, the subject of the appeal, as stated in the valuation certificate to €636,681.00.

And the Tribunal so determines.