

Appeal No: VA17/5/765

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA 2001 - 2015
VALUATION ACTS 2001 - 2015**

**PAUL MCCANN (RECEIVER)
FOR ASSETS OF GARY SMITH**

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 2166386, Office(s) at Office 2, Ashleaf Shopping Centre, Crumlin Cross,
County Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF JUNE, 2020**

BEFORE

Hugh Markey – FRICS FSCSI

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th day of October ,2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV’) of the above relevant Property was fixed in the sum of €25,900.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because “*The valuation applied is considered excessive having regard to the following*”

- The location within a primarily localised shopping centre in a residential suburb
- Having regard to the nature and use of subject property in a retail environment
- Having regard to the basic nature and the physical fabric of the first floor offices over retail shops
- By reference to the tone of the list of similar circumstanced properties

- By reference to letting evidence of comparable properties

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €12,811.

2. RE-VALUATION HISTORY

2.1 On the 13th of April, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €25,900.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €25,900.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30th of October, 2015.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 Location/Description: The subject of this appeal is a first floor office unit located within Ashleaf Shopping Centre, Crumlin, Dublin 12.

4.3 Area: The area has been agreed by the valuers as comprising 160.14 sq. m. offices.

5. ISSUES

Other than the NAV, there are no other issues in dispute.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which 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) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account 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 in respect of the property, are borne by the tenant.”

7. APPELLANT’S CASE

7.1 Nature of accommodation: This is one of a number of such units which share a common street entrance on Whitehall Road, West, a stairway and communal areas providing toilet facilities.

There is no external fenestration; there are two glazed openings overlooking the internal mall of the shopping centre below.

The Appellant submits that the property has been vacant and available to let for almost 10 years and while the standard of fit out is basic in nature, the accommodation is dated and in need of refurbishment.

7.2 Service Charge: The Appellant notes that a service charge of approx. €55.22 per sq. m. is payable.

7.3 Office Occupancy in Ashleaf Shopping Centre: The Appellant notes that approx. 73% of the office space at first floor is vacant, with two units occupied. These are an estate agent and a back clinic. Both have own door access and windows in the southern elevation.

7.4 Open Market Lettings: The most direct letting comparison is that of Unit 8 which was let in February 2015 at a rent of €40 per sq. m. The accommodation is opposite the subject but has external windows. The Appellant suggest this is the best comparable available to the Tribunal. The Appellant adduced further evidence of 5 open market lettings (Appendix 1). These lettings were in the range €40.14 per sq. m. (Ashleaf) to €140 per sq. m. (Park West).

7.5 Tone of The List: The Appellant suggests that he has considered the ‘emerging tone of the list’ but was unable to find comparables of ‘such inferior quality’. He adduced evidence of 7 comparators of what he described as superior offices, insofar as they are bright and have external windows. He also suggested these were of superior specification in better locations. The range of NAV’s is €100 - €130 per sq. m. (Appendix 2).

7.6. Opinion of Value: The Appellant contended for an NAV of €12,000

8. RESPONDENT’S CASE

8.1 The Property: The Respondent confirmed having inspected the property and that it had been vacant for a number of years.

8.2 Response to Submissions: Under this heading, the Respondent noted the comparisons adduced by the Appellant. The Respondent also noted the Appellant’s Tone of the List comparisons and in particular pointed out that some were significantly larger; were ‘own door’ or ‘third generation’.

8.3 Evidence of Correctness; The Respondent outlined how ‘Key Rental Transactions’ are analysed to arrive at a ‘Net Effective Rent’ as of the effective date. A consideration of the basket of such NER’s allows a basis to be derived for application of a rate to apply to similarly circumstanced properties.

A level of €180 per sq. m. was applied to the subject. An allowance of 10% was applied to allow for quantum.

The Respondent adduced 5 ‘key rental transactions’ (Appendix 3) to support this opinion.

8.4 Evidence of Equity and Uniformity: The Respondent indicated that approximately 250 office properties in the vicinity of the subject were valued at a rate of €180 per sq. m. She adduced 4 comparables which were all valued at €180 per sq. m. These are set out in Appendix 4. The subject is one of eleven properties under appeal to the Valuation Tribunal, of which six are located in Ashleaf Shopping Centre.

8.5 Valuation: The Respondent asked that the valuation of €25,900 be affirmed.

9. FINDINGS AND CONCLUSIONS

9.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of South Dublin County Council.

9.2 From the evidence the Tribunal finds the following:

9.2.1 The area of the property falling to be valued has been agreed and there appears to be no disagreement as to the lengthy period during which it had been vacant, available and to let; its physical condition or otherwise. Both parties introduced a limited number of photographs of the property and the Appellant supplied a plan of the first floor accommodation in the centre; all of these were helpful.

9.2.2 The Respondent appears to acquiesce in the comparators put forward by the Appellant as evidence of market rental and ‘tone of the list’.

9.2.3 Only two of the five Respondent’s ‘Key Rental Transactions’ (no’s 2 & 5) support the level applied to the subject... No 4, has an area of 31.35 sq. m.; significantly smaller than the subject. No photographs were supplied with the Respondent’s ‘NAV’ comparisons, thus making it difficult to judge their comparability.

9.2.4 The Tribunal accepts the Appellant's contention that the accommodation is of a poor standard and the absence of windows/natural light was a major drawback in attempts to let the space.

9.2.5 A significant service charge is payable in respect of these offices and while no evidence was introduced in respect of the comparators, the Tribunal regards this as a factor that must be taken into account in determining the property's NAV.

9.2.6 The Appellant introduced evidence of market transactions of obviously better located/superior offices ranging in rental from €40.14 - €140.

The Appellant introduced comparative 'Tone of the List' evidence. Judging by the photographs adduced, these are all of a superior quality to the subject and some are located in better locations. Levels varied between €91 and €130 per sq. m.

9.2.7 The Appellant appears to have disregarded the immediate evidence of the letting of Unit 8, Ashleaf Shopping Centre at the lower end of the rental evidence range and contended for a rate of €75 per sq. m.

9.3 The Tribunal prefers the evidence of the Appellant that the subject property comprises inferior quality offices of poor specification, having no direct natural light. Furthermore, it is believed that insufficient cognisance was taken of these factors in arriving at the estimate of NAV.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to **€13,000**.

Level 1 Office	160.14sq. m. @ €90 per sq. m.	€14,414
Level 1 Other	1	(€ 1,441)
		€12,973
NAV	say	<u>€13,000</u>

And the Tribunal so determines