

Appeal No: VA20/4/0069

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2020**

Weston Office Solutions Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5018640, Office(s) at The Lennox Building, South Richmond Street, Dublin 2,
County Dublin.

B E F O R E

Eoin McDermott - FSCSI, FRICS, ACl Arb

Deputy Chairperson

Michael Brennan - BL, MRICS

Member

Brian Meldon – FSCSI FRICS RV ARB

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 28th DAY OF APRIL, 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 7th day of December 2020 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 €535,000

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 28(4) of the Act because:

1) The Commissioner is valuing this building as the most valuable office per sq.m. in all of Dublin City. This contention cannot be true on any level. The Commissioner has assessed the property in the "4th Generation" category, despite the fact that there are no comparables in this category as all comparables have been valued already in the 3rd Generation category.

2) The property was let to Iconic Offices at €52.50/sq.ft. (on the office accommodation) and €22.50/sq.ft. (on the leisure accommodation) in 2018 at a time when prime offices in SJRQ and equivalent were letting at €60-65/sq.ft (SCSI and CBRE 2018 analysis). The maximum level for such accommodation in the tone of the list is €260/m2.

3) The location of the subject property on South Richmond Street is by no means prime. As evidenced by the rent relative to others, the most desirable locations are in the vicinity of Grand Canal Dock, close to Google and Facebook etc. All of these properties have some degree of water frontage.

4) Third generation offices in the subject's vicinity are all valued by the Commissioner at €240/m2. The fact that the subject has a nice fitout has no relevance unless the fitout of the comparables is also to be considered. The reality is that the subject is no better than third generation space in the vicinity and did not achieve an actual rent higher than such spaces."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €406,000.

2. VALUATION HISTORY

2.1 On the 20th day of September 2020 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 €583,000.

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 of the Property was reduced to €535,000

2.3 A Final Valuation Certificate issued on the 13th day of November 2020 stating a valuation of €535,000.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 21st day of February 2022. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. John Shaughnessy of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts:

4.1 The Property is located on South Richmond Street, Dublin 2 at its junction with Lennox Street.

4.2 The Property comprises the greater part of a high-quality, purpose-built, four- storey over basement office block which was completed in 2018 and finished to a high specification, achieving WELL V2 Gold certification on the offices. There are 10 surface parking spaces to the rear of the building.

4.3 The overall net internal floor areas of the building to be assessed to Weston Office Solutions Ltd (Iconic) has have been agreed between the Surveyors as follows:

Floor level	Floor use	Area (M2)
0	Offices	94.70
1	Offices	676.90
2	Offices	453.80
3	Offices	452.90
Total area		1,678.30
0	Car spaces (no. of)	10

4.4 The overall net internal floor areas of the building to be assessed to Perpetua Fitness (Make Your Move Ltd) have been agreed between the Surveyors as follows:

Floor level	Floor use	Area (M2)
0	Entrance to Basement	21.50
-1	Basement	534.90
Total area		556.40

4.5 The subject Property is held on a 25-year lease from 26th March 2019 at a rent of €1,167,083 per annum.

4.6 The basement was subsequently sub-leased from 1st February 2020 (by way of 24-year lease dated 17th February 2021 at a rent of €150,000 per annum). This was subsequently reduced by way of side letter agreed on the same date (17th February 2021).

5. ISSUES

5.1 The first issue in dispute is the quantum of the valuation. This is a Revision appeal by reference to values as appearing on the valuation list at the valuation date of 7thth April 2011 relating to the rating authority area of Dublin City Council.

5.2 The Appellant has also sought to have the basement valued separately from the upper floor offices as it is separately occupied.

6. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section

28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situated in, of other properties comparable to that property.

7. APPELLANT'S CASE

7.1 Mr Halpin, for the Appellant opened his case by stating that there was a large degree of agreement between the parties but that the remaining differences boiled down to a separate valuation for the basement and the effect on value of the property's location which he stated was non-prime and contended for the following valuations:

Offices

Floor level	Floor use	Area (M2)	NAV (per sq m)	NAV (€)
0	Offices	94.70	€240	22,728
1	Offices	676.90	€240	162,456
2	Offices	453.80	€240	108,912
3	Offices	452.90	€240	108,696
0	Car spaces (no. of)	10	€2,500	25,000
	Total			€427,792
	Say			€427,000

Basement

Floor level	Floor use	Area (M2)	NAV (€ per sq m)	NAV (€)
0	Entrance to Basement	21.50	100	2,150
-1	Basement	534.90	55	29,419
	Total			€31,569
	Say			€31,500

7.2 In setting out his case, he stated that the easiest way to benchmark the subject's NAV at April 2011 is to have regard to the market rent at the date of construction in 2018. It was his

view that if the subject achieves a higher market rent than comparable properties in 2018, it should have a higher NAV than comparable properties on the valuation list in 2011. He stated that the corollary of this proposition also applied, in that, if the market rent was not higher than comparable properties in 2018, it should not have a higher NAV as appearing in the valuation list.

7.3 It was his view that the subject property was rented at a discount in comparison to prime offices in locations such as Sir John Rogerson's Quay which appeared in the valuation list at €260 per sq m. On this basis he contended that the NAV of subject property should be €240 per sq m. Mr Halpin stated that in normal circumstances the Commissioner would slot a new entry into the existing tone of the list but in this case was attempting to create a new level of €280 per sq m.

7.4 In terms of location, Mr Halpin stated that the property was attached to a Georgian building and adjoining occupiers included residential, office and take-away users in traditional properties. It was his view that this demonstrated that it was not a prime office location in contrast to the city centre and docklands.

7.5 Mr Halpin relied on six NAV comparisons in support of his valuation of the offices and these are set in detail in **Appendix 1** hereto. He pointed out that all had been let at higher rental levels than the subject property, but all had a lower NAV level. His NAV Comparison 1 was a high-profile building located on Molesworth Street, Dublin 2 and has a NAV of €240 per sq m for the offices and €110 for the basement. He stated that it has Platinum LEED status and was the 2019 building of the year. His NAV Comparison 2 was a high-profile office building located on Hanover Quay, Dublin 2 which has a NAV of €240 per sq m, LEED V4 Gold status and was awarded office new build of the year in 2020. NAV Comparison 3 was another high profile office building located on Sir John Rogerson's Quay. It has a NAV €260 per sq m which Mr Halpin stated represented a premium on the prime rate of €240 per sq m for the waterfront location. He also stated that it has LEED Platinum status. NAV Comparison 4 has a NAV of €240 per sq m and is located at Charlemont Place and has LEED Gold status. NAV Comparison 5 is located at Charlemont Street and has a NAV of €240 per sq m and has LEED Gold status. His NAV Comparison 6 is a high-profile building located on St Stephen's Green and has a NAV €240 per sq m notwithstanding that it has a significantly higher headline rent.

7.6 Mr Halpin also compared the subject rent achieved of €565 per sq m for its office accommodation to properties in the immediate vicinity. Compared to the subject property, his NAV Comparison's 4 & 5 have headline rents of €592 per sq m with a corresponding NAV of €240 per sq m . It was his opinion that these were the best office buildings in the area with canal views and superior profiles and on this basis the subject property could not have a higher NAV. He also noted that these headline rents were significantly less than the €645 - €750 per sq m being achieved at the same time in prime City Centre and South Dock locations which demonstrated the inferior location of the subject property. He observed that prime office buildings are largely assessed by the Commissioner at €240 per sq m on the valuation list and it was therefore impossible for the subject to exceed this level as its relative rent has not done so on the open market.

7.7 The Appellant provided the following NAV comparisons in support of his valuation of the basement gymnasium pointing out that it was originally assessed as part of the office block but is now occupied separately by Perpetua Fitness and should be sub-divided as such. It was further pointed out that the basement is not an office specification, is accessed separately from (and has no link to) the offices and has no natural light.

Location	Floor Levels	NAV
Subject Property	-1	€110 (Gym) €90 (store)
Block G, Smithfield Plaza	0, -1, -2	€75 (0) €55 (-1) €35 (-2)
The Oval, Ballsbridge, Dublin 4	-1, -2	€75 (-1, -2)
Lower Mayor Street, Dublin 1	0, -1	€250 (0) €45 (-1)
South Richmond Street, Dublin 2	0, 1	€55 (0, 1)

7.8 Under cross examination Mr Halpin accepted that office rates of €280 per sq m had been recently added to the valuation list. Mr Halpin could not confirm that a rate of €280 per sq m had been achieved within a 1.5-kilometre distance of the subject property. When it was put to Mr Halpin that in the Valuation Tribunal decision VA18/3/0042 it had been noted that the enhanced nature of a building could justify a somewhat higher NAV level he responded by saying that it was the subject location that restricted the NAV. Mr Shaughnessy for the Respondent put it to Mr Halpin that the Respondents comparisons 1-3 valued at €280 per sq m were the appropriate benchmark. Mr Halpin disagreed and stated that the Respondent's NAV Comparison 1 does not support his valuation and that that comparison 2 and 3 related to the highest specification office building in Dublin.

7.9 It was put to Mr Halpin if he was aware that there were only three buildings in Ireland with the WELL 2 award. Mr Halpin could not confirm nor deny this but stated that it is a designation that originates from the USA. Various points relating to the WELL designation were put to Mr Halpin but he did not accept that there was any evidence to support a premium on comparable NAV's for having such a designation.

7.10 Mr Shaughnessy also questioned Mr Halpin in relation to the basement. Mr Halpin stated that his comparisons had a range of €45 - €75 for basement gymnasiums. It was put to Mr Halpin that there was planning permission for cultural spaces in the basement to which Mr Halpin stated that the property was leased as a gym and was in the process of being fitted out for that purpose and that the property had to be valued *rebus sic stantibus* and that the planning permission related to a proposed use. Mr Halpin accepted that it would be inequitable for two users of the same basement to be paying different rates and also accepted that the property had a BER rating of A3.

7.11 The Appellant was asked by the Tribunal, in view of his statement that location was the non-prime, to expand on what constituted a prime office location. He stated that Dublin 2, 4, specifically the Stephens Green area, Ballsbridge and now the Docklands were prime locations. He went on to offer the view that the South Richmond Street location was secondary and offered little opportunity for future office development, apart from the derelict site opposite. This was due to its mixed commercial use, part Georgian buildings and residential component.

7.12 When asked what he might regard as a boundary of the prime area, he stated that the top of Harcourt Street was prime and that the top of the canal such as Charlemont Street and Charlemont Exchange were not prime.

7.13 In summarising his evidence, he stated that the classification was being applied subjectively by the Commissioner which created a lack of uniformity. He stated that the market rent is not subjective and that his NAV Comparison 1 is the best office in Dublin City and has a NAV of €240 per sq m. He stated that his NAV Comparison 2 was rented at a significant premium on the subject property and yet had a NAV of €240 per sq m. He stated that his other NAV Comparisons illustrated the premium that was paid in the market for water frontage and canal frontage and were also rented at higher levels than the subject property yet also had lower NAV's. It was his view that South Richmond Street could even have been discounted below the NAV of €240 such was the correlation between the market rental evidence and NAV's as appearing on the valuation list. He stated that the basement should be valued separately and as a gymnasium. Regarding the basement gym, the tone of the list is clear at €45-75/m², depending on location. The subject's actual location places it in the middle of this range, slightly below the average.

8. RESPONDENT'S CASE

8.1 Mr Shaughnessy for the Respondent, opened his case by stating that the subject property was a new build not previously valued and contended for the following valuations:

Floor level	Floor use	Area (M2)	NAV (per sq m)	NAV
0-3	Offices	1,678.30	€280	€469,924
0	Basement Entrance	21.50	€100	€2,150
-1	Basement	534.90	€100	€53,490
0	Car spaces (no. of)	10	2,500	25,000
	Total			€550,564

8.2 Mr Shaughnessy confirmed that the basement element and office element was currently valued on the basis of a single occupation. He disagreed with the Appellant's assertion that the location was non-prime and confirmed that it was listed as Zone 4 District Centre and that Amazon, Deloitte and Hibernian REIT were located nearby.

8.3 He stated that there were offices currently being developed nearby which was illustrative of the primary location and that the subject property was a unique property. He said that the subject property incorporated features from the design stage and the property has WELL V2 Gold accreditation and was an exceptional quality building. It was his view that this accreditation meant that it was one of the best buildings in the city and that there were only two buildings in total in Dublin with this accreditation.

8.4 He stated that the subject property was the best office building in Dublin in terms of quality and type. He also stated that whilst he valued the property as a single occupation, he was happy to sub-divide the office element from the basement as separate valuations. He believed that the basement in the subject property could be used as offices.

8.5 Mr Shaughnessy relied on a number of NAV Comparison which are set out in **Appendix 2** hereto. He relied on a NAV for a property on Pearse Street in Dublin 2 which also has a WELL V2 Gold accreditation and two NAV's for an office building on Burlington Road in support of a NAV of €280 per sq m for the office element. He relied on the NAV of the adjoining restaurant unit in the same building, where the basement kitchen was located, in support of his NAV of €100 per sq m for the subject basement. He stated that it is valued at the same level as office basements across the city. He did not agree that the proposed use as a gym or as a multipurpose centre or part centre warranted a reduction to nearly half of the standard office basement rate. He also noted that the rates applied to the basement had been agreed at representations.

8.6 Under cross examination, Mr Shaughnessy was asked if he was involved in the 2013 revaluation. Mr Shaughnessy stated that he was not involved in the 2013 revaluation and that he has become familiar with the list since 2020. He accepted that as it was a revision he could only rely on NAV's as appearing in the valuation list when the question was put to him. He also confirmed that he put the subject into the highest level when originally assessed. When asked by Mr Halpin what drives the value of a property he stated that the location and type are

the important factors. He further stated that the type of property was more important than the location. He stated that the property was the best office in Dublin and said that the market rental premium on the NAV demonstrated this. He was unable to confirm that the building was offered to let publicly but confirmed that the occupier of the building has a particular trend and culture which is aligned to the WELL V2 Gold accreditation. He stated that he did not have evidence that the WELL V2 Gold accreditation had resulted in the letting when the question was put to him. He accepted that the hypothetical landlord would always seek to maximise the rent but did not know why the property did not let for a higher rent than was achieved. He did not accept that assessing the level of market rent was an objective measure of a properties relative value for revision purposes. He further stated that he could only have regard to location and type when assessing the NAV in a revision. It was put to him that the occupier chose this building because their business model is for non-prime property to which he stated that he was unaware of the occupier's business model. He was questioned as to whether WELL V2 is better than LEED and relied on a report from Deloitte to which he stated that WELL V2 is considered an 'add-on' but could not confirm which was better. When asked if he had evidence that WELL V2 accreditation increases value he stated that it was his opinion that developments in 'Environmental Social Governance' markets will result in WELL accreditation being preferred to LEED status. He was unaware if WELL or LEED standards existed at the valuation date when asked. He stated that the subject was a better location than Charlemont Street when it was put to him. He stated that he was happy to sub-divide the basement and office elements into two separate valuations.

8.7 The Tribunal asked Mr Shaughnessy if the subject property was classified as 3rd or 4th Generation offices. He confirmed that it was classified as 4th Generation and that both 3rd and 4th Generation offices have NAV's of €280. When asked what constituted the difference between 3rd Generation and 4th Generation, he stated that location, complimentary occupiers, technology, energy efficiency and passive building standards were factors to be considered. He stated that his NAV Comparisons were classified as 3rd Generation on the valuation list but that this was due to the timing of the classification. He also stated that the Appellant's NAV Comparisons are classified as 4th Generation. The Tribunal also question him in relation to the use of the basement in his NAV Comparison 4 and he stated that it was used as a kitchen and stores and had the same natural light as the subject basement. He also confirmed that it had a restaurant planning permission. He was also asked why he placed more weight on specification rather than location and he stated that he considered the location to be city centre and not

disadvantageous. He was unable to advise the Tribunal if there was a lift to the basement from the ground floor restaurant and stated that there was only natural light through the entrance.

8.8 In summarising his evidence he stated that the subject property was the benchmark office development and that it was a high-quality, high-class building. He stated that the WELL accreditation is tenant driven and that the property was valued in line with the NAV comparisons on the list. He said he was surprised by the Appellants lack of consideration for the impact of the WELL accreditation and awards received and that the building was valued at the top to reflect the quality. He also stated that he was relying on the decision in VA18/3/0042 as evidence that the enhanced nature of a building could justify a somewhat higher level

9. SUBMISSIONS

There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 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 Dublin City Council.

10.2 The relevant question on this appeal concerns the amount a hypothetical tenant would pay in rent for a tenancy of the Property on the terms set out in section 49 of the 2001 Act, as amended. The value of a relevant property shall be made by “*reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.*”

10.3 The Appellant submitted six office NAV comparisons to demonstrate a rate of €240 per sq m for modern offices buildings in prime city locations. The Tribunal accepts the evidence of the Appellant that these NAV comparisons are in prime office locations and are of a high

and modern specification. The Respondent confirmed that these NAV comparisons were all classified as 4th Generation offices on the valuation list.

10.4 The Tribunal also agrees with the Appellant's evidence that South Richmond Street constitutes a secondary office location albeit that it is on the periphery of the CBD. The Tribunal accepts that such a location is not comparable to prime areas such as Burlington Road or Pearse Street and the NAV for the subject property should be discounted from these NAV's.

10.5 The office NAV comparisons submitted by the Appellant comprised of energy efficient and well-designed buildings and the specification and LEED accreditation of these NAV comparisons were not in dispute. On cross examination of the Respondent, the Appellant demonstrated that there was no objective evidence to prove that the WELL V2 accreditation of the subject property warranted a higher NAV than equivalently modern buildings.

10.6 The Respondent placed weight on the decision of the Tribunal in *VA18/3/0042 Google and Commissioner of Valuation*. In that case the Tribunal found that the property being valued should be valued at a higher rate per sq m than the two comparisons it had applied most weight to, due to "*the enhanced specification and age of the subject Property*". The Tribunal was not provided with any evidence to suggest that any of the comparisons put forward in this case differed to any significant degree from the subject property in terms of specification or age. The Tribunal does not accept that that decision lends any weight to the Respondents position in this case.

10.7 Whilst the Respondent has valued the offices and basement as one relevant property, it did not dispute whether they should be sub-divided into two '*relevant properties*' under the Act. The Tribunal considered the matter in the following terms:

- a) The request to subdivide was properly grounded in the Notice of Appeal so falls within the Tribunal's jurisdiction:
- b) Section 37(2)(b)(vi) of the Act, allows the Tribunal in a Revision under section 49, to determine that the property ought to be subdivided into two or more relevant properties; and
- c) The fact that a sub-lease exists for the basement makes it appropriate to do so.

10.8 In relation to the basement, the Tribunal accepts its use as a gymnasium and not as basement offices given the drawbacks due to access and lack of natural light. Having considered the evidence, the Tribunal accepts the valuation of the gym area as put forward by the Appellant.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation and sub-divides the Property as stated in the valuation certificate as follows:

Offices

Floor level	Floor use	Area (M2)	NAV (per sq m)	NAV (€)
0	Offices	94.70	€240	22,728
1	Offices	676.90	€240	162,456
2	Offices	453.80	€240	108,916
3	Offices	452.90	€240	108,696
0	Car spaces (no. of)	10	€2,500	25,000
	Total			€427,792
	Say			€427,000

Basement

Floor level	Floor use	Area (M2)	NAV (€ per sq m)	NAV (€)
0	Entrance to Basement	21.50	100	2,150
-1	Basement	534.90	55	29,419
	Total			€31,539
	Say			€31,500