

Appeal No: VA18/3/0030

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Informatica

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 5015511, Office(s) at Fourth & Fifth Floors, 1 Windmill Lane, Dublin 2,
County Dublin.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3rd DAY OF AUGUST 2022

BEFORE

Eoin McDermott - FSCSI, FRICS, ACI Arb

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on 12th September 2018 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 €898,000.

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 19 (5) of the Act because : *“The NAV is excessive having regard to the established tone. Vo have applied €260psm despite subject being non-riverfront & inferior corporate location.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €764,200.

2. RE-VALUATION HISTORY

2.1 On 30th May 2018 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 €898,000.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on 17th August 2018 stating a valuation of €898,000.

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 prepared their respective summaries of evidence and submitted them to the Tribunal. The Appellant’s summary was prepared by Mr. Robert McHugh BSc (Surv.) MSCSI, MRICS, Dip. Arb. Law. of Cushman & Wakefield and the Respondents summary was prepared by Mr. John O’Brien MSCSI, MRICS, ACI Arb.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The Property is located on the southern side of Windmill Lane, at its junction with Creighton Street. The area is a mixture of modern office buildings and low-rise residential properties.

4.3 The Property comprises the fourth and fifth floors of a newly built office building, completed in 2017. The specification includes raised access points with grommets wired for power, metal suspended ceiling tiles, recessed LED lighting and four fan pipe coil air-conditioning. The building has a BER of B1.

4.4 The area of the building has been agreed between the Surveyors as follows:

Floor level	Floor use	Area (M2)
4	Offices	1,680
5	Offices	1,680
Total area		3,360
-1	Car spaces (no. of)	10

4.5 The parties are agreed that the car parking spaces should be valued at €2,500 each.

5. ISSUES

The issue is one of quantum.

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 situate in, of other properties comparable to that property.

7. APPELLANT’S CASE

7.1 Mr. McHugh, on behalf of the Appellant, described the property and its location using photographs contained in his submission. He noted that the property is located in an area dominated by residential property, much of which is local authority owned, and compared the area to more established office areas such as those around the Grand Canal Basin or fronting

onto the Liffey, which he defines as the central south docks core area. He notes that the location has neither the profile nor the amenity of the core south docks and queries why the Respondent has valued the subject property at the same level as properties in that area. He says that the Appellant's case is based on the location of the subject property and highlights the lack of natural light, lack of water frontage and views, and poor corporate profile of the property. He also draws attention to the undeveloped condition of much of the surrounding area as at the valuation date.

7.2 Mr. McHugh puts forward a number of comparisons using a heat map that he says is recognised by the Respondent. This map covers the core south docks area and is described as illustrating a declining NAV the further away one travels from the central south docks core area. The subject property lies outside the outer core. The comparisons are given as follows

Core colour	PN Number	Address (D2 unless stated)	NAV per Sq. M.
Red	5005679	4 Grand Canal Square	€260
Red	2188769	37-40 Sir John Rogerson's Quay	€260
Red	5004995	1 Grand Canal Square	€260
Yellow	5016899	5 Hanover Quay	€240
Yellow	2200292	Hanover Reach, Hanover Quay	€240
Yellow	1997394	Waters Edge, Charlotte Quay, D4	€240
Yellow	2199966	Blocks 1-2 Barrow Street, D. 4	€240
Green	841993	Watermarque Building, Ringsend Rd D4	€220
Green	791791	15-21 Lowe Erne Street	€220
Green	791037	78 Sir John Rogerson's Quay	€205
Green	799757	2 Green Street East	€130

7.3 Mr. McHugh also states that no established tone of the list existed at the time that the subject property was constructed. He draws attention to inconsistencies within the List and highlights PN 2188792 and PN 5016702 as two similar properties separated by Blood Stony Road but with different NAVs.

7.4 Mr. McHugh puts forward four comparisons from outside the area covered by his heat map. These are as follows: -

PN Number	Address	NAV per Sq. M.
2208603	Chartered Accountants House, Pearse Street	€240
	The Academy Building, Pearse Street	€220
2164220	Georges Quay House, Georges Quay	€220
	Hanover Court, Erne Street	€220

7.5 Mr. McHugh contended for a valuation of €764,200 as the Net Annual Value of the subject property, which he calculated as follows:

Floor level	Floor use	Area (M2)	NAV (€ per M2)	NAV (€)
4	Offices	1,680	220	369,600
5	Offices	1,680	220	369,600
-1	Car spaces (no. of)	10	2,500	25,000
	Total			764,200
	Say			764,200

8. RESPONDENT'S CASE

8.1 Mr. O'Brien, on behalf of the Respondent, describes the property and its location using photographs contained in his submission. He describes the property as being in excellent condition.

8.2 Mr. O'Brien contends that the valuation is fair and equitable and is valued in line with other "tone of the list" properties in the same area. He believes that the property should be categorised as 4th Generation and that it is built to a high specification.

8.3 Mr. O'Brien takes issue with the "heat map" comparisons put forward by Mr. McHugh, noting that they are not 4th Generation offices built to the same standard as the subject. He also considers the four "non heat map" comparisons detailed at 7.4 above. He states that Comparison 1 (PN 2208603) is most similar to the subject, adding that it is valued at €260/M2. He dismisses the other three comparisons as older buildings built to a lower standard than the subject property.

8.4 Mr. O'Brien puts forward five comparisons to justify his position, as follows: -

PN Number	Address (D2 unless stated)	NAV per Sq. M.
5015508	First and Second Floors, 1 Windmill Lane	€260
5015510	Third Floor, 1 Windmill Lane	€260
5006270	7 - 11 Sir John Rogerson's Quay	€260
5006268	7 - 11 Sir John Rogerson's Quay	€260
5006271	7 - 11 Sir John Rogerson's Quay	€260

8.5 Mr. O'Brien noted the Tribunals decision in VA18/3/0042 *Google and Commissioner of Valuation* and the Tribunals finding at paragraph 10.6

"However, the Tribunal considers that the enhanced specification and age of building of the subject Property must be reflected by a somewhat higher unit value per square metre than these two leading comparables."

8.6 Mr. O'Brien contended for a valuation of €898,000 as the Net Annual Value of the subject property, which he calculated as follows:

Floor level	Floor use	Area (M2)	NAV (€ per M2)	NAV (€)
4	Offices	1,680	260	436,800
5	Offices	1,680	260	436,800
-1	Car spaces (no. of)	10	2,500	25,000
	Total			898,600
	Say			898,000

9. SUBMISSIONS

9.1 There were no legal submissions in this case.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must 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 This is a Revision type appeal where the Tribunal is directed to consider the relative Net Annual Value (“NAV”) of the Property by reference to comparable assessments of NAV from the tone of the Valuation List only by virtue of sec. 49 of The Valuation Act 2001.

10.3 It was noticeable that the comparisons put forward by the Appellant were all defined as “third generation buildings” while the Respondent argued that the property should be classified as “fourth generation building.” The Tribunal notes that the property is described on the Valuation List as a “third generation building”. The Tribunal believes that while there is a broad general property industry understanding of what the terms “third” and “fourth” generation buildings mean, there is no set definition for those terms and therefore little weight can be attached to them in this case.

10.4 The Tribunal was presented with details of 20 office properties as comparisons to consider. No construction dates were provided, although two of the comparisons are located in the same building as the subject property. All but three are located in Dublin 2, the exceptions being located close to the south docks area in Dublin 4. The valuations ranged from €130/ M2 to €260/M2. The Tribunal has struggled to see the rationale behind the different levels being applied in many cases, especially between those properties valued at €260/M2 and those at €240/M2.

10.5 Two of the €260/M2 comparisons are located in the same property as the subject. One comparison is listed as being vacant and the other is occupied. The Respondent’s evidence is that no representations were received in either case, nor were agents appointed or the valuations appealed. There are many reasons why an occupier may not contest an NAV put forward by the Respondent. The property may have been vacant at the time of the notification letter and the dates for representations or an appeal to the Tribunal missed. The discrepancy between the actual rent paid on the property and the NAV put forward may cause some confusion. The Tribunal believes that these comparisons would have carried more weight had they been contested and considers that they should be viewed in that light. The other comparisons put forward by the Respondent are located in 7 - 11 Sir John Rogerson’s Quay, which overlooks the Liffey. This property is close to the subject property and the Tribunal does attach significant weight to these comparisons.

10.6 The Respondent cited Chartered Accountants House in Pearse Street as the most comparable of the Appellants comparisons and the Tribunal agrees with this point. This property is valued at €240/M2, although the Respondent says that it is valued at €260/M2. I consider this to be the best comparison that has been put forward. The Tribunal also accepts the Respondents argument that the remaining three comparisons put forward by the Appellant are older properties built to a lower specification.

10.7 The Respondent has dismissed out of hand the Appellants 11 heat map comparisons, simply stating a view that they are not comparable to the subject property. The Tribunal does not accept this approach and considers that these comparisons support the Appellants argument for a declining NAV/M2 as one moves away from the central core.

10.8 The Respondent placed weight on the decision of the Tribunal in *VA18/3/0042 Google and Commissioner of Valuation*, where 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*”. In that case the two comparisons being considered were completed in 2009 and 1999 while the property under appeal was completed in 2017. There is no evidence before the Tribunal to suggest that the specification of the subject property is materially different to the specification from the comparisons in 7 - 11 Sir John Rogerson’s Quay or the Chartered Accountants building.

10.9 It was the Appellants case that the location of the property was inferior to many properties that had been valued at €260/M2, The Appellant highlighted the lack of water views, corporate profile and lack of amenities to demonstrate this. The Tribunal accepts this argument in respect of the lack of water views and corporate profile, especially when compared to the comparisons in 7 - 11 Sir John Rogerson’s Quay. The Tribunal considers that the evidence supports a reduction in the NAV from €260/M2 to €240/M2.

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 **€831,000**, calculated as follows:

Floor level	Floor use	Area (M2)	NAV (€ per M2)	NAV (€)
4	Offices	1,680	240	403,200
5	Offices	1,680	240	403,200
-1	Car spaces (no. of)	10	2,500	25,000
	Total			831,400
	Say			831,000