

Appeal No: VA23/5/1240

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

PASCAL SOFTWARE LTD.

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 523011, Office(s), at Basement, 20 Longford Terrace, Monkstown, County Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17TH DAY OF APRIL, 2025**

BEFORE

Hugh Markey FRICS FSCSI,

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on the 19th day of October, 2023 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 €16,490.

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: (a) " (b) *Details stated in the relevant Valuation List are incorrect. The proposed Valuation Certificate states that the office comprises of 82.46m². I submit that this is incorrect because there has been a change in the use of the basement since the previous valuation. This stated floor area measures the full extent of the basement, which heretofore was indeed used as offices for commercial purposes. However, since 2017, a division/partition was installed so as to segregate a smaller portion of the basement to be used for commercial purposes. The remaining balance of the basement was to be used, and is still being used by the owners of the residential home - that being my wife Martina Boylan and*

myself, David Quinn. Physically, the two employees of the appellant moved into a separate rear office in the basement, with their own tea-station/bathroom facility, whilst the larger front office was taken back into the effective use by Ms. Boylan for her own domestic purposes. Employees of the appellant do not have access to that front office which has been partitioned off from the rest of the basement area. There is a shared corridor that allows both parties to access their respective space. The remaining commercial office space occupied by the employees of the appellant comprise of an L-shaped room, with separate tea-station and bathroom. There is also a back corridor space that provides shelving for files, stationery and paperwork.

The balance of the basement is used by myself and Ms. Boylan in our personal capacity, as part of our home in the remainder of the building upstairs. In terms of floor area, whilst the Tailte Eireann official has photos on file, I believe that the rear office, together with the tea-station/kitchen, measures 4m x 5m in total. The rear corridor what has the shelving space is 2m x 5m. Inside the front door, there is a shared space which provides access to both the segregated office used by Ms. Boylan and the rear office and rear corridor used by the appellant. The measurements of that front shared space is 5m x 2m. "

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €8,000.

2. RE-VALUATION HISTORY

2.1 On the 23rd day of September 2022 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 €16,490.

2.2 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €16,490.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1st February 2022.

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.

1. The property under appeal comprises the basement accommodation at No.20 Longford Terrace, Monkstown, Co. Dublin.
2. The appropriate rate to be applied to the rateable area is €200 per sq. m.

5. ISSUES

The sole issue to be determined is whether the Respondent was correct in valuing an area which the Appellant maintains is no longer in office use and should therefore not be valued.

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 The Appellant’s case is summarised in the notice of appeal which states inter alia, ‘*I submit that this is incorrect because there has been a change in the use of the basement since the previous valuation*’. The Appellant also stated ‘*The balance of the basement is used by myself and Ms. Boylan in our personal capacity, as part of our home in the remainder of the building upstairs*’.

In the Appellant’s Précis, the following is noted: ‘*As noted previously, the balance of the basement space has been taken back by the landlord to be part of their “working from home” accommodation*’.

Thus, I never claimed that the partitioned space was used for “domestic” purposes. Instead, I stated clearly that the space was used for Ms. Boylan’s private use, for her own work purposes. As stated previously, I do not question the valuation rate being applied for office space. I am solely disagreeing with the quantum of space that is both used by and rented by Pascal Software Ltd.

The Appellant contended that the floor area to be valued be reduced to ‘*no more than 40 sq. m.*’

8. RESPONDENT’S CASE

8.1 The Respondent noted that planning permission was granted in 1999 (planning application ref D98A/1099),

The application was “*To change the use of basement apartments of 20 Longford Terrace from domestic to office accommodation, ancillary to the single residence accommodation in the remainder of the building*”.

Having described the accommodation in detail the Respondent posited that ‘*Based on the evidence from my inspection the property meets the requirements of Schedule 3 of the Valuation Acts 2001-2020 to be relevant Property*’. The witness was of the opinion that the entire basement area was in office use. He noted the area as being 82.46 sq. m.

The Respondent provided photographic evidence of the use of the Property.

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 Dun Laoghaire Rathdown County Council.

9.2 The Tribunal has found on several occasions that the onus of proof rests with the Appellant in an appeal [See *Proudlane Ltd. t/a Plaza Hotel* (VA00/2/032) and *AIB Group PLC v Commissioner for Valuation* (VA20/4/0053)]. The position was expanded on in Tribunal decision *FGM Properties v Commissioner for Valuation* (VA19/5/1091) wherein it was held: “*The onus of proof rests on the Appellant to demonstrate, through cogent evidence, that the Respondent has erred.*”

9.3 Arising from these decisions, in order to succeed in their appeal, an Appellant must demonstrate, through cogent evidence, that the Respondent has erred in their valuation of the property under appeal. In that respect, the Appellant was obliged to satisfy the Tribunal, through evidence, that the Respondent’s valuation was incorrect and the approach to the valuation resulted in an incorrect valuation of the Property being maintained on the List.

9.4 While the Respondent set out the background to the revaluation of the Dun Laoghaire Rathdown local authority area and provided evidence as to how the rate per square metre had been derived, this is not at issue because the Appellant clearly stated that he did not have an issue with the rate adopted; his difficulty was that it should not have been applied to the entire basement area.

9.5 The evidence of the Appellant as to the use by his family is unconvincing. He noted that ‘*The landlord also effectively “works from home” in their own parts of the basement*’.

It is clear from the evidence that the overriding use of the entire is as offices, whether rented to a third (connected) party or for working from home use. The Appellant disputed the Respondent’s comment that the space in question was used for domestic purposes stating -

‘Thus, I never claimed that the partitioned space was used for “domestic” purposes. Instead, I stated

clearly that the space was used for Ms. Boylan’s private use, for her own work purposes.’

9.6 Nothing in the evidence submitted by the Appellant is persuasive. The appeal is based on a use by the landlord’s family which in itself was described as ‘*working from home*’.

9.7. No planning permission was obtained that would supersede the 1999 grant allowing the change of the entire basement to office use.

9.8 The mere change in occupier of part of the basement is not sufficient to bring the area concerned outside the scope of Schedule 3 of the Act.

9.9 For the above reasons, the appeal must fail.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

RIGHT OF APPEAL:

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal’s determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.