

Appeal No: VA23/5/0475

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

SEAMUS & ALISON MCCONE

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. 2171886, Office(s) at 2nd Floor, Marina House, Clarence Street, Dun Laoghaire**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF DECEMBER 2025**

BEFORE

Paul McElearney - FRICS, FSCSI, FCI Arb

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th 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 € 151,700.

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) The Valuation is excessive and inequitable.

Set out the grounds upon which the Appellant considers that the determination of the valuation of the property is not a determination of its value that accords with that required to be achieved by section 19(5).

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €103,550.

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 €151,700.

2.2 A Final Valuation Certificate issued on the 15th day of September 2023, stating a valuation of €151,700.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1st day of 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 From the written submissions made by the parties, the Tribunal finds the following facts.

4.2 The subject property is situated on the second floor of Marina House, which is a 3rd Generation office building on Clarence Street in Dun Laoghaire. Marina House is located within easy walking distance of both Dun Laoghaire and Salthill Dart Stations. The subject is an easy walk away from an array of nearby local shops, stores, boutiques, cafés, restaurants, bars, and public amenities. Dun Laoghaire is the seat of Dun Laoghaire-Rathdown County Council and is a long-established business and commuter base, with a population of 46,603 (2022 census).

4.3 Marina House is a modern 4-storey (3rd Generation) office building which enjoys panoramic views over Dublin Bay and Dun Laoghaire Harbour. The subject property is located on the second floor of this 4-storey office building and provides office accommodation with an agreed floor area of 545 m² together with eight car parking spaces.

4.4 The 2nd floor subject offices are accessed from a shared ground-floor reception area via a service core, which provides a lift and stairs that serve all floors, with separate ladies' and gentlemen's toilets located on each floor off the central core. There are also parking spaces in the building's secure basement car park, accessed via a secure electronic entrance gate on Clarence Street.

4.5 The entire second floor is currently divided into two separate offices. The offices are fully fitted, providing a mix of open-plan and cellular offices, meeting rooms, comms and kitchenette facilities, along with a south-facing balcony. In terms of specification, the offices have:-

- I. A Building Energy Rating (BER) of C1
- II. The Offices have air conditioning, suspended ceilings with a height of 2.6 metres, recessed category 2 lighting, raised access floors and floor boxes, wired for power.
- III. The subject property also has floor-to-ceiling windows, which provide natural light throughout.

4.6 The subject property is valued as one record on the list.

5. ISSUES

The issue in this Appeal is one of quantum.

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 Mr Daragh O'Rourke, on behalf of the Appellant, submitted a Précis of Evidence dated 2nd May 2024 and a response to Mr Jonathan Sharkey of Tailte Éireann’s, Précis of Evidence dated 30th September 2024.

7.2 Mr O'Rourke was in broad agreement regarding the subject property's location, its description, specification and accommodation – floor area and car parking noting that the floor was split into two separate office spaces in August 2020 when a market letting was agreed with Mental Health Ireland (MHI) who took 264 sqm on a ten year lease with a rent review at the end of year five for

a rent of €57,317 per annum to include four parking spaces at €1,000 per space and four month rent free period. This equates to an average rent of €188.50 psm.

7.3 Mr O'Rourke expressed the view that since August 2020, the office market has deteriorated, and the remaining floor of 285 sqm remains unlet at an asking rent of €190 psm & €1,000 per parking space with the accommodation on the market

7.4 Mr O'Rourke opined that, having regard to the terms of the actual open market letting of part of the subject floor to MHI in August 2020 and the deterioration in the office market, he believed the NAV is €190 psm, which equates to a valuation of €103,550, say one hundred and three thousand five hundred and fifty euros. He believed the NAV of the car parking spaces to be €1,000 per space.

7.5 Mr O'Rourke, in his response dated 30th September 2024 to Mr Sharkey's Précis of Evidence, drew attention to the Key Rental Transactions (KRT), as provided to support the revaluation assessment and commented that:-

KRT 1: 2nd Floor, Unit 5, Adelphi House.

Date: This comparable evidence dates from February 2019, three years before the relevant valuation date of February 2022. It reflects an office market unaffected by the impacts of COVID-19 and the subsequent decline in office rents. In this context, the transaction—an assumed open-market agreement with a rent of €260 per square metre—further supports his position that the Net Annual Value (NAV) as proposed is overstated.

KRT 2: Units 5 & 6, Classon House, Dundrum Business Park.

Date: This evidence dates from November 2018, three years and three months before the valuation date of February 2022. Again, it represents a pre-COVID office market unaffected by rent declines.

Type: The transaction is based on a rent review, not an open-market rental.

Location: The property is situated within a dedicated business park, approximately 8.6 kilometres from the subject property.

KRT 3: The Chase Building, Carmanhall Road, Sandyford Industrial Estate.

Date: This evidence dates from June 2019, nearly three years before the February 2022 valuation date. The office market was still unaffected by the COVID-induced decline in rents.

Type: This transaction also pertains to a rent review, not an open-market agreement.

Location: The Chase Building is located in Sandyford, a premier office district 9 kilometres from the subject property, housing major companies like Bank of America, Google, Facebook, Microsoft.

KRT 4: The Chase Building, Carmanhall Road, Sandyford Industrial Estate.

Date: This transaction dates from December 2020, approximately two years before the valuation date. At this time, the full impact of COVID-19 on office rents had not yet materialised.

Type: Similar to the others, this is a rent review, not an open-market transaction.

Location: As with KRT 3, this property is in the prime Sandyford office district, 9 kilometres from the subject property.

KRT 5: Unit 22, Classon House, Dundrum Business Park

Date: The evidence dates back to June 2017, five years before the February 2022 valuation date, well before the impact of COVID-19 on the office market.

Location: The property is located in the Dundrum Business Park, a designated business/office park, 8.6 kilometres from the subject property.

7.6 Mr O'Rourke, in conclusion, opined that Tailte Éireann's NAVs as provided in their comparables were flawed and unsupported by relevant market evidence. They had relied on transactions that occurred some 3 to 5 years before the valuation date, in a market that was not impacted by COVID-19 and the subsequent trend toward 'work from home'. He acknowledged that the Appellant's market evidence was limited. He expressed the opinion that the data provided by Tailte Éireann reinforces his opinion that the NAV significantly exceeds what could have been achieved in the market at the valuation date. Furthermore, he noted that Tailte Éireann had provided no evidence to support a rate of €260 psm in or around the valuation date, as in his opinion, there was none, and that the market evidence from before the pandemic does not represent a fair assessment of where office market rental values for suburban locations stood on the 1st of

February 2022. And, given these considerations, he requested that the valuation be revised in accordance with market conditions at the relevant time.

8. RESPONDENT'S CASE

8.1 A Précis of Evidence was submitted by Mr Jonathan Sharkey on behalf of the Respondent in which he confirmed:-

8.2 That the Valuation Date was 1st February 2022.

8.3 That the proposed Valuation Certificate issued on 23rd September 2022 for €151,700 and that no representations were made, and that the Valuation Certificate for €151,700 on 15th September 2023.

8.4 That an appeal was lodged with the Valuation Tribunal on 12th October 2023

8.5 The Appellant's Opinion of Value on Notice of Appeal was €120,000 and amended to €103,550 in the Appellant's submissions.

8.6 The Appellants' Précis of Evidence was received on 15th August 2024.

8.7 The summary of the Grounds of Appeal contained in the Appellants' Précis is that the Valuation is excessive.

8.8 Mr Sharkey noted that there was broad agreement regarding the subject property's location, its description, specification and accommodation – floor area at 545 sqm with eight car parking spaces, noting that the floor was split into two separate office spaces.

8.9 Mr Sharkey commented that the evidence provided by the Appellant was limited to the letting of part of the second floor of the subject property, and that no comparable evidence was provided, which gave a limited outlook on the office market in the area, for similar type properties and accommodation, furthermore that no KRT or NAV comparisons had been submitted as part of the Appellant's Précis to support the opinion of value submitted.

8.10 Mr Sharkey commented that he had detailed and provided an analysis of several Key Rental Transactions, of properties with a similar use and attributes with those of the subject property, all of which were situated within the Dun Laoghaire-Rathdown area and that his report also outlined a number of NAV comparisons, again with the same use and similar to the subject and valued at the same rate per square meter to that of the subject property. He commented that the process of Revaluation requires the collation and analysis of available market evidence to develop schemes of valuation. This evidence is obtained from a variety of sources, including directly from occupiers, from the Revenue Commissioners' database of Stamp Duty transactions and from the Commercial Lease Register administered by the Property Services Regulatory Authority. In this case, a number of market information items were available to inform the valuation scheme used to estimate the Net Annual Value of the subject property.

It was the opinion of Tailte Éireann that the rate per square metre of €260 should remain, and the valuation of the subject offices should not be amended.

8.11 Mr Sharkey provided details of his Key Rental Transaction (KRT) and NAV comparison evidence for properties which were, in his opinion, 'similarly circumstanced' and considered comparable, as they shared characteristics such as use, size, and location, which, in his opinion, underpinned the valuation scheme.

9. SUBMISSIONS

9.1 There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal, the Tribunal has to determine the value of the Property 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.

10.2 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.”

10.3 Arising from these decisions, 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 failed to meet the requirements of correctness of value, together with equity and uniformity of value between properties on the valuation list required under S. 19 (5).

10.4 The Tribunal notes that the Appellant advanced the appeal on the grounds that the valuation was excessive. It is not disputed that the subject property comprises the Second Floor of Marina House, with an agreed floor area of 545 sqm, which has been split into two offices. The Appellants introduced and have sought to rely on a single rental transaction to support their claim. The single rental transaction provided details of the August 2020 letting of a portion of the second floor of Marina House, which comprised 264 sqm of office accommodation, together with car parking. The Appellant introduced no other rental evidence from other office lettings in support of their case.

10.5 The onus of proof rests with the Appellant to demonstrate, through cogent evidence, that the Respondent has erred. While the market letting of part of the second floor and the resultant rental evidence is helpful, the absence of supporting rental evidence confirming rental values reduces the Appellants' case, resting on a single transaction, which, in the Tribunal's opinion, is insufficient to meet the burden of the evidential threshold required to show that the Respondent has erred.

10.6 The Tribunal accepts that COVID-19 has had both a negative and wide-ranging impact on the office market, in terms of emerging and changing work practices, new occupier demand, the reappraisal by existing occupiers of their floor area requirements, rents and lease terms. All of these matters existed at the valuation date, 1st February 2022. The Appellants did not introduce such evidence in support of their case.

10.7 The respondents clearly stated that they had regard to a range of information sources used to inform the valuation scheme in estimating the subject property's Net Annual Value. The Tribunal has considered the KRT comparisons introduced by the Respondent and notes that in many cases they predate the valuation date by years and consequently reflect different and more favourable market conditions than those at the valuation date. The Respondent introduced a number of comparison NAVs from similar offices located in Dun Laoghaire, these NAVs reflect a rate of €260 per sq m and in the absence of evidence to the contrary, rental comparisons, details of market lettings, the Tribunal cannot depart from the principle cited at 10.2, the Tribunal is therefore left with no choice but to disallow the Appeal and confirm the valuation placed on the property by the Respondent.

DETERMINATION:

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

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.