

Appeal No. VA08/5/001

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 2001**  
**VALUATION ACT, 2001**

**J. A. Engineering**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 478591, Yard at Hibernian Industrial Estate, Greenhills Road, Tallaght, County Dublin

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Brian Larkin - Barrister**

**Member**

**Patrick Riney - FSCS.FIAVI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 29TH DAY OF OCTOBER, 2008**

By Notice of Appeal dated the 2nd day of June, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €42,300 on the above described relevant property.

The Grounds of Appeal are set out in a letter attached to the Notice of Appeal, a copy of which is attached at Appendix 1 to this judgment.

This appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 2<sup>nd</sup> day of September, 2008.

At the hearing the appellant was represented by Mr. Maurice Brew, a co-owner of the appellant company. Mr. Viorel Gogu, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation. Mr. Frank O'Connor, Appeal Officer, Valuation Office, also gave evidence.

### **The Property Concerned**

The property concerned is an enclosed yard located within the Hibernian Industrial Estate which is situated on the east side of the Greenhills Road in a long established industrial warehouse environment. The yard has direct access on to an internal estate road and from an adjoining property occupied by the appellant. The yard has a hard core top finish and is used for the storage of construction plant and machinery.

The yard has an agreed area of 2,825 sq. metres.

### **Tenure**

The property is held under a freehold title.

### **Rating History**

The valuation of the property concerned was assessed at €42,300 in accordance with Section 48 of the Valuation Act, 2001 and a valuation certificate to this effect was issued by the Valuation Office on 4<sup>th</sup> December, 2007. No changes were made on foot of an appeal to the Commissioner of Valuation and it is against this decision by the Commissioner that the appeal to this Tribunal now lies.

### **The Appellant's Evidence**

Mr. Brew said his father had commenced business in 1970 and had purchased the property concerned in 1983 for IR£70,000. The subject yard, he said, was used for the storage of construction machinery and materials for which there was no apparent current use. The yard was not connected to any of the usual public services and was located in an area where there was a prevailing high level of vandalism which gave rise to serious problems of security. The

appellant company, he said, derived no income from the property which was used as an adjunct to the adjoining premises occupied by the appellant company.

Mr. Brew agreed that yards such as the subject property were scarce in the area but could give no opinion as to what the rental value of the yard might be, as he had never contemplated leasing the property. However he said that he had the premises valued in late 2006 and was advised that its value at that time was €500,000.

Mr. Brew said his main complaint was the level of increase in his rates bill arising out of the revaluation. In 2007 the rates paid was in the order of €3,000 and for 2008 €6,979.50 which represented an uplift of 133%. Such an increase, he said, could not be justified.

Mr. Brew said he had contacted a number of companies in the vicinity of the property concerned and was advised that yards forming part of industrial premises had been valued at between €8 and €12 per square metre. In the circumstances he felt that the valuation of the property concerned was excessive.

### **The Respondent's Evidence**

Mr. Gogu having taken the oath adopted his précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief.

In his evidence Mr. Gogu contended for a rateable valuation of €42,300 calculated as set out below:

Yard area 2,825 sq. metres @ €15 per sq. metre = €42,300

In support of his opinion of Net Annual Value Mr. Gogu introduced four comparisons, details of which are set out in Appendix 2 attached to this judgment.

In evidence Mr. Gogu said that there were no yards similar to the property concerned in the immediate vicinity of the Hibernian Industrial Estate. Accordingly he had looked at the assessment of other yards located in other industrial estates within a one mile radius of the subject property and which were valued at between €20 and €25 per sq. metre. Taking into account the locational disadvantage of the subject property such as the vandalism and lack of

security he had come to the conclusion that a discount was warranted and considered that €15 per sq. metre was fair and reasonable.

Under examination Mr. Gogu agreed that his comparisons No. 3 and No. 4 were situated within a privately managed industrial estate which afforded greater security. Mr. Gogu said that the Whitestown area in his opinion was inferior in terms of location to the subject property and that the €20 per sq. metre reflected that security. Otherwise he would have valued the yard at €15 per sq. metre. Mr. Gogu said that he had examined the details of the comparisons which Mr. Brew had provided and commented as follows. In both instances, he said, the yards formed part of larger industrial premises and were not lock-up yards as was the subject. Furthermore a number of the properties referred to were subject to appeal.

Mr. Frank O'Connor is an Appeal Officer in the Revaluation Unit of the Valuation Office. In preparing for the revaluation, Mr. O'Connor said, the Valuation Office had examined all of the available evidence for yards in the South Dublin County Council rating area. This examination, he said, showed a wide variation of rental levels varying from a low of €10 per sq. metre to a high of €50 per sq. metre. On this basis it was felt that self-contained yards should be valued within these parameters, making such allowances where appropriate for size, location and the lease. It was not policy to value yards attached to industrial premises unless the yards in question were in excess of normal requirements and were used for external storage purposes.

## **Findings**

The Tribunal has carefully examined all of the evidence adduced and finds as follows:

1. The statutory basis of valuation is set down in Section 48 of the Valuation Act, 2001 wherein at subsection (3) the net annual value of a property is defined as being: *“the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average 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 and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant”*.

2. The burden of proof that the valuation of the property concerned as it appears in the Valuation List is incorrect lies with the appellant.
3. It would appear from the analysis of rents carried out by the Valuation Office that the appropriate valuation level for yards in the Greenhills/Tallaght area ranges from €20 to €25 per sq. metre depending on size and location.
4. The Tribunal accepts Mr. Brew's evidence that there are persistent problems with security and vandalism in the vicinity of the property concerned and indeed Mr. Gogu accepted this to be the case and said he had taken this into account in arriving at his assessment of net annual value. The allowance Mr. Gogu has made is, in the Tribunal's opinion, slightly on the low side and is less than that which a hypothetical tenant in the market for a yard in this location would have made.

### **Determination**

Having regard to the foregoing the Tribunal determines the net annual value of the property concerned in accordance with Section 48 of the Valuation Act, 2001 as at the relevant valuation date to be as follows:

Valuation 2,825 sq. metres @ €14 per sq. metre = €39,550

Say €39,500

And the Tribunal so determines.