

Appeal No. VA11/1/018

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

**Global Steel Manufacturing Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2205639, Workshop, Office(s) at Lot No. 7K/1 Kilcannon, Enniscorthy Rural, Enniscorthy, County Wexford.

**B E F O R E**

**John Kerr - Chartered Surveyor**

**Deputy Chairperson**

**Mairead Hughes - Hotelier**

**Member**

**Michael Connellan Jr - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 17TH DAY OF AUGUST, 2011**

By Notice of Appeal received by the Tribunal on the 21st day of February, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €220 on the above described relevant property.

The grounds of Appeal as set out in the Notice of Appeal are:

"On the basis that the RV as assessed is excessive and inequitable." "The Commissioner has failed to attach sufficient weight to the basic nature (mainly single skin workshops) of the buildings & their moderate location, up a narrow laneway without any profile."

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 2<sup>nd</sup> day of June, 2011. The appellant was represented by Mr. Eamonn Halpin, B.Sc. (Surveying) ASCS, MSCSI, MRICS, and the respondent by Ms. Orla Lambe B.Sc. (Surveying), MIAVI, Valuer in the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence in chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

### **The Property**

The subject property, which was developed and subsequently extended over a 20 year period, comprises a number of workshop/warehouse units, the older units constructed of steel portal frame and single skin corrugated iron roofing and similar single skin metal clad walls, with an eaves height of c. 4.5 metres. The newer warehouse/workshop unit is also constructed of steel portal frame, with a double skin Kingspan roof and single skin metal cladding to walls, with an eaves height of c. 6 metres. This latter unit also contains loft storage and has a lean-to constructed of Kingspan roofing and single skin walls, which is open fronted and primarily used for spray painting. All the workshops have loading doors to the front. The subject relevant property also comprises office units located at the entrance to the complex, and include canteen and toilet facilities.

### **Location**

The subject property is located off a laneway which extends from the Old Dublin Road, approximately 4km from the centre of Enniscorthy town, and is situated close to the N11, the main Dublin to Wexford Road.

### **Services**

The subject relevant property is served with mains power, water, telephone, storm and foul sewer.

**Tenure**

Freehold.

**Floor Areas**

The agreed floor areas, measured on a Gross External Area (GEA) basis, are as follows:-

Offices:	70.20 sq. metres
Workshop (4.5m eaves):	930.24 sq. metres
Workshop (6 m eaves):	*494.19 sq. metres
Loft Storage:	84.15 sq. metres
Open Spray Workshop (3 m eaves):	76.14 sq. metres

(\* Agreed by the respondent prior to hearing.)

**Valuation History**

9 <sup>th</sup> May 2010:	Draft Valuation Certificate issued with an RV of €224.
1 <sup>st</sup> June 2010:	No change made at Representation stage.
18 <sup>th</sup> June 2010:	Final Valuation Certificate issued at RV €224.
25 <sup>th</sup> June 2010:	Subject relevant property entered onto Valuation List.
26 <sup>th</sup> July 2010:	The appellant appealed to the Commissioner of Valuation.
25 <sup>th</sup> January 2011:	Valuation reduced from €224 to €220.
21 <sup>st</sup> February 2011:	The appellant appealed this decision to the Valuation Tribunal by Notice of Appeal dated 21 <sup>st</sup> February, 2011.

**Appellant's Case**

Mr. Eamonn Halpin took the oath, adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission.

Mr. Halpin indicated that he and the respondent agreed the areas, the location, nature, use and all the physical facts associated with the subject property, and suggested that the main issues of difference between them could be linked to the type of buildings put forward as comparison properties in the précis of evidence submitted on behalf of the respondent.

Mr. Halpin explained that his client bought the land on which the subject property is sited back in 1988 at a very low cost, comparatively speaking, with other sites within the subject industrial area, off the old Dublin Road. He stated that the price paid reflected rear of development location, without profile or visibility to the old Dublin Road. Mr Halpin explained that the initial section of the subject property, which was steel portal frame with single skin metal cladding to walls and roof, was built to an eaves height of 4.5 metres. He characterised this part of the complex as being little more than an iron post shed in use as a basic industrial workshop for the fabrication of stainless steel goods. He added that the newer section, which also had single skin cladding to the walls with a Kingspan roof, was constructed to provide an eaves height of 6 metres, and that the attached offices were also built to a very basic standard, with a flat roof fronting the complex, with natural lighting through windows on one side only.

On behalf of the appellant, Mr Halpin contended for a rateable valuation of €117 on the subject property, calculated as follows:

Offices	70.20 sq. metres @ €20.50 per sq. metre	=	€ 1,439.00
Workshops (4.5 m eaves)	930.24 sq. metres @ €13.67 per sq. metre	=	€12,714.00
Workshops (6m eaves)	494.19 sq. metres @ 17.08 per sq. metre	=	€ 8,441.00
Loft Storage	84.15 sq. metres @ 3.41 per sq. metre	=	€ 287.00
Open Spray Area	76.14 sq. metres @ €6.83 per sq. metre	=	<u>€ 520.00</u>
NAV			€23,401.00
	@ 0.5% = €117.005		
	SAY RV €117		

Referring to the comparison properties cited in his précis (pages 7 to 10 incl.) - copies attached hereto as Appendix 1 - Mr. Halpin noted that the first three comparisons, namely Gerry Larkin, Simon Kavenagh, and Roche & Cleary Ltd., respectively, would be considered as similar basic buildings and though located at the other side of Enniscorthy from the subject old Dublin Road location, he considered all of them to be representative of the “tone-of-the-list” for workshops and workshop stores in the area. These comparisons, he said, indicated that the workshops were valued at €17.08 per sq. metre and in Comparison No. 3, a further area designated as workshop / stores, was valued at €13.76 per sq. metre.

The appellant's fourth comparison suggested that the rate applied to the warehouse area was €20.50 per sq. metres, being the Weatherglaze unit some distance away at Gorey. Mr Halpin suggested that this comparison property was much better located than the subject and was built to an IDA specification in the 1980s. He stated that a 2009 Revision valuation on new offices and a showroom extension there led to an agreement of €27.34 per sq. metre on same.

The appellant's Comparison No. 5, at Gorey, referred to a number of modern workshop and storage units in a business park campus, built to good specifications with double skin cladding to the roof and double glazed windows, at a superior location, which again commanded a rate of €20.50 per sq. metre.

The appellant's Comparison, No. 6 was F & M Whelan Engineering, in a rural location, with workshops ranging from a low of €13.67 per sq. metre for the older constructions, up to a level of €17.05 per sq. metre for the more modern units. Mr Halpin observed that the offices were rated there at a commensurate level of €27.33 per sq. metre.

The appellant's Comparison No. 7, Patrick Slye, again contained workshops located in a rural area, which again were of single skin construction, valued at €13.67 per sq. metre and the small attached service office was valued at €27.34 per sq. metre.

By contrast, the appellant's Comparison No. 8, being Darren Langrell Furniture Ltd., was described by Mr. Halpin as the "best of the best". Mr Halpin corrected his précis by noting that the ground floor workshop there is valued at a rate of €29 per sq. metre and the mezzanine showroom at €20.50 per sq. metre. Mr. Halpin explained that he chose this comparison property because of its much superior construction, being a fully insulated building, a high spec new building in a new Business Park nearby the subject and the old Dublin Road, Enniscorthy.

The appellant's ninth comparison property, namely Paddy Denby Engineering, located with a high profile fronting the main Dublin – Wexford Road, near the village of Ferns, comprises basic quality workshop areas valued at a level of €17.08 per sq. metre and ancillary sales and office areas at €27.34 per sq. metre. Mr Halpin acknowledged that this complex was a former school, extended and converted.

The appellant's final comparison was described as a rural workshop near the village of Camolin, Co. Wexford, the value of which was determined recently by the Valuation Tribunal in **VA09/3/027 - Kehoe Brothers Machinery Ltd v Commissioner of Valuation**. Mr. Halpin drew the attention of the Tribunal to the varying values of rates per sq. metre applied by the Tribunal to the workshop areas in this comparison property, which range from as low as €8.55 per sq. metre in one exceptional small area, to €16.87 per sq. metre up to a maximum of €21.36 per sq. metre in a workshop featuring up to 7 metre high eaves and a mobile gantry crane. He explained that he was introducing this comparison to demonstrate that a range of workshop buildings may carry different levels of value for rating purposes, while adding that all of the rates determined by the Tribunal in this particular property were set at moderate rates per sq. metres, including the reception/office area at €34.18 per sq. metre.

#### **Questions from the Tribunal and Cross-examination by the Respondent**

In response to questions raised by the Tribunal and Ms. Lambe, Mr. Halpin advised as follows:-

- The workshops in Comparison No. 7, assessed at a level of €13.67 per sq. metre, compared with the rate his client was seeking on the older workshops within the subject property. Mr Halpin had made an adjustment and increased the level to €17.08 per sq. metre for the 6-metre eaves height newer and higher specification workshop section at the subject. He also noted that there was no adjustment provided for quantum on Comparison No. 6, whereas the combined areas of the workshops at the subject property comprised more than double the floor area of the former.
- With respect to levels to be applied on the subject office area, Mr. Halpin noted that the offices at Comparison No. 4, Weatherglaze, which in his opinion is a far superior premises, was valued by the Commissioner at €27.34, but that the offices at the subject property had been valued at €41 per sq. metre.
- Mr Halpin contended that it is inappropriate to value all offices in the Enniscorthy area at a single rate per sq. metre and argued that the value of offices linked to warehouses and workshops should be set at levels commensurate with such uses.
- Mr Halpin declared that the “tone-of-the-list” should not be perceived as evidence of a “uniform rate” but in the alternative, maintaining that *“the tone reflects all*

*valuations in the List and all the different values applied*” and accordingly should take into account the quality, location and specification of all such assets.

- Mr Halpin confirmed that the offices at the subject were built and maintained fit-for-purpose and are appropriate to the industrial activities carried out at the warehouse, and should not be perceived as stand-alone commercial office accommodation.
- Mr Halpin declared that the office area at the subject was far inferior to the quality offices identified in the respondent’s Comparison No. 4, John Bolger (former Wexel factory).
- Mr Halpin confirmed that he was familiar with, and had inspected, all 10 comparison properties included in his précis.
- Mr Halpin reconfirmed the building specifications of the subject property, and that the subject property was occupied on the date of revision. He also responded to queries regarding location of his comparison properties and acknowledged that with the exception of Comparison No. 8, Darren Langrell Furniture Ltd., his other nine comparisons were located remote from the subject, and acknowledged that his first three properties were located at the other side of Enniscorthy town, approximately 3 miles distant from the subject.
- Mr Halpin challenged the respondent’s interpretation of Finding No. 1, Page 9, of the Valuation Tribunal’s judgment in **VA10/1/029 – O’Leary International Ltd.**, attached hereto as Appendix 2. Mr. Halpin contended that the Valuation Tribunal may have reached its finding by placing the emphasis on the most suitable comparisons which were immediately adjacent to that particular property under appeal and, in the subject case, he argued that there was a paucity of suitable comparison properties nearby.

### **Respondent’s Case**

Ms. Orla Lambe took the oath and adopted her précis as her evidence-in-chief. Confirming agreement on details pertinent to the subject with respect to location, access, construction specification, area, layouts and general description reached with the appellant’s consultant, together with the summary valuation history, Ms. Lambe advised the Tribunal on the basis of valuation adopted by the Commissioner in this case on the revision of the subject property

and the application of Section 49(1) of the Valuation Act, 2001. She summarised the breakdown of the valuation of the property, as follows:-

Offices:	70.20 sq. metres @ €41.00 per sq. metre = € 2,878.20
Workshop (4.5 m eave):	930.24 sq. metres @ €27.33 per sq. metre = €25,423.45
Workshop (6.0 m eave):	494.19 sq. metres @ €29.00 per sq. metre = €14,331.51*
Loft Storage:	84.15 sq. metres @ € 3.82 per sq. metre = € 321.45
Open Spray Workshop:	76.14 sq. metres @ €13.66 per sq. metre = € <u>1,040.07</u>
	NAV €43,994.68*

RV @ 0.5% of NAV =

Say: €220

(\* figures adjusted in line with agreement by respondent on area of 494.19 sq. metres)

Ms. Lambe then referred to her précis of evidence (pages 6 to 14 incl.) which contained details of seven comparison properties cited by the respondent in support of the valuation of the subject, copy attached herewith as Appendix 3. She noted some typographical errors, as follows:-

Page 6: first sentence in the “notes” should refer to Comparison No. 1.

Page 7: second sentence in the “notes” should refer to Comparison No. 2.

Page 10: RV computed on comparison No. 5 should read €67.79 rounded to €68.

Referring to the respondent’s Comparison No. 1, KDK Scaffolding Ltd., Ms. Lambe outlined the construction of the workshop and offices, including the finishes thereto, and suggested that they were very similar in quality terms to the new section of the subject.

With regard to comparison no. 2, Wexford Commercials, she informed the Tribunal that the warehouse there, though with a higher eaves height, was of similar construction and quality to the older section of the subject.

Referring to comparison no. 3, vacant when revised in 2005, she confirmed that the floor area of 946.40 sq. metres of units C4 and 5, with an eaves height of 6.6 metres, was valued at a rate equivalent to €29 per sq. metre, exclusive of any office areas associated with those units. She considered these units to be of a higher standard than the subject, with a better profile within a business park.

The respondent's comparison no. 4, John Bolger (formerly Wexel), was again considered by Ms Lambe as a suitable comparison property in close proximity to the subject. Ms Lambe noted construction differences being concrete walls, floors to eaves 5.4 metres in height, under asbestos roofing, incorporating translucent light panels. The walls are clad with metal sheeting. This large warehouse complex of 972 sq. metres has been valued at a rate of €27 per sq. metre.

The respondent's fifth comparison, John Bolger, with an average eaves height of 4.6 metres, again featured concrete walls, asbestos roofing and translucent panels, and the value of same was determined by the Valuation Tribunal in **VA10/3/015 - John Bolger (3F/1(6))** at a level of €20.50 per sq. metre on the area of 645 sq. metres described as a store.

The respondent's Comparison No. 6, again John Bolger, was also determined by Valuation Tribunal Judgment **VA10/3/011 – John Bolger (3F/1(1))**, being a warehouse of 819 sq. metres but with an eaves height of 8.6 metres, and walls being insulated metal cladding over part masonry meeting with an insulated metal clad roof. In this case the Tribunal determined the value at €31 per sq. metre.

Comparison no. 7, also John Bolger, was described by the respondent as stand-alone offices with own door access. The respondent confirmed that, although attached to a warehouse complex, the property is let separately. The valuation on this property was determined by Valuation Tribunal Judgment **VA10/3/017 – John Bolger (3F/1(8))** at a level of €41 per sq. metre. These offices were described as constructed to a higher specification and finishes, internally and externally, when compared with the subject.

Ms. Lambe concluded her direct evidence stating that:-

- the Commissioner had considered the valuation at First Appeal to be fair and reasonable,
- the subject property was valued by reference to the “tone-of-the-list”, Section 49(1) Valuation Act, 2001;

- all the comparisons in the précis were located in close proximity to the subject and that same complied with Finding No. 2 of the Valuation Tribunal Judgment **VA10/1/028 – O’Leary International Ltd;**
- all of the issues raised by the appellant had been considered and reflected in the submission made to the Tribunal;
- the rateable valuation on the List of €220 was fair and reasonable.

### **Questions from the Tribunal and Cross-examination by the Appellant**

In reply to queries raised with respect to profile attributed to her seven comparison properties, Ms. Lambe indicated that Comparison No. 1 enjoyed limited profile to the old Dublin Road. She said she was unsure as to the profile of Comparison No. 2 and said that she believed Comparisons Nos. 3, 4, 5, 6 and 7 all benefited from some profile to the old Dublin Road. Ms. Lambe confirmed that she was not familiar with Comparisons Nos. 1, 2 and 3 insofar as she did not visit them, but confirmed that she had visited Comparisons Nos. 4, 5, 6, and 7.

Ms Lambe agreed with the building specification and description cited by the appellant on the subject, but stated that none of the respondent’s comparisons featured timber joists, as employed in the construction of the older section of the subject. Ms. Lambe contended, on the other hand, that the respondent’s Comparisons Nos. 4 and 5 also reflected somewhat poorer building specifications than her other comparison properties and that the rates per sq. metre applied to them reflected same. Ms. Lambe was unable to answer specific questions with respect to building specification and construction details with respect to the respondent’s Comparisons Nos. 1 to 3 inclusive, although she acknowledged that the higher eaves height of Comparison No. 3 and its overall building specification commanded a rating level of €29 per sq. metres, even when compared with the newer section of the subject relevant property.

Addressing questions raised with respect to profile, building specification differences, floor areas and differing eaves heights put to her with respect to Comparisons Nos. 4 to 7 inclusive, Ms. Lambe suggested that any and all required adjustments to take account of the variances between same and the subject were addressed adequately by the application of the “tone-of-the-list”, which was applied to the task of determining a fair and reasonable valuation on the subject relevant property.

Replying to questions on the respondent's Comparison No. 7, Ms. Lambe also indicated that the acknowledged differences in the quality of the office space was fully considered by the Tribunal in its Judgment **VA10/3/017 – John Bolger (3F/1(8))**, the findings of which were relied upon by the Commissioner in the instant case, together with all of the foregoing details.

Ms. Lambe agreed that the subject property was fit-for-purpose, but contended that the purpose was not limited to the current use. She did not concur with the opinion of the appellant, who concluded that the subject property was not suited to most warehouse uses because of condensation issues typically associated with single skin roof and wall cladding structures.

### **Findings**

The Valuation Tribunal thanks the parties for their efforts, arguments and contributions at hearing and the written submissions that preceded same.

1. The basis of valuation in property listed for revision under Section 28 of the Valuation Act, 2001 is set down in Section 49(1) of the said Act.
2. The burden of proving that a valuation of a property appearing on the Valuation List is incorrect lies with the appellant, as provided for in Section 63 of the Valuation Act, 2001.
3. The Tribunal considered all of the evidence provided by the parties and in particular the comparative evidence provided by the respondent and the appellant.
4. The Tribunal, in considering the foregoing evidence, notes the variations arising in the value applied to warehouse units in the rating authority area of Co. Wexford.
5. In considering the "tone-of-the-list", the Tribunal, in the instant case, has particular regard to the arguments put forward by the appellant which suggest that the subject property is located, constructed, finished and positioned, all taken together in a manner and to a standard, which in his view would command a lower bid from the hypothetical tenant when compared with the comparison properties cited by the respondent.
6. The Tribunal would have found the arguments proffered by the respondent more cogent and helpful if the valuer had personally visited and inspected all of the properties, rather than relying upon distant viewings and file details maintained in the Valuation Office.

7. The Tribunal notes the absence of any rebuttal by the appellant to the valuation established on the areas described as loft storage and open spray area within the subject property and accordingly has determined that no change is warranted on the value applied thereto by the Commissioner of Valuation.
8. On balance, the Tribunal finds that both parties may have relied upon comparison properties chosen to support their respective positions and in so doing, may have erred in establishing a true “tone-of-the-list” for the Rating Authority area.
9. Accordingly, the Tribunal is compelled in this case to consider a blending approach to the consideration of the evidence from both parties seeking to match conditions, specifications, construction standards, building type and age, use, purpose and potential, together with profile, visibility, access and neighbouring conditions, as much as possible from the evidence submitted and adduced to determine as best as possible, a fair and equitable valuation for the subject relevant property.

### **Determination**

Having regard to the findings above, the Valuation Tribunal determines as follows:-

Offices:	70.20 sq. metres @ €34.85 per sq. metre =	€ 2,446.47
Workshop (4.5 m eave):	930.24 sq. metres @ €25.00 per sq. metre =	€23,256.00
Workshop (6.0 m eave):	494.19 sq. metres @ €27.00 per sq. metre =	€13,343.13
Loft Storage:	84.15 sq. metre @ € 3.82 per sq. metre =	€ 321.45
Open Spray Workshop:	76.14 sq. metres @ €13.66 per sq. metre =	€ 1,040.07
		NAV €40,407.12
Total:		

RV @ 0.5% of NAV = €202

Say RV: €200

And the Tribunal so determines.