

Appeal No. VA11/3/034

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

**Dillon Waste Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2161439, Office(s), Workshop, Yard at Lot No. 1Cb.4/2, Lohercannon, Tralee Urban, Tralee UD, County Kerry.

**B E F O R E**

**Maurice Ahern - Valuer, IPAV**

**Deputy Chairperson**

**Frank O'Donnell - FRICS, B Agr Sc, MIREF**

**Member**

**Mairead Hughes - Hotelier**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 16TH DAY OF FEBRUARY, 2012**

By Notice of Appeal dated the 17th day of August, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €375 on the above described relevant property.

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

*"The rateable valuation is excessive having regard to the location, nature, size and use of the property together with the proposed changes in waste distribution industry"*

The 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 30<sup>th</sup> day of January, 2012. At the hearing the appellant was represented by Mr Conor Ó Cléirigh, FSCSI, FRICS and Mr David Molony, BSc, MRICS, a Valuer in the Valuation Office, represented the respondent.

### **The Issue**

The issue between the parties was that of quantum, the appellant maintaining that a discount should be allowed due to certain considerations and conditions as directed by An Bord Pleanála's grant of permission for the subject property and that greater allowance should be made for the location of the subject property.

### **Valuation History**

A Valuation Certificate (proposed) was issued on the 22<sup>nd</sup> November, 2010 with an RV of €90, and following representations by the appellant the valuation was reduced on 22<sup>nd</sup> December, 2010 to €83. An appeal was lodged with the Commissioner of Valuation on 21<sup>st</sup> January, 2011, and following this, the the valuation further reduced to €75 on 28<sup>th</sup> July, 2011. On 17<sup>th</sup> August, 2011 a Notice of Appeal was lodged with the Valuation Tribunal.

The NAV was assessed as follows:

Offices	141.40 sq. metres @ €30.75 per sq. metre =	€4,348.05
Workshop	3,398.70 sq. metres @ €20.50 per sq. metre =	€69,673.35
Store (open ended)	46.20 sq. metres @ €13.66 per sq. metre =	€631.09
Enclosed rear yard	753.75 sq. metres @ €0.68 per sq. metre =	<u>€512.55</u>
Total NAV	=	€75,165.04

NAV @ 0.5% = €375.83

Say RV €75

### **The Property**

The subject property is a new modern waste facility comprising a workshop, offices and stores. The reception/office area is situated to the front of the facility, while a short distance away is the drop-off area for the public, while the remainder of the property is made up of a workshop and stores. The various buildings are constructed of concrete and metal cladding and have a variety of flat, pitched, semicircular and lean-to roofs. The property is located approximately 2 kilometres on the western side of Tralee in the Tralee Town Council rating

area in an area known as The Kerries, Tralee, Co Kerry. The property is held freehold.

### **Accommodation**

The areas were agreed between both parties as follows:

Offices	141.40 sq. metres
Workshop	3,398.70 sq. metres
Store (open ended)	46.20 sq. metres
Enclosed recycling yard	753.75 sq. metres

### **The Appellant's Case**

Having taken the oath, Mr. Conor Ó Cléirigh adopted his written précis as his evidence-in-chief. He stated at the outset that he accepted the Valuation Office figures in relation to the offices and enclosed rear yard of the subject property, but that it was his opinion that a further reduction of 10% should be given in respect of the rate per sq. metre applied to the workshop because of a planning condition imposed by an Bord Pleanála as well as a reduction in respect of the inferior location and size of the property

Mr Ó Cléirigh argued that the location of the subject property is inferior to the comparisons presented in his précis, and having considered the tone of the list within the Tralee Town Boundary, he has adjusted by 15% the level applied to the subject property workshop to reflect this disadvantage as well as the planning restriction 6 as listed in the An Bord Planala planning permission report. This condition imposes a noise restriction at the facility, and sets a level of not more than 55 dB(A) from the hours 08.00hours to 20.00hours Monday to Saturday, with a further lower level of 45 dB(A) at all other times. Mr Ó Cléirigh said that this statutory restriction on the use of the subject property should be considered in the assessment of the Net Annual Value which he assessed at €65,000, as follows:

Offices	141.40 sq. metres @ €30.75 per sq. metre =	€ 4,348.05
Workshop	3,398.70 sq. metres @ €17.55 per sq. metre =	€9,647.00
Store open ended	46.20 sq. metres )	
Enclosed rear yard	753.75 sq. metres ) (agreed) =	<u>€ 1,143.64</u>
		€65,138.00

Say €65,000

### **Comparisons**

In support of his valuation Mr Ó Cléirigh introduced 3 Comparisons, details of which are set out in Appendix 1 to this judgment.

All 3 comparisons are modern factory units with a conventional layout, are located in the Mona Valley Industrial Estate Tralee, which is an established town centre development with all the surrounding services, and in Mr. Ó Cléirigh's opinion, are in a much more valuable location than that of the subject location. Levels here have been established by the VO at €27.32 per sq. metre for the factory/warehouse portion of the properties.

Under cross-examination by the respondent, Mr Ó Cléirigh was asked to outline for the Tribunal what percentage reductions he would consider appropriate for location, planning restriction and quantum when assessing the subject property, and he said that he would apply a 10% reduction for the location, with a further reduction of 10% and 15% each for the planning restriction and quantum respectively. Whilst he acknowledged that his comparison 2 (property number 13788) is two and a half times smaller than the subject property, it was his opinion that the level applied to this comparison of €27.32 per sq. metre for the factory was a fair valuation due to its superior location and potential for various types of uses. He also said that despite the fact that the subject property was within the town boundary, it was disadvantaged due to its almost rural location when compared with his 3 comparisons.

In summary, Mr Ó Cléirigh contended that because of the planning condition 6 imposed on the subject property (as outlined earlier in this determination), there was a restriction on the hours of use of the subject property, and that this factor should be taken into account when assessing the NAV.

### **Respondent's Evidence**

Mr David Molony, having taken the oath, adopted his written précis as his evidence-in-chief. Mr Molony outlined the valuation history of the subject as already detailed in this judgment. In support of his opinion of Net Annual Value, also set out previously in this judgment, he introduced 3 comparisons, details of which are attached at Appendix 2 to this judgment.

Comparison 1 (RKT Ireland Limited) is a common comparison the appellant. Comparisons 1

and 2 (Ansaldo Transport Signalling Ltd) both have a level of €27.32 per sq. metre applied to the factory portion of their respective valuations. Comparison 3 is the subject property. At the 2001 revision of valuation of the subject, a level of €17.06 per sq. metre was set on what was then the workshop part of the property. Mr Molony contended that to bring the valuation below a level of €20 per sq. metre, the subject property would need to be in a very remote area indeed. Mr. Molony stated that he had already of 25% on the valuation of the subject property, when compared with comparisons, to take account of the location of the subject and the issue of quantum. He concluded his evidence by telling the Tribunal that the maximum quantum allowance given by him is 12-15% when assessing a level to be applied on properties that warrant such a reduction.

### Findings

The Tribunal, having carefully considered all the evidence and arguments adduced by the parties, makes the following findings:

1. The Tribunal notes the high level of agreement between the parties in relation to valuation levels applied to the offices, store and yard of the subject.
2. The Tribunal is mindful that the parties were in agreement that a 15% reduction for quantum and a 10% reduction for the location of the subject property had been appropriate.
3. The Tribunal is of the opinion that an allowance should be given regarding the restrictive condition 6 as set down by An Bord Pleanála, and finds that this allowance should be in the order of 5% on the workshop portion only.

### Determination

Mindful of the foregoing, the Tribunal considers that a fair and reasonable valuation on the subject should be set as follows:

Offices	141.40 sq. metres	@ €30.75 per sq. metre	=	€ 4,348.05
Workshop	3,398.70 sq. metres	@ €20.50 per sq. metre	=	€9,673.35
Less 5%				(€3,483.67)
Store (open ended)	46.20 sq. metres	@ €13.66 per sq. metre	=	€ 631.09
Enclosed rear yard	753.75 sq. metres	@ €0.68 per sq. metre	=	<u>€ 512.55</u>
Total NAV				€1,681.37

€1,681.37 @ 0.50% = €84.07

RV say €84

And the Tribunal so determines.