

Appeal No. VA11/4/010

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

Dara Creative

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2208613, Office(s) at Lot No. 19/1, Magennis Place, Mansion House A, Mansion House A, County Borough of Dublin.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

James Browne - BL

Member

Patricia O'Connor - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 3RD DAY OF MAY, 2012

By Notice of Appeal received on the 4th day of November, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €210 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 make sufficient allowance for the subject poor location & the established tone for comparable properties."

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal at Ormond House, Ormond Quay Upper, Dublin 7 on the 17th day of February 2012. The appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), MRICS, MIAVI. The respondent was represented by Ms. Susan Dunlea, BSc (Hons) Estate Management Surveying (Auctioneering), a valuer at the Valuation Office. Both parties adopted their written submissions, which had previously been exchanged between them and submitted to the Tribunal, as being their evidence-in-chief given under oath.

The Property

The subject property concerns an office building over four floors.

Location

The property is located at 19 Magennis Place, Dublin 2. This is situated between Pearse Street and Townsend Street in Dublin City Centre just south of the River Liffey.

Description

The subject property is a modern end of terrace building in use as offices. It was constructed *circa* 2009/2010. The accommodation consists of four floors of offices at 284 sq. metres. There is no lift or air-conditioning in the building nor is there car parking adjacent to the subject premises. The property has raised floors and suspended ceilings.

Valuation History

The Rating Authority is Dublin City Council. A valuation certificate (proposed) issued on the 25th January 2011. The property had a rateable valuation of €238. Representations were lodged on the 21st February 2011 and the rateable valuation issued unchanged at €238 on the 28th February 2011. An appeal was lodged by Mr. Eamonn Halpin on behalf of the occupier to the Commissioner of Valuation on the 11th April 2011. The rateable valuation was reduced to €110 at First Appeal. An appeal was lodged with the Valuation Tribunal on the 4th November 2011.

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

1. *'6 (a) (i) On the basis that the RV as assessed is excessive & inequitable'.*

2. '6 (e) *The Commissioner has failed to make sufficient allowance for the **subjects** poor location & the established tone for comparable properties*'.

The appellant also attached details of comparative properties.

The Appellant's Case

Mr. Halpin, having taken the oath, adopted his written précis which had previously been received by the Tribunal as being his evidence-in-chief. Mr. Halpin contended for a rateable valuation of €122 on the subject property, based on the following figures:

Offices (ground floor)	77.10 sq. metres @ €5.67 per sq. metre =	€7,376
Offices (1 st floor)	91.00 sq. metres @ €8.34 per sq. metre =	€6,219
Offices (2 nd floor)	72.00 sq. metres @ €4.68 per sq. metre =	€3,937
Offices (3 rd floor)	44.35 sq. metres @ €1.00 per sq. metre =	<u>€1,818</u>
		€19,350

@0.63% = €121.91

Say RV €122

In his evidence, Mr. Halpin stated that the property was located in a one-way residential laneway and retained no profile to Pearse Street, Lombard Street East or to Townsend Street, with no passing trade as a result. He felt that while the location was central, it constituted a very poor commercial location and was not comparable with much of the Commissioner's comparisons.

He stated that the property comprised a modern four-storey office building which covered the entire site. He stated that the building was fitted to a good modern standard; however, it did not have a lift, air-conditioning or parking. Overall, he felt that, in combination with its actual location, the property was very moderate when considered in the context of prime office development in Dublin 2 and Dublin 1. He felt that the property was inferior in terms of overall attractiveness to the Westland Square office units in the adjacent site which benefits from a better aspect and scale and would be more attractive to prospective tenants.

He felt that the subject property had very poor aspects in that it looks directly across the laneway at the underground parking exit and service area of the new accountants' headquarters.

Mr. Halpin made the following points in furtherance of his position:

1. The laneway location of the subject property is very moderate in commercial terms being a mixed use side street adjoining older residential units, with no frontage or profile to any of the main roads in the area.
2. The historical rents of this type of location are moderate when viewed against the better located, prime office space available in the general area. He believed that the Commissioner had failed to adjust the levels of the subject property to reflect this.
3. That the lack of parking, air-conditioning and a lift depresses the rental value of the subject property, particularly in view of the superior comparisons that he provided to the Tribunal.
4. That the property was inferior in terms of location and value to the units at Westland Square nearby, which are assessed considerably lower on the historic 1988 tone of the list.
5. He believed that the hypothetical tenant would thus only be interested in the property if offered on very favourable terms due to the location and other physical drawbacks.
6. He accepts that with this type of property as with all others, there is a range of values. However, he argued that this property would definitely be at the lower end of the range primarily due to its poor aspect and lack of profile.
7. He stated that the Commissioner's approach in this case is unfair when all the evidence is taken into account, particularly the broader office tone in the area, and overall he felt that the valuations on the subject property were not in accordance with the established tone of the comparable properties.
8. He felt therefore that the subject property should have its value reduced more fairly to reflect the subject property relative to comparable properties and taking into account its actual location and other drawbacks.
9. He argued that there was a discount for prime levels due to location in particular, and that there was a scale in this area.

In support of his opinion of rateable valuation, Mr. Halpin referred to his comparisons on pages 7, 8 and 9 of his written précis. Mr. Halpin provided eight comparison properties which he stated established the scale in relation to the tone of offices in this area.

Mr. Halpin went through these comparisons meticulously and the said comparisons are attached at Appendix 1 to this determination.

Cross-Examination of Mr. Halpin

In cross-examination by Ms. Dunlea, Mr. Halpin made a distinction between moderate properties and very moderate properties in the Dublin 2 area. He stated that the general location was moderate but that the particular location of the subject property was very moderate. He felt that the prime area for location was Merrion Square.

He agreed that comparison 1 was much larger than the subject property but that this had no impact on its valuation. He noted that comparison 1 was 4 to 5 minutes' walk away from the subject property. He agreed that comparison 2 was eight times the size of the subject property and was all on the ground floor; however he argued that to focus on this issue was to fall into a trap and to think about the issue in the wrong way. He argued that the floor plate of comparison 2 gave it a huge advantage and that the average of the entire floors of the subject property worked out at €17 per sq. metre, while comparison 2 had an average of €100 per sq. metre applied to it.

In relation to comparison 3, Mr. Halpin stated that this was in a recognised office location and pointed out that it had no lifts and that it did have two parking spaces. Mr. Halpin observed that this property had only two flights of stairs.

He stated that comparison 5 was an enlarged Victorian building. He stated that comparison 6 was a three minute walk to Pearse Station and that the subject property was also a three minute walk to Pearse Station.

When asked whether he had inspected comparison 7 he stated that he had and he believed that it was valued on a net internal area. However, when put to him by Ms. Dunlea, he agreed that it was in fact measured on a gross internal area and that it was all on the fourth floor.

When it was put to Mr. Halpin that none of his comparable properties valued the ground floor at €5.67 per sq. metre and therefore he could not sustain valuing the subject property at this price, he responded that a number of his comparative properties were valued at slightly above this value but that they were in a better location and therefore he felt that the subject property should have the benefit of a discount from these valuations.

Respondent's Evidence

Ms. Dunlea, having taken the oath, adopted her written précis which had previously been received by the Tribunal as being her evidence-in-chief.

Ms. Dunlea stated that she valued the property as follows:

Ground floor	77.10 sq. metres @ €36.70 per sq. metre =	€10,539.57
First floor	91.00 sq. metres @ €123.30 per sq. metre =	€11,220.30
Second floor	72.00 sq. metres @ €109.36 per sq. metre =	€ 7,873.92
Third floor	44.35 sq. metres @ €82.02 per sq. metre =	<u>€ 3,637.58</u>
Total NAV		€3,271.17
RV @ 0.63% =	€209.60	
RV Say	€10.00	

Ms. Dunlea then proceeded to go through her précis of evidence page by page and meticulously set out the details of the respondent's evidence.

Ms. Dunlea went through her comparative evidence which comprised three comparable properties namely:

- (a) Unit 34 (BL7 Ground Floor) Westland Court, Sandwith Street, Dublin 2, occupied by Purcom Limited;
- (b) Unit 2, 55-56 Pearse Street, Dublin 2, occupied by Vision Computing;
- (c) 1 Clare Street, Dublin 2, occupied by Sheehan & Company Solicitors.

The details of the said comparisons are attached to this determination at Appendix 2.

Overall, Ms. Dunlea believed that the valuation on the property was correct, that it was comparable with the tone of the list, that her comparisons were only 2 to 3 minutes' walk

from the subject property, and that taking the location and the quality of the build of the subject property, the valuation was fair and reasonable.

Cross-Examination of the Respondent

In cross-examination by Mr. Halpin, Ms. Dunlea stated that she took into account both the location and the building quality but admitted that location will just edge out building quality, but that both factors were taken into consideration and both are very relevant.

When it was put to Ms Dunlea that neighbouring properties were unoccupied due to the location she disagreed and stated that she believed that economic circumstances may be the reason. She agreed that her comparison 3 was somewhere between primary and secondary location being adjacent to Merrion Square. She stated that the subject property is a far better building.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing and makes the following findings:

1. The Tribunal notes that the description of the property and site are agreed.
2. The Tribunal must have regard to the overall property and the tone of the list.
3. The Tribunal accepts that the Valuation Act, 2001 which came into effect on the 2nd May 2002, sets down the principles for valuing properties for rating purposes and the procedures for revision at first appeal stages. Section 49(1) sets down the basis for valuing properties at revision stage and dictates that values should be determined by reference to comparable properties in the same rating area.
4. The Tribunal accepts that in the absence of any definition in the Act as to what is comparable, the word must be given its normal meaning and means equivalence, likeness or sameness. That being the case, the comparable must be interpreted as being similar in use, location and nature of construction or any other factor which shall have a bearing on value.
5. In this respect, the Tribunal finds the comparisons put forward by both parties as being of assistance in determining a fair and reasonable valuation on the subject property.

6. The Tribunal is of the view that the respondent's comparisons 1 and 2 are of the greatest assistance.

Determination

In reaching its determination the Tribunal has been required to consider only the evidence submitted and adduced. Having heard to 7all the oral evidence and submissions, and having considered the précis lodged herein, the Tribunal has made the foregoing findings and in light of those findings determines that the valuation of the respondent is fair and reasonable, save for the valuation placed on the subject property's second floor which is too high when compared with the comparable properties and is out of line with the tone of the list.

In the circumstances, the Tribunal determines that the following is a fair and reasonable valuation of the subject property:

Ground Floor	77.10 sq. metres	@ €136.70 per sq. metre	= €10,539.57
First floor	91.00 sq. metres	@ €123.30 per sq. metre	= €11,220.30
Second floor	72.00 sq. metres	@ € 5.69 per sq. metre	= € 6,889.68
Third floor	44.35 sq. metres	@ € 2.02 per sq. metre	= <u>€ 3,637.58</u>
Total NAV			€2,287.13
RV @ 0.63%	=	€203.40	
SAY	€	203	

And the Tribunal so determines.