

Appeal No. VA11/5/301

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

Mardown Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2170504, Sports & Leisure Centre at Blackglenn Road, Sandyford, County Dublin.

B E F O R E

John F Kerr - BBS, FSCSI, FRICS, ACI Arb

Deputy Chairperson

Michael F Lyng - Valuer

Member

James Browne - BL

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF SEPTEMBER, 2013**

By Notice of Appeal received on the 7th day of September, 2011, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €1,361,000 on the above-described relevant property.

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

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Holbrook House, Holles Street, Dublin 2 on the 19th day of June 2013. At the hearing, the appellant was represented by Mr. John Algar, Senior Valuation Surveyor, GVA Donal O'Buachalla and the respondent was represented by Mr. Dean Robinson BSc. (Hons.) Surveying, a Valuer at the Valuation Office.

At issue:

Quantum.

Location:

The property is located at Blackglen Road, Sandyford, Co. Dublin.

Description:

The property is a purpose-built, two-storey leisure centre comprising a gym with swimming pool attached, ancillary units and plant room. It has an extensive tarmacked car park.

Floor area:

The parties' agreed floor area measurements are as follows:-

Ground Floor & First Floor Gym and ancillary units:	9080.43 sq. metres
Plant Room:	746.00 sq. metres

Valuation History:

A proposed Valuation Certificate issued on the 15th June 2010 with a valuation figure of €1,234,000. Representations were lodged by agents GVA Donal O'Buachalla, Chartered Surveyor, on behalf of the appellant, on the 12th July 2010. The proposed valuation figure remained unchanged at €1,234,000.

An appeal was lodged by the appellant with the Commissioner of Valuation on the 8th February 2011. The valuation figure was then increased to €1,361,000 after this First Appeal, as a result of an increase in the measurement of floor areas as agreed with the agent on behalf of the appellant. An appeal was lodged with the Valuation Tribunal on the 21st September 2011.

Appellant's Evidence:

Mr. John Algar, having taken the oath, adopted his written précis and valuation as his evidence-in-chief. This had been received by the Tribunal and the respondent. He cited a number of issues to the Tribunal and asked that they be considered in assessing the Net Annual Value (NAV) of the subject property:

- (I) The property remains vacant since March 2011 and it is available to let to the market since late 2011.
- (II) The location is rural and remote from commercial activity.
- (III) The original lease provided for an annual rental payment of €1,648,350 with 5 yearly upward only reviews from year 10.
- (IV) The lease between Mardown Ltd and Centre Operators Ltd was not an arms-length agreement as the landlord and tenant were related parties and it was allegedly structured for financing and sales purposes.
- (V) Due to its poor location and size of the complex, he was of the view that it was unlikely to find another tenant or buyer.
- (VI) The significant increase in the number of gymnasias operating in the South Dublin region over the last few years compounds the difficulty of letting. There are at least four fitness facilities within 4km of the subject, namely Meadowbrook Leisure Centre, Monkstown Leisure Centre, Glenalbyn Leisure Centre and Loughlinstown Leisure Centre. Mr. Algar stated that they were all valued at a fraction of the subject even though the subject is significantly larger.

The consultant valuer included two comparisons which he said were germane to the appeal and currently appearing in the valuation list, i.e. DLR Leisure Services Ltd located on Monkstown Avenue and Glenalbyn Social Athletic Federation at Glenalbyn Road, Stillorgan. He stated that both are considered state-of-the-art facilities and valued on a rate per square metre basis. Both are operated by Dún Laoghaire-Rathdown County Council which, he advised, are the principal operators of sports centres in the Dún Laoghaire-Rathdown County Council area. He added that they are located in superior locations and are excellent facilities.

Valuation of the subject property:

Mr. Algar contended for the following valuation of the subject:

Main Complex:	9,080.43 sq. metres @ €100.00 per sq. metre =	€08,043
Plant Room:	746.00 sq. metres @ €50.00 sq. metre =	<u>€7,300</u>
Total NAV		€45,343

Say **€45,000.**

In support of his opinion of net annual value of the subject property, Mr. Algar put forward two comparisons as follows:

(1) DLR Leisure Services Ltd

Property No. 506394

This property, he stated, is a state-of-the-art sports facility which includes a fully equipped gymnasium, 25 metre pool, kids' pool, sauna, aerobatics studio, five all-weather pitches and skate park. He also stated that this complex measures 1,350 sq. metres and is valued at €10 per sq. metre, adding that it is located in a more populated area of Dublin than the subject and is served by public bus services. Finally, he added that this property is significantly smaller than the subject but is of similar construction and fit out.

(2) Glenalbyn Social & Athletic Federation

Property No. 440052

Mr. Algar advised the Tribunal that this property offers a 33 metre swimming pool, is smaller than the subject at 1,172 sq. metres and is valued at €100 per sq. metre. He explained that it is situated close to Stillorgan village which, in his opinion, is a far superior location than the subject's. He also noted that it is also close to the local GAA and tennis clubs but acknowledged that it is an older building than that under appeal.

Cross-Examination

In reply to the Tribunal, Mr. Algar stated that the reason he submitted just two comparison properties was that he considered that these two were most relevant as stand-alone facilities. Mr. Algar agreed with Mr. Robinson that Meadowbrook Leisure Centre and Loughlinstown Leisure Centre were not on the valuation list but he argued that they were centres competing with the facilities on offer at the subject. Mr. Robinson queried if Mr. Algar was of the view that the size of the gym (9,000 sq.

metres) in the subject property was a negative or a positive, to which Mr. Algar stated that it was a negative feature.

Respondent's Evidence:

Mr. Robinson agreed with Mr. Algar's description of the subject property, with one exception, namely that in his opinion it was located in a superior location as it is situated behind a large residential neighbourhood and is only five minutes from Sandyford village. He also added that its location beside the M50 should be considered a benefit to the subject. In his opinion, the rental agreement is between two separate corporate entities and it does not appear in the lease that there is any connection between them or that any inflated rent was agreed.

Mr. Robinson contended for the following valuation of the subject:

Gym and ancillary areas:	9,080.43 sq. metres @ €145 per sq. metre =	€1,316,662
Plant Room	746.00 sq. metres @ €60 per sq. metre =	<u>€44,760</u>
Total NAV		= €1,361,422

Valuation Office Estimate of NAV (Rounded to) €1,361,000.

Mr. Robinson proffered details on three comparison properties, summary details as follows:-

(1) Crunch Fitness Premier Gym and Swimming Pool

Property Number: 2151085

This property is located on the Royal Marine Road, Dún Laoghaire. Mr. Robinson was of the view that it was similar to the subject in terms of quality and build, both units having a swimming pool. The total gym area is 1,783.12 sq. metres and was valued by the Valuation Tribunal at €188.50 per sq. metre. (Ref: **VA11/5/171 - International Leisure Group**).

(2) Jackie Skellys Gym and Swimming Pool

Property Number: 2195952

This property is located on the 1st and 2nd floors of Nutgrove Retail Park. The total area is 2,367 sq. metres, valued at €160 per sq. metre. He stated that this is a well located property surrounded by many dwellings.

(3) Monkstown Avenue Gym and Swimming Pool

Property Number: 506394

This property, measuring 1,350 sq. metres, is located in Monkstown and is valued at a rate per sq. metre of €10. It was built in 1974 and refurbished in 1997. Mr. Robinson said that it is not in as good an area as the subject's and also considered it inferior in quality.

Cross-Examination

In reply to Mr. Algar's statement that the rent agreed in the lease was not reflective of a market rent of rates in 2004, Mr. Robinson stated that he had asked for full lease details, that no reference was made in the lease document to any special rental terms and that no supplementary information was given to suggest other terms.

Summations

The representatives of both the appellant and the respondent availed of the opportunity to provide summation statements which were a synopsis of the foregoing arguments and positions employed by them in both their précis of evidence and their evidence adduced at hearing.

Findings and Conclusions

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

- (1) Both parties provided comparative evidence of rates per sq. metre on properties of similar function within the same rating authority area.
- (2) Monkstown Leisure Centre was a common comparison to both parties.
- (3) The second comparison proffered by the appellant, namely Glenalbyn, features a swimming pool only and is valued on the list at €100 per sq. metre.
- (4) The three comparisons proffered by the respondent are all similar facilities to the subject but situated in areas of high visibility and significantly in close proximity to local residential and commercial centres.
- (5) The subject albeit located within a new developing residential community does not benefit from a similar level of profile, footfall or local employment facilities.

(6) The comparison properties cited by both parties are approximately 27% of the floor area of the subject. The range of floor areas of those facilities at (4) above suggests that they are more suited to market conditions and demand than the subject.

Determination:

Having regard to the foregoing, the Tribunal allows the appeal and calculates the net annual value of the subject relevant property as follows:

Main Complex:	9,080.43 sq. metres @ €130 per sq. metre =	€1,180,455.90
Plant Room:	746.00 sq. metres @ €50 per sq. metre =	<u>€37,300.00</u>
Total NAV		€1,217,755.90

Say, Net Annual Value of €1,217,700.

And the Tribunal so determines.