

Appeal No. VA13/2/001

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

Larry Swan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2163704, Offices at Lot No. 39b / 2,3,6,7 & 8 Kilcullen Road, Naas East, Naas Urban, Naas UD, County Kildare.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Michael F Lyng - Valuer

Member

Brian Larkin - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF OCTOBER, 2013

By Notice of Appeal received the on 13th day of June, 2013, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €26 on the above described relevant property.

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

"On the basis that the RV as assessed is excessive and inequitable when viewed against the established tone for comparable properties in Naas."

"This is a secondary location in terms of Naas. The level of value applied by the Commissioner fails to reflect the location and relative value of these offices."

1. This appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Holbrook House, Holles Street, Dublin 2, on 16th September, 2013. At the hearing the appellant was represented by Mr Eamonn Halpin B.Sc. (Surveying) MRICS, MSCSI of Eamonn Halpin & Co. Ltd. The respondent, the Commissioner of Valuation, was represented by Mr Paul Ogbebor, B.Eng. (Hons) Civil Engineering, a valuer at the Valuation Office.

2. Prior to the hearing and in accordance with the Rules of the Tribunal each party forwarded to the Tribunal and exchanged a précis of the evidence it was proposed to adduce at the hearing. From the information contained in the précis and additional evidence received at the hearing the following facts relevant to the appeal were either agreed or are so found.

3. The Property Concerned

The property concerned is a suite of offices at first floor level in a modern two-storey mixed use development situated at the junction of Ballymore Road and Kilcullen Road, Naas.

The accommodation comprises five rooms which have a total area of 53.44 sq. metres measured on a net internal area basis. The rest of the office accommodation at first floor level, which has a total area of c.73 sq. metres, is occupied by four tenants and they, together with the appellant, share the use of kitchen and toilet facilities and other common services provided by the lessor.

4. Rating History

All the accommodation at first floor level was first valued in 2001 and the Rateable Valuation assessed at IR£60 (€76.18). In 2008 it was granted exempt status and so remained until a request for a revision of valuation was made by Kildare County Council in 2011. As a result of the revision the accommodation was sub-divided and each unit of occupation was ascribed a separate valuation resulting in the valuation of the property concerned being assessed in the sum of €26. No change was made at representation and Section 30 appeal stages and in due course a further appeal was made to the Tribunal pursuant to Section 34 of the Valuation Act, 2001.

5. The Issue

The only issue in dispute is the value of the property concerned determined in accordance with Section 49(1) of the Valuation Act, 2001.

6. The Appellant's Evidence

Mr Halpin in his evidence contended for a valuation of €14 calculated as set out below.

Offices 53.44 sq. metres @ €54.68 per sq. metre = €2,922

Rateable Valuation @ 0.5% = €14.61

RV Say €14.

In support of his valuation of the property concerned, Mr Halpin introduced evidence of six comparison properties, details of which are contained at Appendix 1 attached to this judgment. In response to a question from Mr Ogbebor, Mr Halpin said he considered his comparison number 1 to be the most relevant in that it was located almost opposite to the property concerned. In regard to his other comparisons Mr Halpin said they gave an overview of the 'tone of the list' for office accommodation in Naas. Mr Halpin said that in arriving at his valuation of the property concerned he had regard to its location at the southern end of the town, the lack of adequate car parking in the immediate vicinity – such parking as there is being 'pay and stay' and, lastly, that the accommodation was not self-contained. All of these were factors which a hypothetical tenant would take into account when formulating an opinion on rental value.

7. The Respondent's Evidence

Mr Ogbebor in his evidence contended for a valuation of €26, calculated as set out below.

Offices 53.44 sq. metres @ €95.67 per sq. metre = €5, 113.08 [*sic*]

Rateable Valuation @ 0.5% = €25.56

RV Say €26

In support of his valuation Mr Ogbebor introduced evidence of seven comparison properties, details of which are contained at Appendix 2 attached to this judgment. Three of Mr Ogbebor's comparisons (numbers 1, 2 and 3) are in the same development as the property concerned and valued at the same revision. The remaining comparisons are

located at the Fairgreen development, a similar but somewhat larger development than that in which the property concerned is to be found. A significant difference is that the Fairgreen development provides 55 off-street car parking spaces the use of which is free.

Mr Ogbebor in his evidence said that six of his comparisons (numbers 1 to 5 and number 7) were similar to the property concerned in that they were at first floor level in two-storey mixed used developments and shared common services and facilities provided by the landlord. The remaining comparison – number 6 – was included to support the view that the ‘tone’ for first floor office space in the vicinity of the property concerned was €95 per sq. metre.

In response to a question from the Tribunal, Mr Ogbebor agreed that an important difference between the Fairgreen development and the one in which the subject property is located is the lack of dedicated off-street car parking. He further agreed that this is something a hypothetical tenant would take into account.

Findings

The Tribunal has carefully considered all the evidence introduced and arguments adduced and finds as follows:

1. This appeal arises out of a revision of valuation carried out under Section 49(1) of the Valuation Act, 2001.
2. The statutory basis for a valuation made under Section 28 is contained in Section 49 of the Act and, in this instance more particularly, under subsection (1) thereof which states:

“49.–(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.”

In other words, the valuation is to be made by reference to the 'tone of the list'.

3. The valuers engaged in this appeal presented their evidence and submissions in a clear and precise manner and all the material facts in regard to the property concerned and comparisons were either agreed or not in dispute. This was of assistance to the Tribunal and effectively reduced the issue in dispute to determining the appropriate rate per sq. metre having regard to the evidence put forward by the parties.

4. Of all the comparisons introduced the Tribunal attaches most weight to those in the Fairgreen development by virtue of the fact that they are similar in many respects to the property concerned, are located close by and were in the valuation list on the date on which the revision was carried out. However, Fairgreen has the benefit of off-street parking which the property concerned does not enjoy. It is common case that the availability of car parking is something a hypothetical tenant would consider important. Consequently, the Tribunal finds that a downward adjustment should be made to the rate per sq. metre used when valuing the property concerned in order to reflect the lack of dedicated off-street car parking facilities.

Determination

Having regard to the above findings the Tribunal determines the valuation of the property concerned to be:

Offices 53.44 sq. metres @ €90 per sq. metre = €4,809

But say €4,800

Rateable valuation @ 0.5% = €24

Note

Having regard to the above determination the Tribunal suggests that it might be appropriate for the Commissioner of Valuation to exercise his discretion under Section 40 of the Act in regard to the valuations of other office units in the same development as the property concerned.