

Appeal No. VA11/3/024

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

Millipore Ireland Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 985389, Factory at Lot No. 1G.1Ed., Tullagreen, Carrigtohill, Midleton, County Cork.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Damian Wallace - QFA, Grad Dip

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF DECEMBER, 2011

By Notice of Appeal dated 2nd day of August, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €6,011 on the above described relevant property.

The grounds of Appeal as set out in the Notice of Appeal are:
"Size of unique layout not reflected, Quantum."

The appeal proceeded by way of an oral hearing at the office of the Valuation Tribunal, Ormond House, Ormond Queue Upper, Dublin 7 on the 28th day of November 2011 and the 5th day of December 2011. At the hearing the appellant was represented by Mr. Dan Duggan MRICS, MSCS, MIAVA, Active Facilities & Property Management, and the respondent by Mr. Anthony Mulvey BSc, a Valuer in the Valuation Office. At the hearings, both parties having taken the oath adopted their respective précis as their evidence-in-chief.

Mr. Dan Duggan indicated to the Tribunal that he was not assisted by late submissions of reports by the Valuation Office but was prepared to proceed nonetheless. Mr Anthony Mulvey apologised to Mr. Duggan as he had been on sick leave intermittently since July 2011.

The Issue

Quantum

Valuation History

1. Notice of Appeal to Valuation Tribunal lodged 3rd August, 2011.
2. 2011: Appeal to the Commissioner. The rateable valuation was reduced to €6,011 to correct an element of the valuation that was previously double-counted at 2006 revision.
3. Revision 2010: The RV was assessed at €6,280. Representations were made by an agent to the Revision Officer and after consideration the RV remained unchanged.
4. Revision 2006: The RV was assessed at €4,593.
5. Revision 2005: The RV was assessed at €4,120.
6. Revision 2004: The RV was assessed at €3,975.
7. First Appeal 2003: The RV was increased to €3,646.18 to correct a clerical error.
8. Revision 2003: The RV was assessed at €3,377.
9. Revision 2001: The RV was assessed at €3,380.74.
10. Revision 1999: The RV was assessed at €2,749.55.
11. Revision 1998: The RV was assessed at €2,286. This valuation was agreed with Spain Courtney Doyle who represented the ratepayer.

Location

The property is located on a 38 acre site, circa 7 miles east of Cork City and South of the N25 at Carrigtohill, County Cork. The N25, a primary route between Cork and Waterford allow easy access to the national road network and continental sea routes.

Accommodation

The accommodation comprises production, administration, laboratory accommodation and associated infrastructure such as warehousing, storage, tank farms and on site parking. In its production areas the clean rooms are ISO class 8 specification with air changes ranging from 6-10 changes per hour. Head heights in the production areas range from 3.65 to 6.09 metres, and their respective working heights range from 2.74 to 4.87 metres.

Description

The subject property is a large manufacturing plant on a 38-acre site. Two key products are manufactured at this plant, firstly filtration membrane consisting of several families that support the Bioscience, Bioprocess Division and the Diagnostics Business Unit and secondly a range of filtration devices serving the Bioscience Division. The manufacturing process at Millipore requires the use of chemical solvents, plastic injection mould equipment, assembly machinery and normal ancillary production support.

Tenure

The property is understood to be Freehold.

Appellant's Evidence.

Mr. Dan Duggan took the oath and adopted his précis as his evidence-in-chief, which included details of the subject property's development. Mr. Duggan for the appellant maintained the following:

1. that zoning does not exist for offices;
2. that no appeal had been made over the years of revisions, but that there was an appeal in 1998;
3. that the subject property is now circa 220,000 sq ft;
4. that no allowance has been made for the size of the subject property or for its uniqueness. Mr Duggan maintained that the subject property is unique to the present occupier.

Mr. Duggan in his evidence said that in his opinion each element of the facility when looked at individually was correctly assessed. Nonetheless, it was his opinion that there should be an end allowance of 25% to reflect the scale of the property (i.e. quantum) and the piecemeal nature of its development. Accordingly, he put forward the following valuation:

| | | |
|------------------------------------|---|---------------|
| Existing unadjusted RV | = | €6,011 |
| Less 15% for size | = | (€901) |
| Less 10% for piecemeal development | = | (€601) |
| Revised Rateable Valuation | = | <u>€4,509</u> |
| Rateable Valuation | = | <u>€4,509</u> |

In support of his contention for an allowance for quantum and piecemeal development, Mr. Duggan referred the Tribunal to a number of previous Tribunal decisions and put forward 5 comparison properties, about which he made the following comments:

Comparison 1

Days Hotel, Galway City. Property No 1157085:

Property valued in 1997 at a rate of €60.82 per sq m for 6,802 sq m of hotel space. The Hotel increased in size and was revalued in 2008. It was agreed to reduce the valuation on the basis of size from €60.83 per sq m to €52.63 per sq m. This equates to a 13.4% adjustment to reflect a 193% increase in size.

Comparison 2

Nursing Home at No 4 La/2 Kiltipper Road, Oldbawn, Tallaght, Co. Dublin.

VA06/3/042 – Stanford Woods Care Centre Ltd:

The size of this property increased by 65% and a quantum allowance in the order of 14.8% was given. At Tribunal appeal stage, a quantum allowance of 9% which had been applied by the Commissioner of Valuation was increased to circa 14.8% by the Tribunal.

Comparison 3

Country Crest Limited, Rathmooney, Lusk, Co Dublin. Property No. 1035414:

This property was the subject of a Valuation Tribunal appeal, but the appeal was agreed prior to hearing. A quantum allowance of 34% was made in respect of this property. (The property is somewhat smaller than the subject property.)

(On foot of a direction from the Tribunal at the hearing of the instant case, the appellant's agent provided the following facts regarding this comparison:

1. Due to a clerical error, Mr Dan Duggan had been provided with details of a different property. The valuation of this property was listed not at €800,000 but at €700,000. According to an email received by Mr Duggan from John Weir, Weir & Conway, who represented the appellant, the RV was reduced at Representations Stage to €602,000 and a further reduction to €460,000 was agreed at Appeal Stage. Mr Weir's grounds of appeal were quantum and piecemeal development.
2. In the course of the appeal to the Commissioner of Valuation, the appeal officer indicated that the reason for a reduction to €460,000 was because the property was "overvalued in view of the rural location, size and quality of the buildings".)

Comparison 4

Unit 1 Tullowbeg, Tullow Urban, Carlow. VA08/2/006 – W.F. Manufacturing Ltd:

In its determination, the Tribunal confirmed an agreement between the parties on a quantum allowance of 4.5% to reflect the size of the subject property of 7,680 sq. metres.

Comparison 5

Glaxo Smith Kline, Dungarvan, County Waterford:

This property was the subject of a Valuation Tribunal appeal. The parties reached an agreement in the course of the appeal hearing and the rateable valuation of €4,195 was reduced to €3,900. The basis of appeal was on size and quantum allowance. The reason for the 7% reduction has not been disclosed by the parties

In conclusion of his direct evidence, Mr. Duggan stated that he had shown that the existence of quantum and the uniqueness of the subject property brings this particular property out of the present market. He stated that quantum is a factor for valuation purposes. Therefore, Mr. Duggan argued for a reduction of 25%. In this regard, he relied heavily on his Comparison No. 2, as it is a Tribunal decision. The proposed 25% reduction comprises 15% in respect of quantum and 10% in respect of the piecemeal development of the subject property.

Respondent's Evidence

Mr. Anthony Mulvey having taken the oath adopted his précis as being his evidence-in-chief.

In his evidence Mr. Mulvey valued the property concerned as set out below:

Measured – Gross External Basis

Existing RV C/F €4,593

| <u>Description</u> | <u>Area</u> | <u>Rate psm</u> | <u>NAV</u> |
|--------------------|----------------------|-------------------------|------------------|
| CPG Room | 700 sq. metres @ | €47.87 per sq. metre = | €33,509 |
| IC2 | 2,599.5 sq. metres @ | €47.87 per sq. metre = | €124,438.06 |
| P/C office | 237.5 sq. metres @ | €41.01 per sq. metre = | €9,739.88 |
| Bund | 187 sq. metres @ | €20.51 per sq. metre = | €3,835.37 |
| Tankfarms | 199,512 gls @ | €254/1000gls = | €50,676 |
| Boiler | | €2.2225/lb/hr = | €4,860 |
| Pipes 1” | | €2.54 per linear metre | |
| Pipes 1.5” | | €3.81 per linear metre | |
| Pipes 2” | | €5.08 per linear metre | |
| Pipes 3” | | €7.62 per linear metre | |
| Pipes 4” | | €10.16 per linear metre | |
| Pipes 6” | | €15.24 per linear metre | |
| Pipes 8” | | €20.32 per linear metre | |
| Total Pipes NAV | | | €1,678 |
| Pipe Racking | Total NAV | €15.24 per sq. metre | €29,616 |
| Less Warehouse | 300 sq. metres @ | €34.17 per sq. metre | - <u>€10,251</u> |
| | | | €38,101.3 |

NAV €38,101.3 RV €1,690.5

Pre-Revision Valuation NAV €18,600 RV €4,593

NAV €1,256,701.31 RV €6,283.51

Say RV €6,280

Less RV €269 (double count) at 2011 Appeal) = **RV €6,011**

Mr Mulvey put forward 5 comparison properties about which he made the following comments:

Comparison 1

Subject Property

Comparison 2**Hovione (formerly Pfizer Loughbeg API) Loughbeg, Ringaskiddy, County Cork**

No evidence to suggest any allowance was made for quantum.

Comparison 3**Gilead Sciences, IDA Business & Technology Park, Carrigtohill, County Cork**

No evidence to suggest any allowance was made for quantum.

Comparison 4**Schering-Plough (Brinny) Ltd, Inishannon, County Cork**

No evidence to suggest any allowance was made for quantum.

Comparison 5**Janssen, Little Island. Property Number 955342**

No evidence to suggest any allowance was made for quantum.

Mr. Mulvey asserted that the appellant did not comply with Section 49 of the Valuation Act, 2001, in that he did not provide any relevant comparisons and had no regard to the tone of the list.

Resumed Hearing

The Tribunal adjourned the hearing on 28th October to permit further evidence to be lodged with the Tribunal and exchanged between the parties. The hearing resumed on the 5th December, 2011 at which time the parties were given the opportunity of examining each other on the additional evidence supplied to the Tribunal.

It was accepted by Mr. Mulvey in cross-examination by Mr. Duggan that in the case of each of his comparisons no reduction was given in respect of quantum because it was neither sought nor raised in each appeal.

Findings

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

1. The case of the appellant regarding a discount based on quantum remains unproven in regard to large-scale pharmaceutical plants.
2. At the resumed hearing held on the 5th December, 2011, the Tribunal's attention was drawn to documents made available by the respondent in relation to the Country Crest premises (appellant's Comparison No. 3). A perusal of these documents indicated that the valuation of these premises had been reduced by agreement from €602,000 to €460,000 after an appeal had been lodged with the Tribunal (**VA10/5/084 – Country Crest Ltd**). In this regard, the appeal manager advised the Commissioner of Valuation as follows: "*The property is over-valued in view of the rural location, size and quality of the buildings*". It is not possible to say with any degree of certainty what, if any, allowance had been made for quantum.
3. In the Glaxo Smith Kline case (appellant's Comparison No. 5), a compromise which amounted to a 7% reduction was agreed by the appellant and respondent but it is unknown why a reduction was agreed and the Tribunal cannot assume the reduction was given in respect of quantum.
4. Each revision of valuation of the subject property involved a part of the property where different production and manufacturing occurs and each of these revisions must be considered separately.
5. The comparisons put forward by the appellant are not in the same rating authority area as the subject property and, therefore, cannot be relied upon as complying with Section 49 of the Valuation Act, 2001.

Determination

Having regard to the foregoing, the Tribunal determines that the rateable valuation of the property concerned remain unchanged and affirms the rateable valuation at RV€6,011.

And the Tribunal so determines.