

Appeal No. VA98/2/052

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Conroy Crowe Kelly

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices at Map Reference Lot No. 64, Merrion Square South, Ward: Mansion House B II,
County Borough of Dublin
Quantum - Passing rent

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Finian Brannigan - Solicitor

Member

Anita Geraghty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF JUNE, 2000

By Notice of Appeal dated the 29th day of April, 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £52 on the above described hereditament.

The grounds of Appeal as set out in the Notice of Appeal are that " the valuation is excessive, inequitable and bad in law. Additionally the occupiers have no record of a pre-revision notification in accordance with section 3, (4)a of the 1988 Act. On this basis they seek to have the current valuation set aside".

Prior to the hearing the appellant was satisfied as to the notification issue and therefore did not pursue this issue at the appeal

The relevant valuation history is that the property was listed for revision in 1997 following conversion to office and the valuation was fixed at £63. The valuation was reduced to £52 at the first appeal stage.

A written submission prepared by Mr. Eamonn Halpin B.Sc. (Surveying) A.S.C.S.A.R.I.C.S., M.I.A.V.I., on behalf of the appellant was received by the Tribunal on the 2nd March, 1999. MR. Halpin has twenty years experience as a Valuer both in the Valuation Office and in private practice.

The written submission contended for a rateable valuation as follows:

First Floor Office	783 sq.ft.	@	£8	=	£6264
Stores	118 sq.ft.	@	£4	=	<u>£ 472</u>
			£6736 @ 0.63%	=	£42.43
					Say £42

The written submission contained a schedule of six comparisons, which is annexed to this judgement as appendix A.

A written submission prepared by Mr. Tom Cuddihy B.Agi.Sc. on behalf of the respondent was received by the Tribunal on the 19th January, 1999. Mr. Cuddihy is a District Valuer with thirty one years experience in the Valuation Office.

The written submission set out the basis of the Rateable Valuation as follows:

First Floor Offices	783 sq.ft.	@	£10	=	£7830
Store and Kitchen	118 sq.ft.	@	£4	=	<u>£472</u>
					£8302

Estimated NAV = £8300 x .63% = £52.29

RV £52.00

The written submission contained a schedule of six comparisons, which is annexed to this judgement as Appendix B.

The oral hearing took place at the Tribunal Offices in Dublin on the 15th of March, 1999.

Appellant's Case

At the outset of the hearing, Mr. Halpin put in evidence an album of photographs relating to the subject and there was no objection to this by Mr. Cuddihy.

In his sworn testimony, Mr. Halpin made two corrections to his written submission. Comparison No. 3 should read, "first floor area 450 sq.ft. @ £8.50." Comparison No. 4 should read "Hall floor 578 @ £10."

In further testimony, Mr Halpin said the subject hereditament was a first floor office, which was broadly similar to the comparisons he had cited. The lease of the subject was from July 1995 at £7,500 per annum on internal repairing and insuring terms. This equates to 901 sq.ft. @ £8.23 overall or 783 sq.ft. @ £9.50 and storage of 118 sq.ft. @ £4.

Mr. Halpin said the Commissioner's assessment of NAV was greater than the passing rent. He said this was unusual, as the rent for the subject hereditament was an arms-length transaction. In further testimony, Mr. Halpin said that in relation to Merrion Square, Fitzwilliam Place, Upper Mount Street and Lower Pembroke Street, if the offices and accommodation are broadly similar, then the rents should be broadly similar and indeed the NAV adopted by the Commissioner for Valuation should also be similar. In addition the actual rent payable in respect of a property should, where the rent has not been challenged, be the primary factor in arriving at an NAV by the Commissioner.

Under cross-examination by Mr. Cuddihy, Mr. Halpin said that there would be variations in the valuations of Georgian buildings in Merrion Square. Mr. Halpin added that this was due to differing standards of accommodation in the properties.

In further replies Mr. Halpin stated that a situation like that in the subject, where the NAV was higher than the actual rent could occur for two reasons:- firstly, where the tone of the list is completely different from rents on the street or secondly, where the rent was concessionary. Mr. Cuddihy referred to Mr. Halpin's second comparison, No. 58, Merrion Square. There the NAV at November, 1988 was £8,800 and the passing rent was £7000 per annum in 1990. In reply Mr. Halpin said it was possible that the rent there was concessionary.

Mr. Cuddihy then referred to Mr. Halpin's fifth comparison, 15 Lower Pembroke Street. There, the Valuation Office records showed that the actual rent in 1989 was £6000 per annum. The NAV for the property, which gave an RV of £45, was £7,142.

Mr. Halpin replied that generally in these situations the rents were concessionary.

Respondent's Case

In his sworn testimony Mr. Cuddihy adopted his written submission as his evidence to the Tribunal. In further testimony Mr. Cuddihy said the buildings on the Southern side of Merrion Square are very uniform. The reason for the variation in RV's is due to the internal standards of the building. Some of the buildings retained their old style interiors with high ceilings and inefficient uses of space. Most of the properties on the southern side of Merrion Square had been refurbished. This refurbishment included lower ceilings and under floor cabling for computerisation.

In circumstances like this the Valuation Office establishes a tone of the list by comparing similar buildings.

Mr. Cuddihy then analysed Mr. Halpin's comparisons. Comparison No. 1 was 54 Merrion Square with first floor offices at £8.00 psf. Mr. Cuddihy said there was no information about the internal standard of the offices. Comparison No. 2 was 58 Merrion Square. There the passing rent was £7,000 in 1990 but the NAV was 26% higher than the passing rent.

Comparison No. 3 was 69 Merrion Square. Mr. Cuddihy said that he had dealt with this property himself. It was a classic instance of an unrefurbished property on Merrion Square. This was taken into account in fixing the RV at appeal stage. The rate per sq.ft. was in fact £9.00 for 450 sq.ft.

Comparison No. 5 was 15 Lower Pembroke Street, with first floor offices at £8.00 psf. Mr. Cuddihy said that Lower Pembroke Street and Upper Mount Street were inferior locations with respect to Merrion Square, which is considered a premium letting area.

Mr. Cuddihy then dealt with his own comparisons. He said these were properties where mainly he had acted as a Valuer for the respondent. These were Georgian buildings refurbished to a good standard and a tone of the list of £10 psf had been established with respect to them.

Mr. Cuddihy said comparison No. 3 was 78 Merrion Square South. It was a first floor return so it was at the back of the building and a rate of £9 psf gave an NAV of £3,900. The actual rent was £5,000 per annum from December, 1995.

Mr. Cuddihy said three of his comparisons were in Upper Mount Street. These were refurbished Georgian buildings. Upper Merrion Street was on a par with Merrion Square with respect to location. In particular comparison No. 5, 33 Upper Merrion Street had a passing rent of £41,000 per annum. The NAV for this building was approximately £31,000 giving a value of £10 psf for the first floor.

In cross-examination, Mr. Halpin put it to Mr. Cuddihy that his three comparisons from Upper Mount Street had been totally refurbished and in effect only the old façades had been retained. Mr. Halpin also put it to Mr. Cuddihy that these properties commanded massive premium rentals as being the best quality refurbished buildings available in the city of their type.

In reply Mr. Cuddihy said that the subject property was on a par with the comparisons on Upper Merrion Street in terms of standard of finish. With respect to the rents, Mr. Cuddihy said the tone of the list was considerably lower.

Under further cross-examination, Mr. Cuddihy accepted that tenants would pay a premium for the location of the buildings in Upper Merrion Street opposite Government buildings.

In further cross-examination, Mr. Halpin put it to Mr. Cuddihy that the refurbishment of the subject property was modest. The floors were stripped with a sanding machine and were varnished and the walls have been painted white. In reply, Mr. Cuddihy said that the offices in the subject compare favourably with any offices around there.

Mr. Halpin put it to Mr. Cuddihy that ground floors in Georgian office buildings were for letting purposes treated at a premium of 20% to the first floor.

In reply, Mr. Cuddihy accepted there was a differential between ground floors and first floors in Georgian offices. He added that in standard offices with a lift, all floors were treated at the same rate. There was a lift in the subject and an argument could be made for having the same valuation on the first floor as the ground floor.

Mr. Halpin questioned Mr. Cuddihy about the appellant's first comparison, number 54 Merrion Square which was close to the subject. It had £8 psf for first floor offices. Mr. Halpin wanted to know what the revising Valuer said about the property.

Submissions

In reply Mr. Cuddihy was unable to give any detail from the revising Valuer's report.

In his closing submission Mr. Halpin said that the ceilings in the subject had not been lowered. Additionally he did not consider under floor cabling in a Georgian office building as a major advantage. Mr. Cuddihy had given evidence that he had been informed by the occupier that there was under floor cabling in the subject.

Mr. Halpin continued that comparisons 4, 5, and 6 of the respondent's were inappropriate with respect to the subject. They were a different type of building. Finally Mr. Halpin said that the subject was no better than his first comparison, number 54 Merrion Square which was at £8 psf for first floor offices.

In his closing submission, Mr. Cuddihy said his comparisons established a tone of the list at £10 psf for first floor offices. This tone had been agreed at appeal stage following comprehensive investigations by appellants and the respondent at revision and appeal stage.

Again Mr. Cuddihy considered the subject had a high standard of finish. The building was occupied by a firm of architects. It was a business necessity that their office would be of a high standard as this would be directly related to their competence as architects by their clients.

DETERMINATION

The Tribunal has considered the written submissions and the evidence offered by the appellant and the respondent.

The Tribunal finds that a tone of the list amounting to £10 psf for first floor offices based on six comparisons, three of which are located on Upper Merrion Street, cannot be applied to the subject hereditament. The Tribunal finds that the three buildings located in Upper Merrion Street are superior in finish and location to the subject.

The Tribunal finds that the appellant's Merrion Square comparisons are the most appropriate in arriving at an RV in this matter. Again the passing rent, whose validity was not challenged by the respondent is to be taken into account in arriving at an NAV and RV.

Accordingly, the Tribunal determines:

	783 sq.ft.	@	£8 psf	=	£6,264
Storage	118 sq.ft.	@	£4 psf (agreed)	=	<u>£ 472</u>
					£6,736
		@	.63%	=	£42.43
					Say £42

The Tribunal therefore determines the Rateable Valuation of the subject hereditament as £42.00.