

Appeal No. VA11/5/290

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

J J Campbell and Associates Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2182329, Office (Office Park) at Block F, Unit 1, Nutgrove Office Park, Nutgrove Avenue, Rathfarnham, County Dublin.

B E F O R E

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

Deputy Chairperson

Michael Connellan Jr - Solicitor

Member

Thomas Collins - PC, FIPAV, NAEA, MCEI, CFO

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF FEBRUARY, 2012

By Notice of Appeal received on the 1st day of September, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €49,600 on the above described relevant property.

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

"Rental levels are too high when considered against other office levels in the general area."

The appeal proceeded by way of an oral hearing which took place at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 3rd day of January 2012. The appellant was represented by Mr. Brian Bagnall, FRICS, FSCSI of Bagnall and Associates and the respondent by Ms. Fiona Quinn BSc, ARICS, Valuer in the Valuation Office.

It was noted that this case is a test case for 21 other properties at Nutgrove Office Park, Nutgrove Avenue, Rathfarnham, Dublin 14. The relevant appeal references are, VA11/5/195, VA11/5/196, VA11/5/277, VA11/5/278, VA11/5/279, VA11/5/280, VA11/5/281, VA11/5/282, VA11/5/283, VA11/5/284, VA11/5/285, VA11/5/286, VA11/5/287, VA11/5/288, VA11/5/289, VA11/5/291, VA11/5,292, VA11/5/293, VA11/5/294, VA11/5/298, & VA11/5/299.

In accordance with the rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence presented, the following emerged as being the facts relevant and material to this appeal.

The Property

The subject property is a purpose-built, two storey office building. The property consists of ground floor and first floor office accommodation, with raised access floors and air-conditioning. The building does not have a lift. Car parking is available to the front of the unit. J.J. Campbell & Associates Ltd. currently occupies the first floor of the building.

Location

The subject property, Block F, Unit 1, is located at Nutgrove Office Park, Nutgrove Avenue, Rathfarnham, Dublin14.

Tenure

The property is understood to be held by J.J. Campbell & Associates Ltd., on a 10 year lease from 1st October 2004 at a rent of €14,700 per annum.

Floor Areas

The agreed floor areas, measured on a net internal area (NIA) basis, are as follows:

Level	Use	Area sq. metres
0	Offices	85.06 sq. metres
1	Offices	91.14 sq. metres

Total area: 176.20 sq. metres

Valuation History

- 15th June 2010 A Valuation Certificate (proposed) was issued at RV €57,300.
- 7th October 2010 Representations were lodged to the Commissioner of Valuation. Following consideration, the valuation was reduced to €49,600.
- 3rd February 2011 Appeal submitted to the Commissioner of Valuation. Following consideration of the appeal the valuation remained unchanged.
- 1st September 2011 The appellant appealed this decision to the Valuation Tribunal by Notice of Appeal dated 30th August 2011.

Appellant's Case

Mr. Brian Bagnall took the oath and adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission. He made the following points regarding the subject property:-

- The property is adjacent to Nutgrove Shopping Centre but in a poor location. Nutgrove Shopping Centre has struggled for the last 10 years and even during the boom times had a high level of vacancy.
- The estate has no profile and is approached via a 300 metre roadway off Meadow Park Avenue, which is in turn off Nutgrove Avenue.
- Nutgrove Office Park is the only occupier remaining in the cul de sac as outlined in the location plan in Appendix 1 of Mr. Bagnall's précis, since the closure of a former ESB depot and former retail warehouse circa 2006.

Mr. Bagnall further contended that the subject property was bought and was then let to the company to pay off the mortgage.

Mr. Bagnall contended for a valuation as follows:

176.2 sq. metres @ €200 per sq. metre = €35,240

Appellant's Comparison Properties

Mr. Bagnall set out (in Appendix 2, page 5 of his précis), as his comparisons, a schedule of arms' length, open market lettings in Nutgrove Office Park, which occurred around the relevant valuation date of 30th September 2005. He added that the vast majority of the units in Nutgrove Office Park are occupied by their owners, who purchased them in their own names, possibly with mortgage finance, and then rented them to their companies. He contended that these rents are not open market rents. Mr. Bagnall stated that there are rents which are twice that of the comparisons, but they cannot be relied upon. They are not at arms' length and do not reflect true market values.

Mr. Bagnall cited The Hyde Building at The Park, Carrickmines, Dublin 18 as another comparison property. He stated that this property has a superior location, is closer to the M50, and is served by a nearby Luas station, and is constructed to a standard superior to the subject property. It is divided into suites which are valued at €230 per sq. metre.

Mr. Bagnall contended that the NAV of the subject property should be set at €200 per sq. metre given the poor location of the office park and he also added that the rents support the poor location, when the rents that are not at 'arms' length' are discounted.

Cross-Examination of the Appellant

In response to questions put by the Tribunal and the respondent, Mr. Bagnall stated that:-

- Two of his comparisons are named as associates in this test case, Unit B2 and Units E4/E5.
- The subject property is in a secondary location and is a good distance from the M50.
- The comparison property, Hyde Building, is in a better though also a secondary location.
- The Lisney Rental Indices contained in his précis serve as a broad guide to rental values.
- The subject property is not in a prime area and cannot be seen from the main thoroughfare.

Respondent's Case

Ms. Quinn took the oath and adopted her précis as her evidence-in-chief. The location, description and floor areas of the subject relevant property were common case. Ms. Quinn outlined the basis of the valuation of the subject property, which she said was determined by reference to the values of comparable properties stated in the Valuation List in which they appear, complying with Section 48(3) of the Valuation Act 2001.

She confirmed the valuation history as outlined above, and advised that the levels applied by the Commissioner of Valuation on the ground and first floor of €260 per sq. metre, were consistent with and reflected those set on four comparable properties, details of which she cited in her précis. Ms. Quinn noted that the valuation of the subject property had been reduced from €49,600 to €45,800 to reflect agreement on floor areas at Tribunal stage.

Respondent's Comparison Properties

The comparison properties were:

1. Unit C6, Nutgrove Office Park
2. Unit C5, Nutgrove Office Park
3. Unit A2, Nutgrove Office Park
4. Unit D17, Nutgrove Office Park

All of these properties are located in the same development as the subject. No representations or appeals had been filed on the first 3 comparison properties, which had their NAV reduced from €300 to €260 per sq. metre.

Representations and a first appeal were made on the 4th comparison property (Unit D17, Nutgrove Office Park), which had its NAV reduced from €300 to €260 per sq. metre.

Cross-examination of the Respondent

In response to questions raised by the Tribunal and the appellant, Ms. Quinn stated the following:-

- Her comparison properties had their NAV reduced by 15% as some of the rents assessed were not arms' length.
- The NAV of €260 reflects the secondary location of the Nutgrove Office Park and the average rent based on an examination of the rents in the 70 units in the Office Park.

- She accepted the Hyde Building is in a better location, and is closer to the M50 and the Luas.
- A number of the rental arrangements in Nutgrove Office Park are not arms' length.
- That access to the subject property may be considered less than optimum.
- She did not accept that the subject property should have a lower NAV, despite the Hyde Building having a NAV of €230 per sq. metre, which she said was valued on its own merits by reference to the local rental factors there.

Summation by the Appellant

Mr. Bagnall concluded that the subject relevant property is in a poor location with severely compromised visibility. Many of the rents in the Nutgrove Office Park are not at arms' length which distorts the overall rental picture. He acknowledged that the subject property is in good condition and well built.

Summation by the Respondent

Ms. Quinn requested that the Tribunal uphold the valuation of the subject property, as all appropriate factors were considered and applied by the Commissioner.

Findings and Conclusions

The Valuation Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions at the hearing. The Tribunal finds as follows:

1. The evidence supports the argument that the subject property has a poor profile.
2. The comparison properties 1, 2 and 3 submitted in evidence by the respondent were not subjected to representations or Section 30 Appeal.
3. Comparison property 4 submitted by the respondent in evidence, was the subject of a Section 30 Appeal, but is a poor comparator as it is a second floor office.
4. The respondent accepted that the rents of the appellant's comparison properties in the Hyde Building are open market rents and that the Hyde Building is in a better, albeit also a secondary, location.

Determination

The foregoing considered, the Tribunal concludes that the levels per sq. metre assessed on the property should be adjusted to €215 per sq. metre and accordingly the valuation computed as follows:-

Level 0	85.06 sq. metres	@ €215 per sq. metre	=	€18,287.90
Level 1	91.14 sq. metres	@ €215 per sq. metre	=	<u>€9,595.10</u>
Total			=	€37,883.00

NAV say €38,000

And the Tribunal so determines.