

Appeal No. VA14/5/643

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

Amar Gill

APPELLANT

And

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

Property No. 5003584, Office at 30-32 Main Street, Donnybrook, County Borough of Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF JANUARY, 2017**

BEFORE:

Barry Smyth – FRICS, FSCSI, MCI Arb

Deputy Chairperson

Michael Connellan Jr - Solicitor

Member

Carol O'Farrell - BL

Member

By Notice of Appeal received on the 4th day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €20,400 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

“The subject property’s estimate of net annual value is excessive and inequitable. The subject property was let at €10,000 (IRI) in July 2012. The subject property had been to let (seeking €110/m² for 5 months when the lease was agreed. On an FRI basis, the lease rent reflects a rent of €66/m². The subject property was not worth in excess of this at April 2011.”

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 9th day of December, 2016 adduced before us by Mr Eamonn Halpin on behalf of the Appellant, who contended for a net annual value of €9,000, and Mr Paul Mooney of the Valuation Office on behalf of the Respondent to the appeal,

Evidence and Submissions

Mr Eamonn Halpin having been sworn in adopted his Precis, which had been exchanged between the parties and supplied to the members of the Tribunal in advance, as his evidence in chief.

Mr Halpin added that the Appellant accepts that €130 to €150 per m² is the NAV for standard offices in Donnybrook and that he was not contesting the tone of the list. He considered the subject property as different from standard offices with Velux and dome type roof lights rather than normal windows and he said that this had proved off-putting to various prospective tenants. As the letting agent, he stated that he had achieved what he considered the full market rent at €10,000 per annum in 2012.

He stated that the size of the subject property at 136.50 m² is bigger than many of the comparisons put forward by the Respondent and is partly attic type accommodation. Of his comparisons, he considered part of the “Warehouse” off Mount Eden Road where there is a second-floor mezzanine with Velux windows with Net Annual Value calculated at €60 per m² to be appropriate. He confirmed that he believed that the passing rent was the best evidence. His estimate of NAV was €9,400 i.e. €69/m².

Mr Halpin commented that while his representations to the Respondent on behalf of the rate payer were acknowledged as received and noted on the relevant documentation, they did not appear to have been considered at the representation stage and it was his view that this was unfair to the rate payer.

Under cross examination, Mr Halpin acknowledged that it would be prudent for a Valuer to look for a lease but that in this instance confirmation of the tenancy details had been supplied to the Respondent by both himself as the letting agent and the Appellant’s solicitor and that the lease was subsequently provided. It appeared that the Commissioner had applied a general reduction at representation stage which accounted for the reduction of the NAV €26,900 to NAV €20,400.

Mr Halpin confirmed that he accepted that Main Street Donnybrook had an established tone of €150 per m² for offices, which he considered was fair. He accepted that at the time of letting the subject property needed carpets and he pointed out that new carpets were provided subsequent to the agreement for letting. He also pointed out that potential tenants were disappointed by the windows and the lack of profile and focused on poor light and lack of advertising potential.

Mr Mooney on behalf of the Commissioner was sworn in and adopted his Precis as his evidence in chief. He stated in addition that the rent on the subject property cannot be ignored and confirmed that it had been considered, but that there are outliers in rental terms and that this is one. He noted that this is a large office space at the first-floor rear. The front section occupied by O’Brien’s has a Net Annual Value calculated at €150 per m² and he therefore saw no sense that the subject property should be at €69 per m². Mr Mooney provided an estimate of NAV of €20,400 i.e. €150/m²

In cross examination, he acknowledged that the subject was larger than his comparisons numbered 1, 3, 4 and 5 which were all between 40 and 80 m² and confirmed that comparison 2 was a useful in being a similar size and to some degree physically similar with roof lights.

He confirmed that notwithstanding a general mass appraisal of office rates for the Donnybrook area, he collected all available information on office property rents.

He acknowledged that when the original valuation of €25,600 was fixed the Commissioner did not know the rent of the property as the property had not yet been let. He accepted that the property was not a standard office but stressed that it is still office space and he also accepted that when the property was for let, it appeared to be in poor condition.

Tribunal Findings

- A) It was common case that the property is not standard office accommodation in that it lacks profile having no street visibility and consists of attic style accommodation with Velux style roof lights and dome lights (light wells) providing poor natural light and limited ventilation and restricted headroom in part. These features mean that the property is not directly comparable with other offices.
- B) The property is larger than most of the key rental informers.
- C) The Appellant agreed that the range of net annual values for standard offices in Donnybrook is €130 to €150 per m² and that that is a fair assessment.
- D) The property was let in July 2014 at approximately €73 per m². Key rental comparison no. 2 at 8B Main Street, a property of similar size with roof lights and therefore similarly compromised, was let in or about the same date at €116 per m² indicating a market preference for the profile of a Main Street rather than an off Main Street location. The other rental evidence indicates that conventional offices have a higher demand than the less conventional kind such as the subject property and key rental comparison no. 2.
- E) Whilst, the Appellant placed significant reliance on the passing rent of €10,000 per annum, the Respondent took the view that the rent cannot be looked at in isolation but needs to be considered with rents on other properties in the locality. The Tribunal accepts that the rent of the property cannot be relied upon in isolation, and that other evidence should be considered - as long as it is comparable. The open market rent of the subject property is clearly less than other office rents. The Tribunal notes the NAV on the property at Floraville Road at €130 per m² which is clearly a superior property to the subject. Key rental comparison no.2 physically most resembles the subject property and is let at €116 per m² with an NAV of €150 per m² compared to the subject let at €73 per m². On a stand back and look approach, the rateable value of the subject property must be considered in the context of the above-mentioned factors.

DETERMINATION

In the view of the Tribunal the subject property is inferior to key rental comparison no. 2 and indeed different from other office lettings within Donnybrook and therefore a rate of €125 per m² is an appropriate figure which fairly reflects the attributes that are peculiar and detrimental to the rental value of the subject property.

That gives rise to an NAV of €17,062.50 SAY €17,000 (decrease) and the Tribunal so determines