

Appeal No. VA14/5/428

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

Allianz WorldWide Care

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the issue of quantum of valuation in respect of:

Property No. 2110798, Office (Business Park) at Block 11B Joyce Way, Park West Business Park, Nangor Road, County Borough of Dublin.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH SEPTEMBER 2017

BEFORE:

Niall O’Hanlon – BL

Deputy Chairperson

Michael Connellan Jr – Solicitor

Member

Dolores Power – MRICS MSCSI

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 (NAV) of €184,800 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

“Excessive and inequitable”

“Open market rental evidence supports a lower NAV”.

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 1st day of July, 2015, adjourned for clarification of evidence by the Respondent, and resumed by the Tribunal on 29th July, 2015.

On both occasions, the Appellant was represented by Mr. Brian Bagnall FRICS FSCSI of Bagnall Doyle MacMahon, while the Respondent was represented by Mr. Liam Diskin B.Sc. (Property Management), a valuer with the Valuation Office. Both representatives adopted their written submissions as their evidence in chief given under oath, and supplemented by additional evidence given under oath by Mr. Diskin at the second hearing on 29th July, 2015.

At Issue

Quantum.

The Property

The subject property forms part of a modern 3rd generation 3-storey office building in good condition with suspended ceilings, air conditioning and passenger lift. The parking spaces and rate applied to same are not in dispute.

Location

The subject property is located in Park West Business Park, Nangor Road, Dublin 12, south west of Dublin City, adjacent to the M50 and accessed off the Red Cow/N7 Naas Road junction.

Tenure

Freehold.

Floor Areas:

Floor Areas are agreed on an NIA basis and total 1,718.46 sq. metres.

Revaluation History

Valuation Date:	7 th April, 2011, as specified in the Valuation Order.
Proposed Certificate Issued:	30 th October, 2012.
Proposed Valuation:	€190,600.
Representations Received:	26 th November, 2012.
Final Valuation Certificate Issued:	16 th December, 2013.
Valuation on Final Certificate:	€184,800.
Appeal submitted to the Commissioner of Valuation:	8 th February, 2014

31st July, 2014 – Appeal Manager disallowed the Appeal and issued a Valuation Certificate with a Valuation of €184,800.

The Appellant in his appeal to the Tribunal contends for an NAV of €130,000 (€124,700 stated in Notice of Appeal).

Appellant's Case

Mr. Bagnall, for the Appellant, gave a history of the subject property, its location and his view of the office market in this particular location, and stated that all units within this particular development are let with the following:-

- Acoustic ceiling and lights
- Air conditioning installed
- Bare floors and open plan

Mr. Bagnall gave the purchase price of the subject property at €1,050,000 in the summer of 2012 – approximately one year from the Valuation Date, and he assumed a yield of 10% to give a Net Effective Rent (NER) of €53.54 per sq. metre in summer 2012, and 26 car spaces at €500 per space.

Mr. Bagnall, on behalf of the Appellant, said that the only contentious area between the Appellant and Respondent is the level of rent applied by the Respondent to the building.

He carried out an analysis of market transactions around the Valuation Date and contended for a rent of €68 per sq. metre and agreed 26 car park spaces at €500 each, based on 9 main comparisons at Park West Business Park which he supplied to the Tribunal.

Cross Examination of the Appellant

In cross examination Mr. Bagnall absolutely refuted the contention of Mr. Diskin that this was not an 'arms length' transaction.

Respondent's Case

Mr. Diskin contended for a rate per sq. metre of €100 which equates to an NAV of €184,800.

He presented seven informers to the Tribunal to argue his case, together with seven comparison properties, all of which are located in Park West Business Park.

The Tribunal noted that there was a degree of commonality between the informers and comparisons, but still a significant gap between the parties on the rate per sq. metre. The Tribunal accordingly requested Mr. Diskin to provide a schedule to the Tribunal as to how he arrived at his figures, most particularly in respect of property numbers 2162596 and 2210504. The Tribunal adjourned for a period to allow Mr. Diskin to prepare same.

At the resumed hearing on the 29th day of July, 2015 Mr. Diskin again took the oath and presented his supplementary evidence to the Tribunal in respect of properties 2162596 and 2210504.

Cross Examination of Respondent

Mr. Bagnall asked Mr. Diskin what was included in fit-out generally and what was considered 'standard'. Mr. Diskin responded that in the analysis of fit-outs, the Valuation Office had applied a cost of €880, this being an average level from their research covering standard fit-out to very high specification fit-out.

Mr. Bagnall asked if Units 19 and 21 within the development (Property Nos. 2162596 and 2210504) were fitted out at the Valuation Date. Mr. Bagnall stated that, in his table of main comparisons (i.e. property no. 2210504), the first floor was fitted out and the ground floor was 'shell and core' at the Valuation Date. However, in the case of property no. 2110797 in his table of comparison, this property was fully fitted out. Mr. Bagnall contended that the standard of fit-out and the rate applied distorts the market rental evidence, he referred back to property no. 2210504, which was on his table of comparisons, and was also one of Mr. Diskin's informers, and asked why the rent analysis of this property was below that of the subject property.

Summary

Mr. Bagnall contended that the rent analysis provided by the Valuation Office had not taken into account all the factors pertaining to a correct and accurate analysis of NER.

Mr. Diskin contended that a Tone of the List had been established in the evidence, such 'Tone' being €100 per sq. metre. He said that Mr. Bagnall had failed to provide any evidence to contradict this 'tone', and that 6 of Mr. Bagnall's 9 comparisons had not been appealed to the Tribunal. He requested that the decision of the High Court in Commissioner of Valuation v Carlton Hotel Dublin Airport Ltd. & Others should be taken into account by the Tribunal in determining its judgment.

Determination

The Tribunal took all the evidence into account and relied in particular on those properties common to both parties.

The Tribunal notes these common properties were as follows:

Property Nos:

- 2162596;
- 2210504;
- 2202699;
- 2142580.

The Tribunal found the evidence in respect of property numbers 2142588 and 2142592 to be of less assistance because of the significant difference between the NER and the NAV in respect of each of these properties.

The NERs on properties 2210504 and 2162596 were agreed between the Appellant and Respondent at €74.65 and €67.25 respectively.

In the Tribunal's judgment in order to reach a fair and equitable NAV that reflects the spread of valuations disclosed by the evidence it is necessary to take the highest NER and the lowest NER at the Valuation Date as follows:-

$$\frac{\underline{€104.56} + \underline{€67.25}}{2} = €85.91$$

$$€85.91 \text{ per sq. metre} \times 1718.46 = €147,632.90$$

€147,632.90 + 26 car park spaces at €500 per space = €160,632.90

Say €160,600

And the Tribunal so determines.