

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Synergise Coaching

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In Relation to the Valuation of:

Property No. 5010760, Leisure, Gymnasium/Fitness Centre at 34-38 Belarmine Plaza,
Belarmine Avenue, Belarmine, Stepside, County Borough of Dublin.

BEFORE:

Dolores Power – MSCSI, MRICS

Deputy Chairperson

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

Member

Orla Coyne - Solicitor

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH OF APRIL, 2018**

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th day of July, 2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €93,100.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

“The valuation is excessive having regard to the location, the rent payable and to other valuations of properties in the locality.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €53,900.

2. VALUATION HISTORY

2.1 On the 8th day of May, 2017 a copy of a valuation certificate proposed to be issued in relation to the Property was sent to the Appellant indicating a valuation of €93,100.

2.2 No Representations were made by the Appellant.

2.3 A Final Valuation Certificate issued on the 19th day of June, 2017 stating a valuation of €93,100.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 2nd day of October, 2017. At the hearing the Appellant was represented by the Conor Ó Cléirigh FSCSI of Conor Ó Cléirigh & Company and the Respondent was represented by Mr Sean Donnellan of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

The Subject of the Appeal is part of the first floor of a purpose built office unit being used as a gym, situated in a mixed residential and commercial development. The initial planning was for office usage, subsequent planning permission was applied for and obtained for gym usage. There are retail units on the ground floor. There are further office units and overhead accommodation.

The floor area is agreed at 490m². The unit is Leasehold held under a 10 year lease at €26,750 rent per annum.

5. ISSUES

5.1 The Appellant is contending for a valuation of €58,800 at the hearing while the Respondent is requesting that the Commissioners valuation of €93,100 be affirmed.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT'S CASE

7.1 Mr O'Cléirigh representing the Appellant contended that the premises had a basic fit out. He was of the view that the area wherein the subject unit is situated is not vibrant enough to obtain more clients. Therefore it limits the scope of the operation within the gym. He also contended that the location was not near enough to the Luas line and that there was no residential environment surrounding the development to increase its potential.

7.2 In support of his evidence Mr O'Cléirigh introduced a number of comparators. The nearest comparator, comparison 1, to the subject property was larger than the subject property and he claimed it to have more extensive facilities. The other comparators he also claimed were superior in location and closer to the greater populated residential areas. He was also of the opinion that his comparisons 2 and 5 were the most comparable to the subject property. Comparison 2 was situated close to the Nutgrove Shopping Centre and built within a much greater densely populated residential area. Comparison 5 is situated in Dundrum Village very close to both the Dundrum Shopping Centre and Luas line. He said that his seven NAV comparisons supplied in his evidence to the Tribunal supported his contention that a rate of €120 per sq. m would be more appropriate to apply to the subject property.

8. RESPONDENT'S CASE

8.1 Mr Sean Donnellan representing the Respondent Commissioner of Valuation, introduced five comparators. He said that the tone of the list is not immutable as it does allow for variables within the range. He stated that the range in relation to similar properties is between €210 and €320 per sq. m. It obviously is a matter where the subject property would sit within this range. He stated that, his five comparators, he said are all within developments where they have been valued as office space. 8.2 He stated that a 10% reduction had already been given by the VO in light of the size of the subject property. He accepted that the best comparators are those situated near the subject property. He was unaware of the rental value of any of the comparators that he had introduced. Mr Donnellan introduced the case of VA14/2/004 - Momentum Financial Services wherein the Tribunal accepted the VO's assertion that what is valued for rating purposes is not the use of the property but the property itself.

9. SUBMISSIONS

9.1 No legal submissions entered into evidence.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Dun Laoghaire-Rathdown County Council.

10.2 The main comparator which the Tribunal finds most useful is comparison 1, Unit 40 Belarmine Plaza and is used as a medical centre/office. This comparator is situated in the same development where the subject property is also situated on a corner site.

10.3 The other comparators of the Valuation Office were either much larger or much smaller than the subject property and were therefore discounted.

10.4 The Tribunal considers that the location of the subject property is at a disadvantage in that it is not on the Luas line and is outside the M50 catchment area.

10.5 The Tribunal notes that the Valuation Office has already reduced the rate per sq. m of the subject property from €220 to €190 because of the size difference mentioned in the oral and written evidence. The Tribunal considers the location of the subject property to be inferior to the comparisons and decides to reduce the NAV further by 10% and the fact that no other rental evidence was produced except for the subject property. Applying this 10% the Tribunal say the NAV is €170 per sq. m.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €83,300.

Level	Use	Area (sq.m)	€/per sq.m	NAV
1	Offices/Gym	490	170	€83,300

And the Tribunal so determines.