

**Appeal No: VA14/5/608**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**COCOON CHILDCARE**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2180439, Creche (Purpose Built) at Artane North, Beaumont, County Borough of Dublin.

**B E F O R E**

**Rory Lavelle – MA, FSCIS, FRICS ACI Arb**

**Deputy Chairperson**

**Pat Riney – FSCIS, FRICS, ACI Arb, PC**

**Member**

**Orla Coyne - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 21<sup>ST</sup> DAY OF NOVEMBER, 2018**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 4<sup>th</sup> day of September, 2014 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 €39,900

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- The subject property’s estimate of net annual value is excessive and inequitable.
- The layout of the unit is poor for a modern facility and appears to be the result of an amalgamation of smaller units.
- Evidence from the retails units fronting the development indicate that a unit smaller than the subject only achieved a rent of €120/sqm in 2010. The subject property is poorer than this as it has no profile to the road and no retail potential.
- The property should be measured on an NIA basis.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €19,820.

## **2. REVALUATION HISTORY**

2.1 On the 28<sup>th</sup> day of February, 2013 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €57,900.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €45,000.

2.3 A Final Valuation Certificate issued on the 16<sup>th</sup> day of December, 2013 stating a valuation of €45,000.

2.4 Being dissatisfied with the valuation, a first appeal was made to the appeal manager in relation to the valuation. Following consideration of that appeal, the valuation of the Property was reduced to €39,900.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 7<sup>th</sup> day of April, 2011.

## **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 26<sup>th</sup> day of February, 2018. At the hearing the Appellant was represented by the Mr Eamonn Halpin BSc (Surveying), MSCSI, MRICS and the Respondent was represented by Mr Peter Gilsenan of the Valuation Office. At the end of the Hearing

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. In view of the particular circumstances in this case, The Tribunal, having considered the matter in further detail,

determined that an inspection of the subject should be carried out by the Members of the Division. Having agreed this with the parties, this inspection took place on the 26th of March 2018

#### **4. DETAILS OF THE SUBJECT PROPERTY**

4.1 Location: The subject property is located within the Timber Mills Residential/Commercial Development, situated to the north off the Kilmore Road, and c.400 Metres west of the Malahide Road, Artane, Dublin 5.

4.2 Description: The subject property comprises part of the ground floor of a part single storey, and part three storey building, and is currently in use as a creche. Internally, the accommodation includes, preschool rooms, an office, staff room, and an outside play area to the side, there is also a set down area to the front, which we understand can accommodate 3 cars at a time. It is understood there is a maximum capacity for 54 children. The parties could not agree whether the premises was purpose built or a conversion also the evidence provided at the hearing was not conclusive. The Tribunal visited the premises and considered that it is a conversion of existing apartments with associated difficulties in using the space.

The agreed floor areas, measured on a gross internal area (GIA) basis is

Ground Floor Creche: 283.14 sq.m

4.3: Tenure: We understand the property is held under a 10 Year Lease from 2004 at €90,000 p.a. exclusive, which was abated to €60,000 p.a. exclusive in 2007

#### **5. ISSUE**

Quantum

#### **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 by section 27 of the Valuation Act 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. Halpin considers the estimate of NAV provided by the Commissioner is excessive in view of the actual location of the property. He also pointed out there was only one other of the commercial units, located at the front of the development, let at the effective date, despite having been marketed for c.7 years, with moderate asking rents of c.€120 psm over a 5 year period

7.2 Mr. Halpin argued there was no consistent tone for Creches in the Artane area to justify a level of €140 psm as applied by the Commissioner. He pointed out his 7 Comparisons referred to properties which had been valued at rates between €70-€140 psm and related to superior properties in more prominent locations.

7.3 Of the Appellants evidence the nearest commercial comparators is the Artane Castle Shopping Centre nearly directly across the road from the subject is assessed at €70/m<sup>2</sup>, for a location lacking in profile within the Centre.

7.4 The Tribunal finds that the Appellants comparisons and points made are more persuasive particularly those at:

Comparison 2, Carousel Day Nursery, Butterly Business Park, Artane, Dublin 5 – This is superior to the subject property, located around the corner in a more prominent location and valued @ €120 psm

Comparison 4, Safari Healthcare, The Hibernia Building, Heuston South Quarter, Dublin 8 – This is a vastly superior location to the subject property, only c.2.5 Klms from the city centre, and valued @ €140psm

7.5 Mr. Halpin emphasised the Appellants sought to have their NAV in line with the comparables in the list in terms of its actual rental potential at this, what he referred to as, a very moderate location.

## **8. RESPONDENT'S CASE**

8.1 Mr. Gilsenan pointed out that, in his opinion, this creche was purpose built, and that there was an established tone for Creches in the Dublin area, as demonstrated by the 9 Comparisons in his Precis.

8.2 Mr. Gilsenan also stated the Commissioner had already reduced the assessed NAV from €57,900, to €45,000 and then to €39,900, and was now of the opinion that a fair and reasonable NAV had been applied by the Commissioner.

8.3 Under cross-examination, Mr. Gilsenan accepted the adjacent smaller Retail Units had not let easily, over a period of time, and were down to a level of c. €60/70 psm.

8.4 Mr. Gilsenan referred to his Precis, pointing out there were 4 key rental transactions relied upon by him, in arriving at the NAV for the subject property, and that none of them were subject to an Appeal to the Commissioner or an Appeal to the Valuation Tribunal. The Respondent includes 4 Rental transactions. (1) Carefree Days Creche, Knockmaree, St Laurence Road, Dublin 10 a purpose built Creche, 1 year lease, 201 sq.m. NER €199. (2) Learning Circle Creche, 2 Beaupark Place, Clongriffin, Dublin 13 again purpose built, 210 sq.m., 20 year lease, NER €197.96, (3) Safari Childcare, Building 3, Kilmainham Square, Inchicore Road, Dublin 8, 156sq.m., 25 year lease NER €144.45 again purpose built. (4) Safari Childcare Ltd, Hibernia Building, Heuston South Quarter, larger 384.55 sq.m., 25 year 11 month lease NER €103.68, again appears purpose built, and the Appellant also includes this comparison. The NAV figure used for all these properties is €140 psm. The Respondent goes on to include 5 comparisons for Equity and Uniformity all showing a NAV figure of €140 psm.

## **9. FINDINGS AND CONCLUSIONS**

9.1 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 Dublin City Council.

9.2 The Tribunal have considered all the parties evidence submitted and adduced during the Hearing, and also carried out an inspection of the subject property on the 21st of March 2018, which was of assistance to them in arriving at a fair and reasonable NAV. Upon the Tribunal inspection it noted that the subject property was not a purpose built crèche. It was poorly laid out. Its ceilings were quite low, indicative the tribunal thought of its original construction not envisaging it being converted into a crèche.

9.3 Of the Appellants evidence the nearest commercial comparators is the Artane Castle Shopping Centre nearly directly across the road from the subject is assessed at €70/m<sup>2</sup>, for a location lacking in profile within the Centre.

9.4 The Tribunal finds that the Appellants comparisons particularly Comparison 2, Carousel Day Nursery valued @ €120 psm and Comparison 4, Safari Healthcare, valued @ €140psm are of more assistance.

9.5 The Tribunal accepts the Appellants arguments regarding lack of parking and locational factors.

9.6 The Tribunal considers that a significant adjustment from the rate used by the Respondents of €140 psm is merited.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal considers that a fair and reasonable NAV to be as follows:

Creche (Ground Floor) 283.14 sq.mtrs @ €100 psm = €28,314.00

NAV Say €28,300

And the Tribunal so determines.