

Appeal No. VA14/5/916

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

Celtic Forwarding Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

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

Property No. 1543139, Office/Warehouse at Units 34/35 Jamestown Business Park, Jamestown Road, Finglas, County Borough of Dublin.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 22ND DAY OF AUGUST, 2016

B E F O R E:

Rory Lavelle – M.A., FRICS, FSCSI, ACI Arb

Deputy Chairperson

Michael Lyng - Valuer

Member

Dairine Mac Fadden - Solicitor

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 €76,400 on the above described relevant property on the grounds as set out in the Notice of Appeal..

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 24th day of March, 2016 and on the 7th day of June,

2016 adduced before us by Mr Eamonn Halpin on behalf of the Appellant, who contended for a net annual value of €53,700 and Mr John O'Connor on behalf of the Respondent to the appeal,

DETERMINES

That the net annual value of the subject property be as set out below:

€74,250 (Decrease)

The reasoning being

APPELLANT CASE

Mr. Halpin was sworn and adopted his Precis of Evidence and Chief. Appearing for the Appellant he stated that this is a basic warehouse and part of the Unidare Complex dating from 1990 and sitting on a restricted site.

He states that the summary of rental comparisons used by the Respondent is erroneous.

He states that this is a double unit and the agreed floor area is:

Warehouse	1,400 sq.m.
Two Storey Offices	178.92 sq.m.
Loading Bay	311.68 sq.m.

Mr. Halpin went on to outline the state of the market at the Valuation Date of the 7th April 2011.

Mr Halpin states that the subject property net annual value is excessive and inequitable. It is an early 1990s basic warehouse with basic two storey office accommodation. The property could be considered as average for the development with no particular advantage and no profile or access to any main road.

He states that the valuation of the subject property, currently assessed by the Commissioner of Valuations at €47/m² is not in line with actual rental values for comparable units, nor the Commissioner's emerging tone of the list for others in the immediate vicinity. The unit next door to the subject property is let and devalues at an NER of €35.81 per sq.m., whilst industrial comparables with full frontage and profile to St. Margaret's Road are valued in the list at €36.00 and €38.00 per sq.m.

Mr. Halpin's opinion is that the "loading bay" is of no additional value and he has not applied a rental level to it, as normally "one would not achieve an additional rent for a yard or loading area which is not greater in size than the unit itself, it is not fenced off and visitors can and do park in the area".

Mr. Halpin relied in particular on one open market comparison and three comparisons from the emerging tone of the list.

Mr. Halpin's open market transaction is Unit 33 Jamestown Business Park, Finglas, Dublin 11 which immediately adjoins the subject and is let on a 10 year lease from the 1st December 2015 at €33,000 per annum. Mr. Halpin states that the property has been to let since 2013 and his assessment of the NER is €35.81 per sq.m. This unit is almost half the size of the subject. Floor areas are:

Ground Floor – Warehouse	750 sq.m. @ €49.00 per sq.m.
Two Storey Offices	110 sq.m. @ €49.00 per sq.m.

Mr. Halpin's second comparison is Manhattan Peanuts which is in the list devaluing at:

Warehouse 1	1833.20 sq.m. @ €38.00 per sq.m.
Two Storey Offices	102.6 sq.m. @ €38.00 per sq.m.
Factory	351 sq.m. @ €38.00 per sq.m.

He states that this is located to the rear of the subject and has the benefit of full frontage and profile to St. Margaret's Road with original buildings dating from 1977 re-cladded and re-roofed.

The Irish School of Motoring, Unit 22, Jamestown Business Park, Finglas, Dublin 11

Three Storey Offices 434.67 sq.m. @ €49.00 per sq.m.

Warehouse 413.37 sq.m. @ €49.00 per sq.m.

Again located in the same business park but a superior building with 12 metre eaves constructed in the late 2000.

Firethorn Limited, St. Margaret's Road, Finglas

Two Storey Offices 322 sq.m. @ €36.00 per sq.m.

Factory 1,219 sq.m. @ €36.00 per sq.m.

With good road frontage and private yard.

Mr Halpins estimate of NAV is:

Warehouse at €34 per meter squared

Offices at €34 per meter squared

Loading Bay at €0

Total €53,694

Say €53,600

IN SUMMARY:

Mr. Halpin refers to Jamestown Business Park being a mix development and the subject property lacking in profile. He states that this is a low cost estate and he would not add any value for the loading bay.

CROSS EXAMINATION:

Mr. O'Connor referred to Mr. Halpin's open market comparison and Mr. Halpin confirmed that save for the rent, he did not know the other terms of the lease. It seems that this property is valued at €49.00 per sq.m. on the list and it was appealed to the Tribunal but agreed by consent. Also this evidence is 4½ years post the valuation date.

Unit 32 and 33 adjoining were referred to and it was accepted that these set part of the tone however Mr. Halpin's appeal is on the basis of the actual rent.

The age of the Manhattan Peanuts building would seem to date from the 1960s and Mr. Halpin's opinion was that the offices were of modern spec. and the buildings were older and re-roofed and there are some modern buildings to the rear.

There was argument between the parties regarding the yard not being value.

It is Mr. Halpin's opinion that the loading bay actually form parts of the yard.

Mr. Halpin's fourth comparison was referred to as older industrial property.

The parties were asked to approach the Tribunal and describe the area referred to as loading bay. It seems these areas are referred to in the Commissioner's Submission as areas 4 and 5 and comprise a slightly elevated area running along the side of the building. No. 4 which is 75 sq.m. and a larger raised area to the rear adjoining a loading door which comprises the balance of the area.

RESPONDENT'S EVIDENCE:

Mr. O'Connor took the oath and adopted his Precis of Evidence and Chief. Mr. O'Connor referred to the premises as outlined in the sketch on Page 6 of his evidence and the agreed floor areas.

Mr. O'Connor referred to 3 rental transactions which form the basis of the Commissioner's estimate for modern buildings in Jamestown Business Park being:

1. Poppintree Industrial Estate, Ballymun, Dublin 1 premises comprising 3,506 sq.m. with lease commencing July 2011 with an NER of €171,957.54 with actual rent of €167,042. The NER per sq.m. works out at €48.80. This was appealed to the Valuation Tribunal and the Respondent's Determination upheld and the valuation confirmed.
2. An Post, Unit 30 Jamestown Business Park, Finglas, Dublin 11 – floor area of 1,363.5 sq.m. and the lease commencement date is 1st September 2008 subject to an actual rent of €128,630 and for a term of 9 years and 9 months. The NER is €70,986.14 and the NER per sq.m. is €52.00 approx. This is located in the same Business Park as the subject and is similar in size and construction. No representations or appeals were submitted on this property.
3. Wincanton Records Management (Ire), Unit 4, Northern Cross Business Park, Finglas, Dublin 11 – floor area 4,359.74 sq.m. with a lease commencement date 20th April 2012 for a term of 15 years with 5 year rent reviews and an actual rent of €246,700. The NER per sq.m. is €51.78. The property is located in a modern industrial estate in Finglas consisting of warehousing and a single storey office. Representations and an appeal were submitted on this property and the Appeal was disallowed. The Tribunal notes that the Appeal was struck out because of non appearance on behalf of the Appellant. This is a detached industrial facility with single storey offices located in Northern Cross Business Park benefitting from substantially higher eaves. Mr. O'Connor states that an addition was made to the standard rate per sq.m. to reflect the height of the eaves.

In Mr. O'Connor's submission on evidence of equity and uniformity he stated there are 30 properties valued in the vicinity of the subject at €47.00 per sq.ft., 12 of these properties were appealed to the Commissioner of Valuation and the subject is one of 4 which were appealed to the Valuation Tribunal, the other 3 were either affirmed or withdrawn.

Mr. O'Connor goes on to list 8 properties on the list particularly Comparisons No. 7 and 8 which are the immediately adjoining properties to the subject. Mr. O'Connor states that these were appealed to the Tribunal and agreed at €49.00 per sq.m.

CROSS EXAMINATION:

Mr. Halpin referred to representations being made to the Commissioner of Valuations and Mr. O'Connor said that these were not considered as they were not received by the Valuation's Office, however Mr. Halpin has a receipt for them being received.

Mr. Halpin referred to a mixture of ages and types for the market comparisons and that only one of these was in the actual Park.

Comparison No. 1 – Poppintree Industrial Estate – Mr. O'Connor agreed that there was a double height atrium in this building and there was argument between the parties as to the condition of the offices. Mr. O'Connor maintained that it was moderate and he had actually been in this building. Mr. Halpin referred to the fact that Poppintree was built as a showcase IDA Estate and that this unit was at the entrance and Mr. O'Connor was not aware of this.

Comparison No. 3 – Mr. Halpin referred to the high quality high bay unit. Mr. O'Connor's position was that an adjustment had been made for this and he agreed that it was larger and a more modern building.

Mr. Halpin argued that the tone for older buildings was between €32.00 and €36.00 per sq.m. and he argued that these should be introduced. Mr. O'Connor referred to the equity and uniformity to the two adjoining units. In argument it transpired that the adjoining units were not represented by an external surveyor, however the company that owned them had internal property expertise.

SUMMING UP:

Mr. Halpin in his summing up refers to the two rentals not standing up to scrutiny and only one being from the subject development and that was a 2008 transaction. The third transaction in Northern Cross had 12 metre eaves. Other evidence exists for older buildings at between €32.00 and €36.00 per sq.m. Mr. Halpin stated that the Manhattan Peanuts building was a better building.

Mr O'Connor referred to the onus of proof resting with the Appellant, to the market comparables and the emerging tone of the list comparisons in the Estate.

TRIBUNAL ADJOURNED:

At this point the Tribunal was adjourned and the parties specifically asked to submit the other evidence in the possession of the Commissioner as referred to by Mr. Halpin of market transactions that existed in the Estate to support his argument that evidence existed that had not been fully taken into account when the Commissioner established the tone for this Estate.

HEARING RESUMED:

The resumed hearing was provided with a list of seven other comparables available at the valuation date in Jamestown Business Park. The Tribunal heard the parties' evidence and deems that this information is not relevant to the subject appeal and that the Respondent was correct in not including it in their original submission as it refers to smaller and more dated properties that do not assist in forming an opinion of NAV for the subject property.

FINDINGS:

The Commissioner relies on 3 market transactions and 8 equity and uniformity comparisons particularly the two adjoining buildings. The subject unit comprises warehouses and offices. There was argument between the parties as to whether the loading bay should be rentalised or treated as part of the yard. This area appears to be raised and somewhat restricted in its usability because of railings.

The Appellant relies on a single comparison dated in 2015 and 3 comparisons from the list which the Commissioner considers to be of older industrial properties.

The Appellant's argument was the 3 market transaction comparisons used by the Commissioner are not relevant to this particular property. The Appellant's argument is on the basis of rental evidence only primarily based on the single rental evidence comparison of unit 33 Jamestown Business Park a letting in December 2015, which Mr Halpin adjusts to the

valuation date to an NER of €35.81 per square meter. This transaction postdates the valuation date by approximately four and a half years. The balance of the Appellant's comparisons are on the emerging list and are significantly different buildings.

The Respondent's evidence is of 3 market transactions close to the relevant date with adjustments. 8 further comparisons from the emerging list are provided including the 2 immediately adjacent units.

The area described as loading bay is in dispute with Mr. Halpin placing a zero value on it and Mr. O'Connor using €7 per square meter. In evidence to the Tribunal it was clear that at best this is a raised platform in an "L" shape accessed via the adjoining yard. The Tribunal finds that this cannot be considered to be a Loading Bay and agrees with the Appellant's arguments.

The Tribunal is not persuaded by the Appellant's arguments regarding market rent based on one comparison dated 2015 four and a half years post the valuation date and which could not have been available to the Commissioner when assessing the NAV in April 2011.

The comparisons used by the Commissioner whilst limited reflect the lack of activity in the market at the valuation date.

The Tribunal therefore reduces the NAV to €74,250 as follows.

Level	Use	Area(sq.m.)	€psm	NAV
0	Offices	98.07	€47	€4,651.59
1	Offices	79.95	€47	€3,757.65
0	Warehouse	1,400.31	€47	€65,814.57
0	Loading Bay	311.68	€0	€0
			Total NAV	74,223.81

Say €74,250