

Appeal No: VA14/5/345

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN ACHT LUACHÁLA, 2001
VALUATION ACT, 2001**

MATHESON SUPPORT SERVICES

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2191340, Office(s) at 70 Sir John Rogerson's Quay, County Borough of Dublin.

B E F O R E

Barry Smyth – FRICS, FSCSI, MCI Arb

Deputy Chairperson

Frank O'Grady – MA, FSCSI, FRICS, FIABCI

Member

Kenneth Enright - Solicitor

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF SEPTEMBER, 2019**

1. THE APPEAL

1.1 By Notice of Appeal received on the 4th 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 €3,507,000.

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, unfair and inequitable"

"The Valuation is incorrect based on Matters of Fact."

"The Valuation is incorrect based on Valuation levels applied"

"The Valuation is incorrect as other factors affecting the NAV of the subject were not properly considered at Appeal"

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €1,718,000.

2. REVALUATION HISTORY

2.1 On the 23rd day of October, 2012 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 €4,078,000.

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 €3,507,000.

2.3 A Final Valuation Certificate issued on the 16th day of December, 2013 stating a valuation of €3,507,000.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 7th 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 8th day of March, 2019. At the hearing the Appellant was represented by Mr Gerard McCarthy MSCSI, MRICS, RICS Registered Valuer of Savills with counsel Mr Proinsias Ó Maolchlainn BL and the Respondent was represented by Mr Joseph Turley Dip AVEA, BSc (Hons) Surveying, MSCSI, MRICS of the Valuation Office with counsel Mr David Dodd BL.

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.

4.2 The property is located on the eastern end of Sir John Rogerson's Quay, between the junction with Blood Stoney Road and Britain Quay 4.3 The building comprises a modern (circa 2007) seven storey over basement office building constructed and fitted to a high standard.

4.4 The office area extends to 11,995.64 sq. metres with basement stores of 160.2 sq. metres, a total of 12,155.84 sq. metres, and 85 car spaces also at basement level.

4.5 The parties are agreed that the passing rent is historic relative to the Valuation Date and therefore neither the Appellant nor the Respondent relies upon it in the assessment of the appropriate rate per sq. metre to calculate the NAV.

5. ISSUES

5.1 The sole issue is the amount of the Net Annual Value to be assessed on the property.

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. McCarthy, in his evidence, stated that at the Valuation Date of 7 April 2011, most of the commercial activity in the area was at the western end of Sir John Rogerson’s Quay and on Grand Canal Square. Development had progressed from City Quay in an easterly direction and included part of Hanover Quay but by the valuation date had ceased and the eastern end of both Sir John Rogerson’s Quay and Hanover Quay was largely undeveloped.

7.2 He outlined the valuation history with the building initially being assessed at €300 per sq. metre and following representations s reduced to €260 per sq. metre. This in turn was appealed to the Commissioner of Valuation but there was no change following the appeal and thus the matter was appealed to this Tribunal.

7.3 He set out in tabulated form details of five comparisons and provided more details on them in an appendix to his précis. In each case he set out the address of the property, the size of the property, the number of car parking spaces, the letting date, the Headline Rent and the Net Effective Rent, allowing for the various incentives that were provided to the tenant. Full details of this table and the more detailed information is appended to this Judgment. In summary the figures are:

Property Address	Floor area	Letting Date	Headline Rent	Net Effective Rent	NAV
Two floors adjacent building Sir John Rogerson’s Quay	1,613 sq.m	Sept 2011	€250 per sq. metre	€184 per sq. metre	€260 per sq. metre.
One floor of building on Spencer Dock	557 sq.m	Feb 2012	€242per per sq.m	€163 per sq. metre	€2 80 per sq.

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One floor of a building in the middle of 1,100 sq.m Sir John Rogerson's Quay	Feb 2012	€242 per sq. metre	€192 per sq. metre	€260 per sq. metre
One floor , Grand Canal Square 895sq.m	Oct 2010	€385 per sq. metre	€304 per sq. metre	€260 per sq. metre
A floor and part of a floor at Grand Mill Quay 1,910sq.m	1 st Nov 2010	€280 per sq. metre	€228 per sq. metre	€240 per sq. metre

7.4 He said the best and most relevant comparable evidence about the Valuation Date suggested a fair NAV for similar third generation office space to be in the region of €163-€184 per sq. metre, not taking account of location issues, quantum issues and car parking issues.

7.5 Mr. McCarthy said that the subject property was located at the eastern end of Sir John Rogerson's Quay and that in his opinion the centre of activity and most sought-after locations are between Grand Canal Square and Samuel Beckett Bridge. At the time of the commencement of the Lease on this building (March 2007) it was envisaged that other significant developments in the immediate area would occur. By the Valuation Date in April 2011 it was evident that the prospect of development in the immediate area, in the medium term, was bleak. He described in some details the nature of the surrounding buildings and sites as at the Valuation Date.

7.6 He drew attention to a number of Tribunal determinations including VA11/3/013 (an appeal arising from a request for a revision of the valuation on the State Street property, located one block to the east of the subject property, on the corner of Sir John Rogerson's Quay and Benson Street), wherein the Tribunal acknowledged the difficulties of location at that end of Sir John Rogerson's Quay as distinct from those properties located closer to Grand Canal Square and that the Tribunal determined that a reduction was warranted in that case. In VA14/5/328, in which case the Tribunal considered the same building as part of an appeal against the Commissioner's decision under the same Dublin City Revaluation which is the subject matter of this appeal (i.e. a valuation date of 7 April 2011), the Tribunal also made an allowance for

adverse locational issues. The Tribunal also made an allowance for location in VA14/5/646 (IPUT), noting that the property in that case, the former Facebook building located in the Hanover Reach building on Hanover Quay was “adjoined by warehousing and vacant sites”.

7.7 In VA14/5/336 (AWAS Aviation Limited) the Tribunal noted that the subject property in that case was not as well located as the informers and comparisons and should not be valued at €260 per sq. metre (which the Tribunal acknowledged was the emerging tone) but that a NAV of €230 per sq. metre reflects the locational disadvantages of the property. This is a discount of approximately 11.5 %. In Mr. McCarthy’s view these three buildings, along with the subject building, are similarly circumstanced.

7.8 In relation to Quantum, Mr. McCarthy drew attention to property number 799420, ESB Fitzwilliam St. and property number 786926, AIB Merrion Road, where adjustments for Quantum of 10% were allowed and proffered the view that 5% would be appropriate in this case. He noted that a Quantum discount had been allowed by the Tribunal in VA/14/5/328 (the State Street revaluation case) although a specific discount was not mentioned. (This judgment, it is noted, is subject to a letter of dissatisfaction and a possible case stated although no grounds have been put forward to date).

7.9 In relation to car parking Mr. McCarthy noted the ratio of car parking to office space at 1.143 sq. m of lettable space and noted the superior ratios in the former Facebook building and the State Street building. He therefore was of the view that a reasonable adjustment for the lack of onsite car parking would be in the order of 2.5%.

7.10 In relation to “the emerging tone of the list” he noted that the majority of similar Third Generation office accommodation in the sector between Blood Stoney Road and Britain Quay where the subject property is located is currently valued at between €205 and €240 per sq. metre, several were under appeal, and therefore there was no emerging “tone”. He also considered “the emerging tone of the list” in the general docklands area and identified a general emerging tone of €240 in the IFSC and Barrow Street rising to €260 per sq metre in the Grand Canal Square area and the riverside properties to the west of the subject property

7.11 He then listed a number of determined or agreed NAVs in the immediate locality including the Fitzwilliam Business Centre at an agreed €230 per sq. metre, AWAS Aviation in Riverside

IV determined by the Tribunal at €230 per sq. metre and seven other cases in Hanover Reach determined by the Tribunal at €240 per sq. metre.

7.12 In support of his opinion that the market view of Grand Canal Plaza versus the Eastern end of Sir John Rogerson's Quay is markedly different he instanced two lettings from 2011, one in Grand Canal Square at €385 per sq. metre Headline Rent and the other the Blood Stone building on Sir John Rogerson's Quay adjacent to the subject at €249 per sq. metre, a difference of approximately 35%. Mr. McCarthy then set out his estimate of NAV as follows:

Ground to 6 th Floor offices - 11,995.64 sq. metres at €185 per sq. metre =	€2,219,193.4
Basement Store – 160.2 sq. metres at €75 per sq. metre =	€ 12,015
85 Car Spaces at €2,500 each =	<u>€ 212,500</u>
Total	€2,443,708
	Rounded to <u>€2,444,000</u>

He then proposed discounts as follows:

For locational issues, minus 7.5%; for quantum issues, minus 5%; and for car parking issues, minus 2.5%. These deductions reduced the NAV to €2,077,400.

He then took a further allowance for the additional Service Charge for the Grand Canal Dock area of €55,280 giving rise to a figure of €2,022,100 say, an NAV of €2,020,000.

7.13 In response to questions from Counsel for the Respondent, as to whether his figure of €185 per sq. metre implied that the subject property was the worst building in the area but Mr. McCarthy said that this value was based on market evidence in the area and accepted that this is a fine office building with all the necessary attributes.

7.14 He acknowledged that there are nine buildings with river or Grand Canal frontage and that the NAV of €260 applied to Riverside 1 & 2 and Grand Canal Square developments and acknowledged that six were valued at €260 per sq. metre. He acknowledged that the Tribunal in VA/11/3/013, the State Street revision, stated that the river frontage is a positive and that river frontages attract a premium rent. He accepted that the subject property at the valuation date more surrounded by developments than the State Street Property at that date

7.15 Mr Dodd put to Mr McCarthy paragraph 7 of the Tribunal judgement in the State Street revision, wherein it was stated as common case that street lighting and other public facilities did not at the relevant date extend beyond Benson Street and that that street effectively marked the end of the development drift towards Britain Quay. Mr. McCarthy acknowledged that State Street was beyond Benson Street (whereas the subject property was to the west of it) but emphasized that that case was a revision. He argued that in a revaluation case one should look at the general location which he said, at the time of the Valuation Date, contained a number of undeveloped sites including one to the rear of the subject property, opposite the entrance to its car park. He referred the Tribunal to photographs on page 17 and page 40 of his precis. 7.16 Mr McCarthy accepted that, unlike the State Street property, the subject property had no glazing issues.

7.17 He accepted that in VA/11/03/013 the Tribunal had had regard to the assessment on the Matheson Ormsby Prentice building (the subject of this judgement) and other buildings of similar size and quality.

7.18 In relation to quantum reductions for large buildings in this location he stated that the quantum reduction was built into the rent that a hypothetical tenant would pay but did not provide any direct market evidence of such quantum reduction. He accepted that the ESB Fitzwilliam and AIB Ballsbridge evidence related to NAVs and not market rents.

7.19 Mr McCarthy accepted that in VA/12/3/001 (a revision appeal on the Fitzwilliam Business Centre) a premium for water frontage had been acknowledged and noted an NAV of €230 per sq.m had been agreed on a later revaluation. He further acknowledged that the AWAS building had no water frontage and that it had an NAV of €230 but that he had applied €185 to the subject property based on market evidence

7.20 Mr McCarthy did not accept that his comparison number 2 on Spencer Dock on the North Side of the river, was not comparable. He said it was close to both PWC and the Conference Centre and had the benefit of amenities and was therefore quite relevant. He said that his comparison number 4 is situated where it had significantly better facilities in April 2011 than the subject property..

8. RESPONDENT'S CASE

8.1 Mr. Joseph Turley, having taken the oath, adopted his Précis, which had previously been exchanged and provided to the Tribunal, as his Evidence in Chief and also gave oral evidence.

8.2 He noted the location of the property, approximately 1.8 km east of O'Connell Bridge, occupying a prominent river front position with good public transport. He noted that it was now a well-established office location with a number of high-profile occupiers.

8.3 He noted that the property is a detached, 7 storey over basement office building with full glass exterior elevations and that it overlooked the River Liffey. He noted that it had frontage of 64 metres to Sir John Rogerson's Quay. He noted that the floor areas were agreed at 11,995.64 sq. metres of offices, 160.20 sq. metres of stores in the basement and 85 basement car parking spaces.

8.4 He noted the Lease terms commencing on the 11th of March 2007 for a term of 25 years
In assessing his estimate of the correct NAV, he relied on 5 key transactions as follows:

Address	Lease Date	NER at April 2011	NER per Sq m at April 2011	NAV	NAV per sq.m
Grand Canal Square -895 Sq m	18/09/2010	€ 279,255.61	€292 per Sq. Metre	€250,000	€ 279 per Sq. Metre
Hanover Reach- 991 Sq m	14/07/2010	€320,654.91	€300 per Sq. Metre	€259,000	€259 per Sq. Metre
Hanover Reach - 1,067 Sq m	01/02/2011	€360,511.63	€319 per Sq. Metre	€276,000	€259 per Sq. Metre
Barrow St. - 621.5 Sq m	18/08/2010	€150,452.03	€225 per Sq. Metre	€159,100	€256 per Sq. Metre
Grand Canal Plaza	09/04/2009	€266,102.78	€408 per Sq. Metre	€176,600	€293 per Sq. Metre

– 602.48 Sq
m

8.5 On the basis of evidence of equity and uniformity, he noted that there are 86 properties valued in the vicinity of the subject at €260 per Sq. m and 38 of those were appealed to the Commissioner of Valuation and the subject property is one of 16 that are under appeal to the Valuation Tribunal. He noted that these Appeals relate to specific issues of the individual properties rather than the general valuation levels applied.

8.6 He set out a table of NAV comparisons:

Occupier	Address	NAV per Sq m	Size in Sq m	NAV	Car Space
Ramford	2 Grand Canal Square	€260 p Sq m	6,914 Sq m	€1,890,000	€2,500 per sp.
PFPC International	Sir John Rogerson's Quay	€260 p Sq m	3,146.07 Sq m	€877,000	€2,500 per sp.
McCann Fitzgerald	Sir John Rogerson's Quay	€260 (Offices) per Sq. m €90 (Stores) per Sq. m	9,898.14 Sq m Offices 352.86 Sq m Stores	€2,745,000	€2,500 per sp.
Indeed Ireland Ltd.	Sir John Rogerson's Quay	€260 p Sq m	2,143.29 Sq m	€569,000	€2,500 per sp.
SEB Life International	Sir John Rogerson's Quay (Bloodstone Building)	€260 p Sq m	1,617 Sq m	€427,000	€2,500 per sp.

HSBC	Grand Canal	€260	4,163.9 Sq	€1,162,000	€2,500 per
Security	Square	(Offices) per	m Offices		sp.
Services		Sq m €90	198.4 Sq m		
Holdings		(Stores) per	Stores		
		Sq m			

8.7 Based on the Key Market Transactions and the table of NAV comparisons, he assessed the Valuation of the subject property at Tribunal stage at €3,345,000 calculated on the basis of 11,955.64 Sq m offices at €260 per Sq m, 160.20 stores at €90 per Sq m and 85 cars at €2,500 per space, total €3,345,784 but say €3,345,000.

8.8 In response to questions from Mr Dodd he stated that there was no market evidence of a reduction in rent for quantum; that the State Street property was at the furthest end of Sir John Rogerson's Quay; that the subject property is beside the Bloodstone building and an industrial building with the building housing AWAS to the rear; that river frontage attracted a premium rent that the hypothetical tenant would take into account; that the subject building had no glazing or lighting problems as existed in the State Street building; that an NAV of €260 per sq.m was established to the west of the subject property and that there was no basis for the appellants €185 per sq.m; that the subject property is better than the appellant's comparisons because of its frontage of 64m to the river; that the Tribunal decision in AWAS referred to lack of profile and overlooking an undeveloped site; that the Fitzwilliam business centre also lacked profile; that it would be inequitable when the Bloodstone building was assessed at €260 if a lower figure was applied to the subject.

8.9 In cross examination by Proinsias Ó'Maolchalain BL, Mr Turley said that that the original VO valuer in the case was Mr Tomas Cassidy and that he had only been appointed to act in this case at the Tribunal stage; that the Valuation was carried out in 2013 but by reference to 2011; that there were adverse conditions or problems in the market at the Valuation Date; that development had been completed around Grand Canal Dock, Marker Hotel, Bord Gáis Theatre etc. but that this was incomplete in the subject location at the Valuation Date.

8.10 Mr Ó'Maolchalain put to Mr. Turley and Mr Turley accepted that the rate of €260 per sq m had been approved by the Valuation Manager and at that time AWAS, Fitzwilliam Business

Centre, State Street Bank and Facebook were all at the same level but these NAVs had later been reduced by the Tribunal. He was nevertheless of the view that the Commissioner had achieved equity and uniformity on the relevant dates and that the Valuation of the subject property was fair and equitable.

8.11 He confirmed that none of the NAVs quoted by him as comparisons had been appealed but that there were a large number of Appeals and Valuation Tribunal decisions. In reference to the Appellant's table of comparisons including Tribunal decisions, he did not accept that equity and uniformity dictated that it would be unfair to the occupier of the subject property if there was no reduction. He said the Tribunal decisions set out the various specific reasons for reductions but none of these reasons applies to the subject. He noted that the building had originally been valued at €300 and that after representation reduced to €260. He stated that the key transactions or informers were identified prior to the issue of the original valuation. He accepted that his key market transaction No. 1 was smaller and in the heart of the Grand Canal Dock area, that his key market transaction No. 2 had Canal Basin frontage and was also smaller and that his key market transaction No. 3 had again the same attributes. His key market transaction No. 4, he accepted, was closer to the Dart service and his key market transaction No. 5 was smaller than the subject property.

8.12 In relation to his NAV comparisons, he did not accept that they were all better located or more prominent than the subject and in reference to McCann Fitzgerald (his comparison 2) he said it does not have the same length of river frontage but did accept that it has dual frontage.

8.13 He accepted that his NAV comparison 4, Indeed Ireland Ltd, was in the same building as the AWAS accommodation which was smaller and determined by the Tribunal at €230 per sq.m and therefore €230 on Indeed was a possibility.

8.14 In relation to questions on other locations Mr Turley placed great emphasis on the profile of the subject property. He accepted that profile and location were different and that the hypothetical tenant would place a certain amount of weight on each.

8.15 He accepted that locational issues had been acknowledged by the Tribunal in relation to the 2011 State Street revision appeal VA 11/3/013

8.16 In relation to the 2013 Revaluation, he acknowledged that the Commissioner had valued both Matheson's and State Street at the same €260 per sq m but that the Valuation Tribunal had reduced the State Street valuation as it was affected by its own problems, specifically the glazing difficulties, as well as locational issues including the adjacent vacant 1.9 hectare site at the Valuation date but that the Matheson building was not so affected. He did not accept that the Matheson building was in the same adverse location as State Street, which property he said was on the eastern periphery, and that the area the subject property was in did not have the same low level of activity that would cause, for example, problems for staff leaving late in the evening.

8.17 In regard to quantum, it was put to Mr Turley that in the most recent decision on State Street (the revaluation appeal, VA14/5/328), an allowance for quantum had been made. Mr Turley acknowledged this but said he would also look at the revision decision on the same property where no such allowance was made. Mr Turley also noted in his contributions that there was no market evidence for a quantum adjustment and referred to McCann Fitzgerald Solicitors at 37-40 Sir John Rogerson's Quay (his NAV comparison 3) which was of similar size to the subject (at 10,251 sq metres) and was assessed at €260 per sq metre without any quantum allowance having been made and which assessment was not appealed.

8.18 On re-examination by Mr. Dodd Mr Turley stated that there are waterfront apartments to the left of the Facebook building.

9. SUBMISSIONS

9.1 Prionsias O'Maolachain BL for the appellant:

Mr O'Maolachain said that Section 19 of the Act requires individual valuations for each property. He drew attention to Section 63 of the Act and to the Marks and Spencer case as referred to in the decision of O'Malley J. in the Commissioner for Valuation v Carlton Hotel Dublin Airport Limited [2016] 2 I.R. 385. He said that valuations of adjoining properties are on the list and it is now fair to say that there is an emerging tone of the list in this location but that the Tribunal in its various decisions had drawn nuances and assessed different properties at different levels.

9.2 He noted that Fitzwilliam Business Centre, AWAS, State Street and the former Facebook property and others are all part of a bundle of properties in this location determined by the Tribunal and it was therefore appropriate for the Tribunal to be influenced by them. He said we had heard evidence that because of the profile of the subject property and its specific location that none of these decisions should influence the Tribunal but that this was not, in his view, tenable or credible. He said that IPUT, AWAS and the other valuations. should be a guide. Originally all were assessed the same at €300 per sq.m. reduced at representation to €260 but the Tribunal has taken a different view and fixed them in the range of €205 to €230/€240.

9.3 In relation to Quantum he was seeking an allowance of 5% in this instance not 10% as in the ESB case. In relation to parking he noted that the Tenant has had to hire off street car parking at remote locations and thus the parking in the building must be deemed inadequate.

9.4 He stated that in fairness and equity the Tribunal cannot leave the valuation unchanged if it is not correct. The subject property is not immune to locational issues.

9.5 Mr. Dodd, BL for the Respondent:

He brought the Tribunal's attention to the judgment of Mr Justice Garrett Simons in the Plannet 21 communications case (ab 6, page 37, paragraph 109 of the Respondent's Book of Authorities) which stated that the Tribunal had in that case failed to comply with its statutory duty to set forth reasons for its determination. He asked on what basis can the Tribunal determine that the €260 per metre sq. is not supported by the rental evidence. He also drew attention to the High Court decision of Ms. Justice Murphy in Marie Boland case and the necessity for the Tribunal to base its decisions on the evidence and give reasons.

9.6 In relation to the Quantum issue he drew attention to the Tribunal decisions in the Gianluca Cedrone case, VA/06/4/002, and Lease Plan Fleet Management case, VA04/3/026, both of which found that to substantiate an allowance for Quantum, the party claiming it must adduce market rental evidence in the area.

9.7 Mr Dodd argued that in State Street the Tribunal had accepted €260 per sq metre as the emerging tone for premium properties and then made a deduction to reflect glazing issues,

proximity of development sites, and the lack of services and public lighting on the eastern side of Benson Street. He said that the subject property has none of these difficulties. The norm, said Mr Dodd, is €260 per sq m and if the norm was to be departed from, evidence must be given as to why. If for instance it was reduced to €240 then AWAS would be wrong and also Fitzwilliam Business Centre. No evidence has been given/offered to take this Valuation out of the standard valuation level. €260, he said, is based on good market rental evidence and there is even market evidence at €300 per sq m.

9.8 In response, Mr. O' Maolchalain noted that in the State Street case quantum is mentioned and other issues were also affecting the figure. There is an emerging tone now, he said, and it was incorrect to say the Tribunal should only look at market evidence. He argued that previously determined NAVs, deemed to be correct under Section 63 of the Act, must be taken into account.

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 Dublin City Council.

10.2 The Tribunal finds that this is a top-quality office building comparable with the best office buildings in the wider area and as a building suffers no disadvantages.

10.3 The Tribunal finds some difficulty with the Key Rental Transactions presented by the Commissioner in that they all relate to accommodation only a fraction of the size of the subject property and are therefore not truly comparable. The subject property is approximately 12,000 Sq m whereas the list of Key Transactions ranges from 602-1,067 Sq. m The Tribunal notes the list of Net Effective Rents provided by the appellant.

10.4 It is clear from the evidence that at the Valuation Date in 2011 there were locational issues in relation to the Eastern end of Sir John Rogerson's Quay. We note the numerous Valuations based on €260 per Sq m, but also note the Facebook Valuation at €240 per Sq m and AWAS at €230 per Sq m, both Tribunal decisions based on evidence in relation to the location. At the valuation date this building was better located than the State Street building, being further away

from the undeveloped areas, and better protected from the view of undeveloped sites because of the presence of the Bloodstone Building on the Sir John Rogerson's Quay frontage and running along Bloodstone Road, the AWAS Building to the rear and the Fitzwilliam Business Centre, also on the Sir John Rogerson's Quay frontage, to the immediate east. However, that does not fully protect the property from the generally under-developed nature of the area at the Valuation Date and the anti-social behaviour that can occur and we therefore must make some allowance for that.

10.5 The buildings that are probably most comparable with the subject property are Riverside I and Riverside II, both valued at €260 per Sq m. The Tribunal has no negative view of the building or its profile to Sir John Rogerson's Quay and the river but concludes that the location of the subject property as at the Valuation date, being further eastwards down the quay and closer to the less developed areas, was not as established as at Riverside I and II and therefore some reduction in the level of €260 per Sq m is appropriate. These comments apply also to the relativity with properties on Grand Canal Square which, at that time, was also completed in development terms.

10.6 No convincing evidence was presented justifying any reduction for quantum or car parking issues.

10.7 The additional service charges applicable to the Grand Canal Dock area presumably applies to all developments in the area and therefore no reduction should be applied for it.

11. DETERMINATION

Accordingly, for the above reasons the Tribunal allows the Appeal and reduces the Net annual Value to €3,215,000 and this is calculated as follows:

Offices: 1st to 7th Floors – 11,955.64 Sq. m @ €250 per sq m (to reflect the somewhat inferior location at the Valuation date, in comparison with properties valued at €260 per Sq. m)

€2,988,910

Basement Stores: 160.2 metres Sq. @ €90 per Sq. m € 14,418

85 Car Parking Spaces @ €2,500 each € 212,500

Total

€3,215,829

Say €3,215,000

And the Tribunal so determines.