

Appeal No. VA09/3/025

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

**Miele**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 5002049, Office at 2024 Bianconi Avenue, Citywest Business Campus,  
County Dublin.

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**James Browne - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 22ND DAY OF JANUARY, 2010**

By Notice of Appeal dated the 30th day of July, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €344,000 on the above-described relevant property.

The Grounds of Appeal are in a letter attached to the Notice of Appeal, a copy of which is attached at Appendix 1 to this judgment

1. The appeal proceeded by the way of an oral hearing held in offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 11<sup>th</sup> day of November 2009.
2. At the oral hearing the appellant was represented by Mr. Brian Bagnall, ARICS, ASCS, FAIVI, a Director of Brian Bagnall & Associates. Mr. Francis Twomey, a Valuer in the Valuation Office appeared on behalf of the respondent, the Commissioner of Valuation.
3. Prior to the oral hearing each valuer submitted and exchanged their précis of evidence which were subsequently received into evidence under oath at the oral hearing. At the hearing the valuers gave additional oral evidence and were subjected to examination on the evidence so tendered.
4. From the evidence so tendered the following material facts were agreed or are so found:
  - a. The property which is the subject of this appeal forms part of the premises previously occupied by MJ Flood and is located within the Citywest Business Campus on the southside of the Naas Road about nine miles from the city centre.
  - b. The MJ Flood premises comprised a distribution warehouse, showroom and office accommodation. The design of the premises was such that the office accommodation was contained in a two-storey structure linked to the warehouse. The entire premises are accessed from the Citywest Campus, occupy a prominent location and have a high profile to the Naas Road dual carriageway.
  - c. As part of the South Dublin revaluation the MJ Flood premises were valued as a single unit occupation at a net annual value of €473,000 calculated as set out below:

Offices:	1,947 sq. metres	@ €107.60 per sq. metre	= €209,497
Warehouse:	2,367 sq. metres	@ €107.60 per sq. metre	= €254,689
Mezzanine floor:	433 sq. metres	@ € 22.00 per sq metre	= € 9,526
Total			= €473,712
NAV Say = €473,000			

Note: the areas quoted above have been measured on a gross external area basis.

- d. It is common case that when valuing warehouse premises at revaluation it was the accepted practice of the Valuation Office to value the office accommodation and storage space at a uniformed rate per sq. metre. In pursuing this practice no allowance was made to reflect the percentage of space dedicated to office use.
- e. In recent times MJ Flood relocated their business elsewhere and in due course the premises were offered to let on the open-market. A tenant was obtained for the two-storey office accommodation whilst the warehouse remains unoccupied.
- f. The office accommodation is now occupied under a 25 year lease from the 2<sup>nd</sup> of May, 2008 at an initial yearly rent of €410,000 per annum. The lease provides for rent reviews at five-yearly intervals and contains a break clause at the end of the tenth year.
- g. Following the letting of the office accommodation the owners requested a revision of valuation under section 27 of the Valuation Act, 2001 to reflect the fact that the premises as valued now consists of two separate units of occupation - the office accommodation occupied by Miele and the warehouse accommodation which was vacant and to let. The revision carried out in accordance with section 28 of the Valuation Act resulted in the following outcome: A) Offices (occupied by Miele) net annual value €344,000, Warehouse vacant €264,000.
- h. An appeal against the valuation of the office building was lodged under section 30 of the Valuation Act, 2001. No appeal was lodged against the Valuation of the warehouse building.
- i. No change to the valuation as determined was made on foot of an appeal to the Commissioner of Valuation and in due course the appellant lodged an appeal to this Tribunal under section 34 of the Valuation Act.

### **The Appellant's Contention**

- 5. It is the appellant's contention that the only alteration to the property concerned as valued at revaluation is the physical separation of the warehouse and office accommodation. In such circumstances, the existing valuation of €473,000 should have been apportioned as follows:

Offices (Miele):       €209,000  
 Warehouse:            €264,000

In Mr. Bagnall's précis he valued the offices at €195,000, but in the course of the hearing he amended this figure because of a mis-measurement. In Mr. Bagnall's opinion the valuation of €473,000 was representative of the tone of the list for a premises of a type and scale as those originally occupied by MJ Flood. The fact that the premises were subdivided did not warrant upward valuation in the magnitude contended for by the Valuation Office.

6. In his evidence Mr. Bagnall made reference to a premises in Greenogue Industrial Estate comprising of a warehouse with a two-storey office section. At revaluation the upper floor of the office accommodation was vacant and valued separately at €45 per sq. metre. Following an unsuccessful first appeal, the matter was referred to the Valuation Tribunal, but ultimately settled at a net annual value of €4,230, which is the equivalent to €25 per sq. metre on a gross internal area basis, or €18 per sq. metre on a gross external basis. In this instance the office accommodation at ground level and the warehouse were valued at a uniform level of €10 per sq. metres.

### **Respondent's Contention**

7. The respondent's contention is that the premises were originally occupied as a single unit of occupation and valued as a detached warehouse facility with ancillary office and showroom accommodation. In accordance with the scheme of valuation for revaluation purposes, all of the accommodation, irrespective of their use, were valued at a single uniform rate per sq. metre.
8. At revision it was found that the premises now consisted of two separate units of occupation and had to be valued accordingly. In such circumstances each unit of occupation had to be independently assessed in accordance with the facts, having regard to section 49(1) of Valuation Act, 2001. In other words, the valuation of the offices occupied by the appellant were to be valued "*by reference to the values, as appearing on the valuation list relating to the same rating authority areas as that property is situate in, of other property's comparable to that property*" i.e. other offices.

9. On this basis, the valuation of the office accommodation occupied by the appellant was assessed at €344,000 calculated as follows:

Offices: 1,812 sq. metres @ €190 per sq. metre = €344,280  
 NAV Say = €344,000

Notes:

1. The area has been calculated on a gross internal area.
  2. On the basis of the gross internal area as originally used of 1,947 sq. metres, the net annual value of €344,000 is equivalent to €176.68 per sq. metre.
10. In support of his opinion of net annual value, Mr. Twomey introduced three comparisons, details of which are to be found in Appendix 2 attached to this judgment.

## **Findings**

The Tribunal has carefully considered all the evidence and arguments adduced at this hearing and finds as follows:

1. It is common case that the premises occupied by MJ Flood at revaluation consisted of a warehouse with ancillary office and showroom accommodation. In line with the scheme of valuation for such premises, all the accommodation was valued at a uniform rate per sq. metre.
2. It is common case that the only change to the premises as valued at revaluation is the physical separation of the warehouse and office accommodation so as to provide two separate units of occupation. Such a change falls within the definition of “a material change of circumstances” and hence, the Revision Officer was correct to value the relevant property as two properties. It also follows that each of the two individual properties be independently valued in accordance with section 49(1) of Valuation Act, 2001 and this was what the Revision Officer quite correctly did.
3. It is common case that the property which is the subject of this appeal provides high quality office accommodation at two levels with raised floors, suspended ceilings, lift and air-conditioning. In accordance with section 49(1) of Valuation Act, 2001 the valuation of the property concerned is to be determined “*by reference to the values, as appearing on the*

*valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property”.*

4. In the Tribunal’s opinion, the proposition put forward by Mr. Bagnall that the existing valuation of €473,000 be apportioned between the two entities by reference to the area of each section is not sustainable, having regard to the fact that each entity falls into a different use category.
5. In support of his opinion of net annual value, Mr. Twomey introduced three comparisons. Comparison No. 1 is similar in some respects to the property concerned in that it, too, is a two-storey office attached to a warehouse building. However, insofar as the area of this property is less than 16% of the area of the subject, the comparison is of limited assistance. Comparisons No. 2 and 3 comprise the first and second floors of a purpose-built, three-story office building, each having an area of 625 sq. metres and located within the National Digital Park section of the Citywest development. Neither of these is truly comparable with the property concerned, which comprises two-storey office accommodation which is attached to, and shares a common entrance and site with, a warehouse building. This, together with the area of the property concerned relative to the comparisons, are factors to be taken into account in arriving at the valuation of the property in accordance with section 49(1) of Valuation Act, 2001.

### **Determination**

Having regard to the above, the Tribunal determines the rateable valuation of the property concerned to be as follows, in accordance with section 49(1):

Offices:	1,812 sq. metres	@ €160 per sq. metre	= €289,920
NAV Say			= €290,000

And the Tribunal so determines.