

Appeal No. VA11/5/046

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

Pharwell Holdings

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2196479, Office at Unit 2, Grange Road Retail Centre, Rathfarnham, County Dublin.

B E F O R E

John O'Donnell - Senior Counsel

Chairperson

Patrick Riney - FSCSI, FRICS, ACI Arb

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF JANUARY, 2012

The Notice of Appeal dated the 6th July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €19,400 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:

"The valuation is excessive having regard to the letting values of similar properties at the valuation date".

1. The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay, Dublin 7, on the 28th day of September, 2011. At the hearing the appellant was represented by Mr. Michael Doyle MRICS, MSCS, ACI Arb of Brian Bagnall & Associates. The respondent was represented by Mr. Neil Corkery BSc, ASCSI, a Valuer in the Valuation Office. Both parties having taken the oath adopted their respective précis which had previously been received by the Tribunal as their evidence-in-chief. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal.

At Issue

2. Quantum
3. Prior to commencement of evidence the appellant indicated that there had been a transcription error in his précis of evidence and that the area now agreed for the office space in question was 69.3 sq. metres. He was thus now contending for an NAV of €15,939 (say €15,900) equating to a rate of €230 per sq. metre. The respondent's proposed NAV of €19,400 remained unchanged.

The Appellant's Evidence

4. Mr. Doyle gave evidence on behalf of the appellant. He adopted his précis, save that he wished to withdraw the second comparator set out at page 5 of his précis (being a reference to Unit E4 and E5 of the Nutgrove Office Park Development).
5. Mr. Doyle said the subject premises are located on Grange Road, Rathfarnham, opposite Marley Park at the junction with Stone Mason's Way. The surrounding area is predominantly residential. Stone Mason's Way connects Grange Road to Nutgrove Avenue. However, the commercial hub for the general area is located at the far end of this road, comprising of Nutgrove Shopping Centre, Nutgrove Retail Park and Nutgrove Office Park. Nutgrove Shopping Centre is anchored by Tesco, has 70 plus unit shops and a large free car park. Nutgrove Retail Park directly across the road is anchored by Homebase and Aldi, with modern office space above. Nutgrove Office Park adjoins the two schemes.

6. Mr. Doyle identified various photographs of the unit in question which was in the office space above a stand-alone development which housed Lidl, a convenience store, as well as a number of unit shops, and the twelve offices (of which the subject property was one) overhead. There was one entrance to the offices which was between Lidl and the convenience store. In his view there was a somewhat “industrial” feel and the office was somewhat “boxy”. The office was accessed by one door which gave on to a long corridor off which corridor were the various unit offices. He indicated there was no designated parking, though office users were entitled to share the Lidl car park with Lidl patrons.
7. Mr. Doyle drew our attention to various comparators. He referred to Unit 8 which was in the Nutgrove Retail Park above the Aldi premises. It was less than a mile away. In his view, the specification was higher than the subject property, both externally and internally. It was also in a better location. He noted that it had originally been valued at a rate per sq. metre of €280 but that this had been reduced to €260 following representation. Unit B2 in the Nutgrove Office Park had likewise been revised from €280 to €260 per sq. metre but this was subject to appeal to the Tribunal. The Letting Agreement and 25 year lease from February 2007 indicated an effective rent of €166.35 per sq. metre.
8. Unit A1 in the Nutgrove Office Park was likewise currently valued at €260 per sq. metre, though the rent from the lease which commenced in July 2006 gave rise to an effective rate of €224.16 per sq. metre.
9. Mr. Doyle also drew our attention to two units in Sandyford Business Park, both of which were offices valued at a rate of €280 per sq. metre. These were purpose-built offices and in his view far more prestigious with a far more corporate feel than the subject property. In addition, there are a number of blue chip occupiers, such as Microsoft, NTR and Mars Ireland in what he described as an established corporate office location. He acknowledged Sandyford was further out of town than Grange Road but in his view it was still superior and had a far broader market appeal.

10. He also referred us to Unit 9 in the Hyde Building in The Park in Carrickmines. This was on the junction of the M50 and had a LUAS extension nearby. This unit was rated at €240 per sq. metre.
11. In his view, the properties in Sandyford and the Nutgrove sector were in superior locations, yet were attracting NAVs in excess of or equivalent to the proposed NAV for the subject property and in his view it was wrong of the respondent to suggest the proposed NAV for the subject property.
12. In cross-examination he acknowledged the Grange Road offices (including the subject property) had raised floors and were “third generation” offices. He did not think the offices immediately adjacent to the subject property were the best comparators and indicated that he had looked at other units off-site but had compared them by size so they were, in his view, valid comparisons.
13. In his view some of the rents agreed in relation to the units adjacent to the subject property were too high, having been agreed in 2008. Indeed they transpired to be unsustainably high for at least two tenants who were forced for economic reasons to cease trading. He accepted that the subject property was not too far from the M50.
14. In answer to the Tribunal he indicated that while it would be possible to put some signage at the front of the building, the options available to prospective tenants were somewhat limited in this regard. He noted the only access was the front door shown in the photographs sandwiched between Lidl and the convenience store which he said was somewhat “non-descript”.

The Respondent’s Evidence

15. On behalf of the respondent, Mr. Corkery adopted his précis as his evidence-in-chief. He indicated by way of amplification of the valuation history of the subject property that initially the property had been valued together with a car park space; however following representations it was clear the car park space could not be included and so it was removed from the valuation. At that stage the property was being valued at a rate of €300 per sq. metre. However, following appeal it was reduced again from €300 to €280 per sq. metre.

16. Mr. Corkery referred us to Units 3, 1 and Unit 6/7 within the same corridor as the subject property. All were operating on a rate fixed by reference to leases which had been undertaken by the various occupiers in June, July and May 2008 respectively. All twelve units had been valued at a rate of €280 per sq. metre. Representations had been made in respect of Unit 1 and Unit 6/7, as a result of which the RVs had been lowered to their current level, an NAV of €280 per sq. metre.
17. On cross-examination he agreed that the area in which the subject property was located was primarily retail rather than office space. He did not agree that the property would have less market appeal than the Sandyford development and indicated it had the same services included within it as Sandyford and was built in 2007. He did not accept the location as being a secondary or tertiary location, as it was located with access on to a main road. He agreed, however, that the location was predominantly residential and that the commercial hub was at the Nutgrove end, rather than within the subject property's immediate vicinity.
18. He accepted that the rents upon which he relied were probably set at the top of the market but the inability of the occupiers to pay those rents was not a matter for the respondent. He accepted that the rents fixed in relation to the Nutgrove properties were nearer to the valuation date of the 30th September 2005 but did not necessarily accept that they were more reliable. He accepted that there was in general an element of speculation involved in the process of attempting to place oneself back in September 2005 to value a property with the knowledge which all concerned now have in September 2011.
19. He agreed that the Sandyford location had largely achieved a "tone" of €280 per sq. metre, though he contended some persons would argue Sandyford was an industrial location and that therefore the offices should be regarded as having achieved a relatively low value. In his view, the subject property had been valued according to rents achievable at the time of the valuation date. He agreed that the Nutgrove offices had been reduced from €280 to €260 per sq. metre and were less than a mile away from the subject property. However, some of the units in Nutgrove were of different sizes. He clarified that in respect of his first comparator (Unit 3 within the same

development as the subject property) there had been no representations but that all units in the same building as the subject property had been reduced from €300 to €280 per sq. metre and he was not aware of any designated car park space being included. He agreed that in respect of his comparator No. 2 (Unit 1) the rent had been abated at €10,000 per annum with effect from 2010.

20. Both sides made brief closing submissions.

The Law

21. The law requires the property to be valued by estimating the net annual value of the property which means the rent for which one year with another the property might in its actual state reasonably be expected to be let from year to year (Section 48).
22. We note it is suggested by Mr. Doyle, and agreed by Mr. Corkery, that the commercial hub is located at the Nutgrove area rather than up at the Grange Road end where the subject property is located. It seems to us this means the Nutgrove Office and Retail Parks are probably more attractive localities than the Grange Road Retail Centre. We would also incline to the view that the Sandyford Centre is perhaps further ahead again as a choice of location.
23. We are concerned also that a hypothetical tenant might be put off by the internal layout of the various units and in particular by the access to same which is not only restricted but somewhat unprepossessing and “non-descript”, to use Mr. Doyle’s phrase.
24. Mr. Corkery has quite properly drawn our attention to the rental figures available in adjoining units and obviously this is usually of assistance. However, it does appear to us that these rents were set at close to, if not at, the height of the market. Mr. Corkery quite rightly observes that there is an element of speculation anyway in the process of trying to put ourselves back in to a position of a hypothetical tenant in September 2005 and thereby ignoring all that has transpired since. Nevertheless, this is the legal obligation of the respondent – and, on appeal, of this Tribunal - in attempting to value the premises in question.

25. It seems to us on balance that the figure of €280 per sq. metre is somewhat high. We note Mr. Doyle's contention that the appropriate valuation is a figure of €230 per sq. metre but this is undoubtedly too low. In our view the rate struck in respect of the Nutgrove Retail and Office Park of €260 are of some assistance, though it does appear to us that the location of the subject property is perhaps slightly inferior to the Nutgrove properties.

26. In the circumstances we feel the appropriate way to resolve this issue is to apply a discount of approximately 10% off the rate currently applicable of €280, giving a rate of €252 (say €250) per sq. metre. So far as this figure also reflects the fact that the subject property's location is slightly inferior to the Nutgrove Offices location, it seems to us this is an appropriate course to take. Having regard to the fact that the rents agreed in relation to the other units adjacent to the subject property, as adduced in evidence by the Respondent, were agreed midway through 2008, they are in our view of extremely limited assistance in attempting to evaluate the NAV for 30th September 2005 which is the valuation date.

Determination

27. The Tribunal determines the NAV per sq. metre should be reduced to €250 per sq. metre, giving a total NAV of €17,325 (say €17,300).

And the Tribunal so determines.