

Appeal No. VA11/5/104

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

Henry P Sheridan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2173020, Office (Office Park), Block 2 (Ground Floor), Aspen Court, Old Bray Road, Cornelscourt Village, County Dublin

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Mairead Hughes - Hotelier

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF JANUARY, 2012

By Notice of Appeal dated the 28th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €32,900 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal and cover letters are attached at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 17th day of November 2011. At the hearing the appellant was represented by Mr Paul Sheridan, chartered accountant. The respondent was represented by Mr Paul Ogbebor BEng (Hons) Civil Engineering, 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 the facts relevant and material to the appeal.

Issue

Quantum

Valuation History

A valuation certificate (proposed) was issued on 15th June, 2010 with a rateable valuation (RV) of €32,900. After representations were lodged to the Commissioner of Valuation on the 8th July, 2010, the valuation issued unchanged. An appeal was lodged to the Commissioner of Valuation on the 14th January, 2011 after which the valuation issued unchanged. The appellant appealed the decision to the Valuation Tribunal by Notice of Appeal on the 29th July, 2011.

The Property

The subject property comprises a ground floor office unit in a purpose-built pavilion type own door office development comprising four separate office blocks of three floors each, with basement car park. The subject property is located in an established residential and commercial suburb off the N11 at Cornelscourt on the west side of the main Dublin to Wexford Road known as the Stillorgan dual carriageway and approximately eight kilometres from Dublin City. The subject property is known as Block 2, Aspen Court, Old Bray Road, Cornelscourt Village, Dublin 18.

Accommodation

The agreed accommodation of the subject property of 76.08 sq. metres is measured on a net internal area (NIA) basis (as set out at page 5 of the respondent's précis) with two car spaces.

Tenure

Leasehold for a term of four years agreed from February 2010 at a commencement rent of €21,000.00 per annum with a two year break option.

Appellant's Case

Mr Paul Sheridan took the oath, adopted his précis as his evidence-in-chief and then provided the Tribunal with a review of his submission, making the following points:-

He began by pointing out to the Tribunal that the Valuation Office had grossly overstated the valuation applied to the subject property and that it was inconceivable that a small office space of 76 sq. metres in a suburban location should command a rental valuation of €32,900. He pointed out that this valuation does not reflect the Valuation Office literature, where it states that *“the purpose of a revaluation is to bring more equity and fairness to the local authority rating system. Following a revaluation there will be a much closer and uniform relationship between the rental values of properties and their commercial rates liability”* and also clearly states that *“the valuation of a property is based on its annual rental value at the date of valuation.”* He stated that the valuation applied to the subject property runs contrary to the above stated goals of the Valuation Office and is neither equitable nor fair.

Mr. Sheridan stated that the actual rental level earned by the subject property at the valuation date in September 2005 was €25,965 which included car parking for two cars representing the market rent achieved on an open market basis. In response to the chairman he confirmed that his father owned both block 2 and block 4 of this development, that the first floor of block 2 was let at the same rent as the subject property and that block 4 was also let at the same rent. Mr. Sheridan said his comparisons show that there are clear grounds for a lower valuation and he would contend that a valuation of €21,500 represents the mid-point of the valuations of his comparable properties identified which he would deem to be a fair and equitable valuation. He referred to the fact that the Valuation Office has applied a rental valuation 27% higher than the actual rental level at the relevant valuation date. The three main issues to be considered by the Tribunal as set out by Mr. Sheridan were: first, the fact that actual rent levels at the date of valuation were significantly lower than those proposed by the Valuation Office; second, the comparisons used by the Valuation Office to justify its

valuation; and third, his own selected comparisons. He stated that he had failed to get helpful information (such as floor areas) to assist him from the Valuation Office. He went to a considerable amount of trouble walking and driving around to identify properties of similar size, location and set-up. He was concerned that the Valuation Office adopted what he referred to as “circular justification”, that is, once a value is applied to a property in a particular location, it is then taken as acceptable to apply it to properties at or near the same location. He added that his four comparisons selected, though not in the immediate vicinity of the subject property, did in his view provide a fair comparative analysis of similar like-for-like properties to the subject property. Details of Mr. Sheridan’s four comparisons are at Appendix 2 hereto attached.

Cross-examination

Mr. Sheridan in reply to Mr. Ogbebor confirmed that the appellant was the owner of blocks 2 and 4 of this development, that block 4 has three office floors and three separate tenants and that the appellant had accepted the valuation set by the Valuation Office at €400 per sq. metre for the ground floor office measured on an NIA basis with one car space. He said that the total overall valuation was in line with the rent but did not necessarily accept the €400 per sq. metre valuation. He acknowledged that no appeal was lodged against this valuation. He further accepted that Mr. Ogbebor in this appeal had given full assistance and cooperation and had been helpful throughout in his dealing with the appellant.

Respondent’s Case

Mr. Ogbebor then took the oath, adopted his précis as being his evidence-in-chief and addressed the rateable valuation of the subject property with agreed areas as follows:

Ground floor office	76.08 sq. metres (NIA) valued @ €400 per sq. metre	= €30,432
Basement	2 parking spaces	valued @ €1,250 per space = <u>€2,500</u>
	Total	= €32,932

Valuation Office estimate of NAV (rounded to) €32,900

Mr. Ogbebor stated that the valuation adopted by the Commissioner of Valuation of €32,932 was in line with his comparisons, that the subject property was part of a purpose-built pavilion type development, comprising four similar separate office blocks and that each block

consisted of three floors. The construction is of concrete block and red brick outer leaf with an attractive glazed elevation. The level per square metre applied reflects the tone of the list as all his comparisons show and demonstrate. He stated that all factors have been considered to ensure that this property is valued fairly according to its size, location and condition. Mr. Ogbebor was unable to assist the chairman's question as to how the appellant's four comparisons were calculated and valued. He was asked by the chairman to send to the Tribunal the valuation of the four properties, to include the areas and their value per square metre, purely for information purposes in order to be more helpful to the Tribunal. Mr. Ogbebor stated that his comparisons are like for like and that the valuation levels were derived from the analysis of similar type property in the immediate adjoining blocks none of which was the subject of an appeal. Details of Mr. Ogbebor's three comparisons are at Appendix 3 hereto attached.

Cross-examination

In reply to Mr Sheridan, Ms Ogbebor said he believed his assessment was fair and equitable and that one should not have varied values for similar type properties. He stated that he gave every assistance and information sought from the appellant when dealing with this appeal.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and finds as follows:

1. This appeal is against the valuation made by the Commissioner of Valuation in respect of the property concerned as part of the revaluation of property in the Dún Laoghaire Rathdown rating authority area. The valuation of each property was proposed on the basis set down in section 48 of the Valuation Act, 2001 which states as follows:

“48.—(1) 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. (2) Subsection (1) is without prejudice to section 49. (3) 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 expected to let from

year to year, on the assumption that the probable average 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 and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant.”

The specified valuation date for the revaluation in accordance with section 20 of the Act is 30th September, 2005.

2. In accordance with rating law and valuation the onus of proving that the valuation as adduced by the Commissioner is incorrect lies with the appellant.
3. In his evidence Mr. Sheridan alluded to the fact that it was difficult for an appellant to assemble all its facts in relation to comparable properties and that this placed an appellant at some disadvantage. That said, however, Mr. Sheridan went on to say that Mr. Ogbebor was at all times cooperative, courteous and helpful to him during the course of the appeal.
4. In evidence Mr. Sheridan contended that the valuation of the ground floor unit in Block 1 included a premium to reflect the advantage of a profile onto the old Bray Road. The Tribunal accepts Mr. Ogbebor's evidence that all units at ground floor level are valued at a uniform level of €400 per sq. metre regardless of position within the overall scheme.
5. The Tribunal has carefully considered all the details of the comparisons introduced by both parties and has come to the conclusion that the €400 per sq. metre applied to the ground floor units at Aspen Court and which were measured on an NIA basis is fair and reasonable and supported by rental evidence prevailing at or about the relevant valuation date, i.e. 30th September, 2005. The Tribunal finds support in the fact that this is the only appeal against any of the assessments made in respect of the various units at all levels in the Aspen Court development. It is also noted that the appellant who owns Block 4 (respondent's comparison no. 2) made no appeal against the ground floor unit in that block which was also valued at €400 per sq. metre.

6. It should be said that Mr. Paul Sheridan who appeared on behalf of the appellant presented his evidence and submission in a most detailed manner. The Tribunal acknowledges the difficulties which appellants, particularly those who chose not to retain rating valuation consultants, may experience in assembling all the necessary relevant facts in relation to properties which are similar to the property which is the subject of the appeal. Nonetheless, Mr. Sheridan in this instance provided the Tribunal with a body of evidence but despite his efforts the evidence so presented was not of sufficient weight to warrant a reduction in the valuation of the property concerned as decided by the Commissioner.

Determination

Accordingly, therefore, the Tribunal affirms the valuation of €32,900.

And the Tribunal so determines.