

Appeal No. VA11/5/212

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

Bank of Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2195197, Retail (Shops) at Kill Avenue, Deansgrange, County Dublin.

B E F O R E

John F Kerr - BBS, FSCSI, FRICS, ACI Arb

Deputy Chairperson

Michael Connellan Jr - Solicitor

Member

Thomas Collins - PC, FIPAV, NAEA, MCEI, CFO

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF FEBRUARY, 2012

By Notice of Appeal received on the 30th day of August, 2011 the appellant appealed against the determination of the Commission of Valuation in fixing a valuation of €161,100 on the above described relevant property.

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

"The levels per sqm being applied to the property is excessive, when considering the best comparable evidence."

The appeal proceeded by way of an oral hearing, which took place at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 31st day of January 2012. The appellant was represented by Mr. Aidan Reynolds, MSCSI, MRICS., Associate, Savills, Molesworth Street, Dublin 2 and the respondent by Mr. Paul Ogbebor BEng (Hons) Civil Engineering, Valuer in the Valuation Office.

In accordance with the rules of the tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence in chief. This evidence was supplemented by additional evidence given directly and via cross-examination. From the evidence presented, the following emerged as being the facts relevant and material to this appeal.

The Property

The subject property is a modern two story building. The ground floor consists of a banking hall, offices and storage. The first floor is comprised of office accommodation and staff facilities. There is a double height entrance to the property on Kill Lane.

The property has mainly carpeted and tiled floors, suspended ceilings with recessed lighting, air conditioning and plastered and painted walls. A lift serves the first floor.

There is an underground car park which is owned by, and shared with the adjoining Lidl Supermarket.

Location

The subject property is located at the junction of Kill Lane and Clonkeen Road, Deansgrange, Dublin 18.

Tenure

The subject relevant property is understood to be held freehold by Bank of Ireland PLC.

Floor Areas

The agreed floor areas measured on a net internal area (NIA) basis, are as follows:

| Level | Use | Area sq. metres |
|-----------|--------------|-----------------|
| 0 | Banking Hall | 294.51 |
| 0 | Store | 43.80 |
| 1 | Offices | 234.18 |
| 1 | Store | 7.60 |
| Total NIA | | 580.09 |

Valuation History

September 2010: A valuation certificate (proposed) was issued at RV €178,600.

October 2010: Representations were lodged to the Commissioner of Valuation. Following consideration, the valuation was reduced to €161,000.

February 2011: An appeal was submitted to the Commissioner of Valuation. The valuation was issued unchanged on August 3rd 2011.

August 2011: The appellant appealed this decision to the Valuation Tribunal by Notice of Appeal dated August 30th 2011.

Appellant's Case

Mr. Aidan Reynolds took the oath, adopted his précis as his evidence-in-chief, and provided the Tribunal with a review of his submission.

Mr. Reynolds advised that he computed the Net Annual Value (NAV) of the subject property in line with Section 49 (1) of the Valuation Act 2001, and by reference to the tone of the list for similar property in the Deansgrange area.

Mr. Reynolds gave examples of 4 comparison properties in the area with values ranging from €200 to €260 per sq. metre.

Appellant's Comparison Properties:

1. Whitewell House, Pottery Road, Dun Laoghaire.
2. Unit 33, Blackthorn Road, Sandyford Business Centre, Sandyford.

3. Unit 33, Blackthorn Road, Sandyford Business Centre, Sandyford.
4. Lower Kilmacud Road, Stillorgan.

Comparison No. 1

Mr. Reynolds advised that Whitewell House comprises office accommodation and is occupied by the Bank of Ireland.

He analysed the NAV of this property as follows:

- Offices: 1646 sq. metres @ €200 per sq. metre
- Car parking: 71 spaces @ €800 per space
- NAV : €386,000

Comparison No. 2

Unit 33, Blackthorn Road, consists of a Banking Hall and is occupied by Allied Irish Bank. Mr. Reynolds analysed its NAV as follows:

- Banking Hall: 248 sq. metres @ €260 per sq. metre
- Car parking: 10 spaces @ €1,250 per space
- NAV: €76,000

Comparison No. 3

Ground to 4th floor offices at Unit 33, Blackthorn Road valued as follows:

- Offices: 2242.8 sq. metres @ €240 per sq. metre
- Car parking : 92 spaces @ €1,250 per space
- NAV: €553,000

Comparison No. 4

Banking hall and basement store, occupied by AIB. Mr. Reynolds analysed the NAV as follows:

- Basement store: 226.38 sq. metres @ €50 per sq. metre,
- NAV: €126,600

The Consultant Valuer stated that he had also considered open market letting evidence in his assessment of the value of the subject property. He identified the most relevant comparison

property in this regard as the AIB premises in Cornelscourt, Cabinteely, which is located approximately 1 km south of the subject, off the Stillorgan Road. Mr. Reynolds advised that this premises is a similar, modern, high specification, purpose-built complex comprising ground floor banking hall with 2 floors of office accommodation overhead. He added that this property is rented at €360,000 per annum to AIB on a 40 year FRI lease from November 2007, with break options at year 15 and 20. He stated that it comprises 1,352 sq. metres of accommodation and approximately 40 car parking spaces and contended that the passing rent should be analysed as follows:

| Floor | Accommodation | Size sq. metres | €per sq. metre | Total |
|--------------|----------------------|------------------------|-----------------------|--------------------|
| 0 | Banking Hall | 513.98 | €243 | €124,640.15 |
| 1 | Offices | 475.37 | €243 | €115,277.23 |
| 2 | Offices | 362.82 | €243 | € 88,165.26 |
| | Car Spaces | 40 | €800 | € 32,000.00 |
| Total | | | | €360,083.00 |

Appellant's Assessment of Value

Mr. Reynolds concluded his direct evidence by stating that in assessing the NAV of the subject relevant property, as at the valuation date, he had considered both the "tone of the list" and the most relevant market evidence. He argued that a fair assessment of the NAV of the subject property, as at the date of valuation is €135,000 (rounded), determined by applying a value of €250 per sq. metre to the office accommodation of 528.69 sq. metres and €50 per sq. metre to the storage areas, as follows:

| Floor | V.O.Accommodation | Size sq. metres | NAV per sq. metre | Total NAV |
|--------------|--------------------------|------------------------|--------------------------|--------------------|
| 0 | Offices | 294.51 | €250 | € 73,627.50 |
| 0 | Stores (incl. ATM) | 43.80 | €50 | € 2,190.00 |
| 1 | Offices | 234.18 | €250 | € 58,545.00 |
| 1 | Offices | 7.60 | €50 | € 380.00 |
| Total | | | | €134,742.50 |

NAV say €135,000

Cross-examination of the Appellant

In response to questions raised by Mr. Ogbebor and the Tribunal, Mr. Reynolds advised or confirmed that:-

The subject property is very similar to the AIB Cornelscourt premises. Although the latter has 40 dedicated parking spaces and the subject just 4, customers are not charged for parking at the subject property, there are no shortage of spaces, and that in practice, the public is free to park there.

The Consultant Valuer stated he was aware that the AIB Cornelscourt property is under appeal to the Valuation Tribunal currently, and that despite this he believes the rent paid is useful evidence.

He further stated that with the exception of Whitewell House, all his comparison properties are retail banking halls and offices. Whitewell House is the nearest Bank of Ireland property to the subject. He had carefully chosen purpose-built banking halls and offices as comparison properties. He confirmed that he had not seen the Grant of Planning Permission for the subject property and had not considered an alternative use in his valuation exercise.

He added that the car parking at Cornelscourt is solely for use of AIB customers.

He stated that he did not accept that the subject is a 3rd generation property, and described it as a ground floor banking hall with offices overhead. He confirmed that AIB Cornelscourt is an appropriate comparison property as it is also a ground floor banking hall with offices overhead. He advised that he was not aware of the Valuation Office classification of his other four comparisons. He would not agree that his comparisons were dissimilar to the subject. He stated again, when asked why he had not selected other 3rd generation offices, that the subject should not be classified as a 3rd generation office building.

He characterized a 3rd generation office buildings generally as follows:

- Multi storey
- Modern specification
- Entrance and lift lobbies
- Open plan offices

- Raised floors
- Air conditioning
- Suspended ceilings
- Typical modern office building.

Respondent's Case

Mr. Paul Ogbebor adopted his précis as his evidence-in-chief. The location and floor areas of the subject relevant property were common case.

The respondent outlined the basis of the valuation of the subject relevant property which he advised was determined following representations to The Commissioner of Valuation by reference to the values of comparable properties stated in the Valuation List in which they appear. He confirmed the valuation history as outlined above and advised that the levels applied by the Commissioner of Valuation on the subject as follows:

| | | | |
|--------|----------------------------------------|---|--------------|
| Office | 294.51 sq. metres @ €300 per sq. metre | = | € 88,353 |
| Store | 43.80 sq. metres @ €50 per sq. metre | = | € 2,190 |
| Office | 234.18 sq. metres @ €300 per sq. metre | = | € 70,254 |
| Store | 7.60 sq. metres @ €50 per sq. metre | = | <u>€ 380</u> |
| Total | | | €161,177 |

NAV (Rounded to) €161,100

Respondent's Comparison Properties

Mr. Ogbebor's comparison properties were:

1. Carysfort Court, Carysfort Avenue, Blackrock, Co. Dublin
2. Maple House, Temple Road, Blackrock, Co. Dublin
3. Ballintaggart House, Clonskeagh Road, Clonskeagh, Dublin 14
4. Carysfort House, Carysfort Avenue, Blackrock, Co. Dublin

1. Carysfort Court, Carysfort Avenue, Blackrock, Co. Dublin

Mr. Ogbebor advised that this property is occupied by Irish life and Permanent PLC, rented in 2002 at €1,500,000 per annum on a 25 x 5 lease which term commenced in August 1997. This equates to rent of €360.84 per sq. metre with the car parking at €1,250 per space. The

valuation date was 30th September 2005. It is valued as follows:

| Floor | Use | Area NIA (sq. metres) | Level (€ per sq. metre) | NAV € |
|-------|------------|-----------------------|-------------------------|---------------|
| 0-2 | Offices | 2733.2 | 300 | 819,960 |
| 0 | Car Spaces | 51 | 1250 | <u>63,750</u> |
| NAV | | | | 883,710 |

NAV (Rounded to) €883,000

No representations or appeals were submitted on this property.

2. Maple House, Temple Road, Blackrock, Co. Dublin

The respondent reported that this property is occupied by Canada Life Assurance Ireland Ltd and valued as of 30th September 2005 as follows:

| Floor | Use | Area NIA (sq. metres) | Level (€ per sq. metre) | NAV € |
|-------|------------|-----------------------|-------------------------|---------------|
| 0 | Offices | 303 | 300 | 90,900 |
| 0 | Car Spaces | 9 | 1250 | <u>11,250</u> |
| NAV | | | | 102,150 |

NAV (Rounded to) €102,100

Again, no representations or appeals were submitted on this property.

3. Ballintaggart House, Clonskeagh Road, Dublin 14

Mr. Ogbebor stated that this comparison property which is occupied by G&T Crampton Ltd is located in Clonskeagh, approximately 7 km from the subject property. He classified it as a 3rd generation office building, held freehold. It was also valued at 30th September 2005 as follows:

| Floor | Use | Area NIA (sq. metres) | Level (sq. metres) | NAV € |
|-------|---------------------------------------------|-----------------------|--------------------|------------|
| 0 | Offices | 526.1 | 300 | 157,830 |
| -1 | Offices (less 15% for basement Level) | 492.12 | 225 | 125,490.60 |
| -1 | Store | 72 | 70 | 5,040 |
| 0 | Car Spaces | 37 | 1000 | 37,000 |
| NAV | | | | 325,360.60 |

NAV (Rounded to) €325,000

No representations or appeals were submitted.

4. Carysfort House, Carysfort Avenue, Blackrock, Co. Dublin

The respondent advised that this property is occupied by Lionscourt Capital Hansard Europe. The passing rent is €444,012 per annum since 2006 on a 9x5 year FRI basis and parking spaces at €1,250 each p.a. This property is also valued by reference to 30th September 2005 as follows:

| Floor | Use | Area (sq. metres) | Level (sq. metres) | NAV € |
|-------|------------|-------------------|--------------------|---------------|
| 1 | Offices | 945 | 300 | 283,500 |
| 0 | Car Spaces | 23 | 1250 | <u>28,750</u> |
| | | | NAV | 312,250 |

NAV (Rounded to) €312,000

Again, no representations or appeals were submitted.

Mr. Ogbebor completed his direct evidence by providing details of the location of the subject relevant property and his comparison properties.

Cross Examination of the Respondent

In response to questions from the appellant and the Tribunal, Mr. Ogbebor declared that:

- None of his comparison properties feature retail banking halls. Comparison No. 1, occupied by Irish Life and Permanent is accessible to the public and this is his primary comparison property.
- In determining the validity of comparison properties he relied upon criteria set out in the Valuation Office procedures manual. He outlined the features of a typical 3rd generation office building from the manual. He stated that properties must be assigned to categories as defined in the manual.
- None of his comparison properties are retail facilities. The respondent again argued that the subject relevant property is a 3rd generation office building. He added that, although he had not seen the planning permission, he had inspected the building and it is not, in his opinion, a retail building. He accordingly contended that his comparison properties, all 3rd generation office buildings, are valid and reliable comparators. He added that in the appellant's notice of appeal, the latter did not dispute the classification of the building.

- The Valuation Office following representations, had reduced the floor area calculation of the subject relevant property resulting in a lower NAV.
- He did not visit any of his comparison properties.
- He accepted that bus and rail services connecting the subject relevant property to the city centre are not within walking distance of the subject.
- He had access to rental information on AIB Cornelscourt, but relied in his analysis on the value of his comparison, and similar properties.
- He did not know why there were no representations of appeals filed on his 4 comparison properties.

Summation by Appellant

Mr. Reynolds stated he did not have anything further to add.

Summation by the Respondent

Mr. Ogbebor stated that the appellant had not provided sufficient evidence with regard to his comparison properties to prove that the value on the list is incorrect.

He added that the Commissioner of Valuation has relied on evidence providing the values on the list in determining the value of the subject.

Findings and Conclusions

The Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions at the hearing.

The Tribunal finds that:-

- The evidence supports the argument that the subject relevant property differs in a number of respects from the comparison properties submitted by the respondent.
- The respondent's comparison properties are generally larger properties and some are multi-tenanted.
- The respondent's comparison properties are high profile properties located in Blackrock and Clonskeagh, a considerable distance from the subject and are iconic, headquarter style buildings of strong profile achieving considerably higher rents, located on busy thoroughfares. These factors would influence the consideration and decision of the hypothetical tenant.
- The value of primary comparison property chosen by the appellant, AIB Cornelscourt,

- The appellant's other comparison properties are considered to be of more value in so far as they are all retail banks, the values of which, on the list, were not disputed by the respondent.

The foregoing considered, the Tribunal concludes that the levels per sq. metre assessed on the property should be adjusted and the valuation computed as follows:

| Floor | Use | NIA (sq. metres) | Rate per sq. metre | NAV |
|--------------|------------|-------------------------|---------------------------|--------------------|
| 0 | Office | 294.51 | €275 | € 80,990.25 |
| 0 | Stores | 43.80 | € 50 | € 2,190.00 |
| 1 | Offices | 234.18 | €275 | € 64,399.50 |
| 1 | Stores | 7.60 | € 50 | <u>€ 380.00</u> |
| Total | | | | €147,959.75 |

NAV say €148,000

And the Tribunal so determines.