

Appeal No. VA00/3/050

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Caulfield Industrial Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse/Warerooms, Office at Map Reference: 5Ne, Townland: Carrowmoneash, ED: Oranmore, RD: Galway, Co. Galway.

B E F O R E

Henry Abbott - Senior Counsel

Chairman

John Kerr - MIAVI

Member

Tim Cotter - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF FEBRUARY, 2002

By Notice of Appeal dated the 11th October 2000 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,050 (€1333.23) on the above described hereditament.

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

"(a) The valuation is inequitable and bad in law.

(b) The appellants seek to have this revision set aside as being invalid."

The oral hearing took place in Dublin on the 16th day of March 2001. Mr. Eamonn Halpin B.S.c. (Surveying) ASCS., ARICS., MIAVI of Eamonn Halpin &Co., appeared for the appellant and Mr. Colman Forkin BSc. (Surveying), MRICS., ASCS., MIAVI., appeared for the respondent. Both valuers gave evidence by affirming their précis of evidence furnished to the Tribunal prior to the hearing.

The thrust of the appellants case was that the subject was incorrectly listed.

The appellant pointed out that when valuation maps were sought by Mr. Halpin, he was furnished with a map last appearing on the appellants précis showing the main lot of the subject property as lot 5F. This was in contrast with the map number and letter on the request for revision of 5N.

Mr. Halpin relied on the Switzer Case (1902) 2IR 215 and the requirements of Article 37 of The Local Government (Adaptation of Irish Enactments) Order, 1899 providing the form to be used for a list of tenements and hereditaments requiring revision. He referred in particular to the requirement of column 2 of the form requiring the number and letter of “reference to map” in Valuation Lists. He also drew the attention of the Tribunal to article 2 of the Valuation (Revisions and New Valuations) (Fees) Regulations 1996- S.I. No. 418 of 1996 which provides as follows:

(2) “The fee to be charged in respect of an application by an owner or occupier of any property or by a rating authority under Section 3 (1) of the Valuation Act 1988 shall be £100.”

He pointed to the maps annexed in the appellant’s précis and in the respondent’s précis arguing that what happened in the case was that Lot No. 5N was put in with the request for revision but that as a result the subject was valued under a different Lot Number and that possibly other valuations resulted in respect of other lot numbers.

The respondent relied on three Valuation Tribunal decisions as follows:

1. VA95/5/015 – John Pettit and Son Ltd. v Commissioner of Valuation.
2. VA99/2/021 – Ormonde Cinema Complex v. Commissioner of Valuation.
3. VA99/2/035 – McDonald Commercials Ltd. v. Commissioner of Valuation.

Determination:

Taking the appellants argument at its best the Tribunal has considered the requirements in the form provided by the 1899 Order especially those of column 2 and finds that the express requirements of column 2 are that the letter and number should refer to a number in the “Valuation Lists”. The Tribunal is of the view that the “Valuation List” concerned is a list of existing valuations of hereditaments which is sought to be revised. There was no evidence adduced at the hearing by either side that Lot No. 5F had any separate existence in a Valuation List prior to the request for revision. On the other hand, it appears from a map containing references to 1999 revisions, that the parent holding from which the subject property was subdivided was referred to as 5N-1; 5N-2. The Tribunal is of the view that this description is sufficiently closely represented by the entry in the form requesting revision of 5N.

There is also a persuasive indication that the £6.65pence valuation referred to in the request in respect of land, only related to a site considerably larger than the subject, especially as the revision did not result in any separate land valuation at all.

The Tribunal considers that there was satisfactory compliance with the requirements of the form referred to in article 37 of Adaptation of Irish Enactments Order 1899 column 2, although the process of reaching this conclusion would have been considerably easier if the valuation certificate of the parent folio had been produced together with its recent valuation history.

Even if the Tribunal is incorrect in its view in regard to compliance with the said Order of 1899 it feels bound by the decisions of the Tribunal and the authorities referred to therein in:

1. VA95/5/015 – John Pettit and Son Ltd. v Commissioner of Valuation
2. VA99/2/021 – Ormond Cinema Complex v. Commissioner of Valuation
3. VA99/2/035 – McDonald Commercials Ltd. v. Commissioner of Valuation

in holding that the subject lot is otherwise adequately described in the form requesting revision. While it is not clear whether Mr. Halpin advanced the provisions of SI No. 418 of 1996 regarding payment of fees, as a matter of jurisdiction or as a means of highlighting the need to

take a strict approach to ascertainment of possible separate hereditaments as indicated by the Switzer Case, it is appropriate to indicate that the Tribunal would have felt bound by the views expressed by it in VA00/3/016 and VA00/3/017 *Bantry Bay Terminals Ltd. v Commissioner of Valuation* indicating that the requirement of payment of fees was not a mandatory precondition to the exercise of the revising powers of the Commissioner of Valuation.

The Tribunal affirms the decision of the Commissioner of Valuation in fixing a rateable valuation on the subject property at the agreed level of €1333.23 (£1,050).