

Appeal No. VA06/1/015

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

**McMenamin Engineering**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory, Yard at Lot No. 5d, Lismullyduff, Gleneely, Stranorlar, County Donegal

**B E F O R E**

**Michael P.M. Connellan - Solicitor**

**Deputy Chairperson**

**Joseph Murray - B.L.**

**Member**

**Mairéad Hughes - Hotelier**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF JUNE, 2006**

By Notice of Appeal dated the 8th day of March, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €190 on the above described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal a copy of which is contained in Appendix 1 to this Judgment.

On the 19<sup>th</sup> April in writing the Solicitors for the appellant wrote to the Valuation Tribunal informing them that they would not be making legal argument to the Appeal hearing of the Tribunal and that they would not be legally representing the appellants at the appeal. The appellants would be represented by their chartered valuation surveyor, Mr Patrick McCarroll. The appeal would proceed on quantum of the valuation only.

The appeal proceeded by way of an oral hearing held at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 3<sup>rd</sup> May, 2006. At the hearing the appellant was represented by Mr. Patrick McCarroll MRICS, ASCS, MCI Arb, and Mr. Colm MacEochaidh BL instructed by the Chief State Solicitor appeared on behalf of the respondent. Mr. Seamus McMenemy, Chief Executive of the appellant company gave evidence on its behalf. Mr. Thomas Cassidy B.Sc. Property Management & Valuations, MIAVI, a District Valuer with the Valuation Office, gave evidence on behalf of the respondent.

### **The Issue**

At the outset Mr McCarroll confirmed to the Tribunal that the only issue was as to the quantum of valuation.

### **Valuation History**

The property was first revised in 2003 and a valuation of €226 was entered on the Valuation List as a result of that revision. The valuation was revised again in 2005 on foot of an application from the occupier, and as a result, the valuation was reduced to €190. The final certificate was issued on the 12<sup>th</sup> of July, 2005. The occupier lodged an appeal against the determination on the 16<sup>th</sup> August, 2005. The valuation was issued as unchanged on the 14<sup>th</sup> February, 2006.

The reduction from €226 to €190 at revision was based on amendments to floor areas and horsepower (HP). A reduced rate per square metre was also applied. The reduced rate per sq. metre according to the respondent was adopted to reflect the rural location and the “tone of the list”.

**The Property Concerned.**

The property comprises a modern purpose built industrial building with offices together with poor quality industrial buildings all of which are used in the manufacture of portable cranes. The industrial building is of steel portal frame construction and has metal cladding on the walls and roof. The office building is attached to the main building. The old industrial buildings are constructed with concrete walls and the roof is pitched having corrugated iron cladding. A sizeable concrete surface yard that is used for storage purposes is also located on the site.

It is situated in the townland of Lismullyduff, Killygordon. Co. Donegal and is in a remote and rural location, some 4.83 kilometres from the village of Killygordon. The immediate area comprises poor quality agricultural land.

The approach to this property is difficult. The approach road is a narrow, single carriage secondary road leading to Castlederg, Co. Tyrone, Northern Ireland. The property is serviced by three phase electricity, mains water and a sewage treatment plant.

**The Appellant's Case.**

Mr. Patrick McCarroll, having taken the oath, adopted his written précis and valuation which had previously been received by the Tribunal as his evidence-in-chief.

He said that the subject property was the only industry in the area and that it was difficult to find. All the areas had been agreed with the respondent before the hearing. The yard, horsepower and gantry were included in his valuation. He said that in his comparison, the Danny McGavigan premises, on page 10 of his précis the yard, HP and gantries were included in the valuation and he referred to the Valuation Office Standard Valuation Report in respect of that property, a copy of which he handed in to the Tribunal at the hearing.

He maintained that his main comparison was Fleming Engineering on page 8 of his précis. This was a workshop, offices and store in the village of St. Johnston, Co. Donegal. The firm was now based in the North of Ireland. Access was by way of a narrow road. Articulated lorries could get in and out with difficulty. The premises was an IDA grant aided building and was single skinned. The HP, yard and gantry were included in the valuation. It was a similar type use to the subject premises – farm machinery manufacture.

He then referred to Danny McGavigan's premises which was a modern purpose built workshop involved in highly specialised engineering. It fronted onto the Lifford/Ballybofey road (N15). It was valued on appeal in 1998/4. The old workshop was valued at €23.91 per sq. metre and the new workshop at €17.08 per sq. metre. The store was a new building attached to the workshop and was valued at €13.66 per sq. metre.

The Multicrete comparison on page 11 of his précis was a modern purpose built industrial building wherein the rate per sq. metre included the HP and Gantry. It was circa 300m. north of the main Lifford to Ballybofey road. These were, he said, two roadside properties in a prominent location on the national routes. The yard in Multicrete was valued as an addition. It was in a better location than the subject property. These premises were also submitted by the respondent in their précis as their comparison No.2.

Mr. McCarroll's comparison on page 12 of his précis referred to premises belonging to Scafftex consisting of offices and workshop. These premises were in a prominent location highly visible from the N14 the Lifford/Letterkenny road and about 2 km from Lifford.

On page 13 of his précis he gave as a comparison another premises belonging to McMenamin Engineering and also situated in Killygordon about 100m. from the Lifford/Ballybofey road. That property was valued in 1990 but since then a second storey had been added to the premises. The workshop was valued at €12.57 per sq. metre and the offices at €20.50 per sq. metre. The building footprint had not changed. The entire building had external cladding to the walls and roof.

On page 14 he referred to premises belonging to McGowan Brothers in Stranolar, a tyre changing depot which was off the main street and behind a dwelling house. This property was relied upon by the Valuation Office as a comparison in assessing the subject property. It could not be regarded as a comparable property. HP, gantry and yard were included. He said there was no consistency in rates per sq. metre. Mr. McCarroll contended for a rateable valuation of €10.00 calculated as follows-

Offices	163.40 sq. metres	@	€21.86 per sq. metre	= €3,571.92
Workshop	1,120.10 sq. metres	@	€5.00 per sq. metre	= €16,801.52

No.4 Store	98.00 sq. metres	@	€2.00 per sq. metre	= €196.00
1 <sup>st</sup> Floor Offices	98.00 sq. metres	@	€10.00 per sq. metre	= €980.00
Stores (old)	307.85 sq. metres	@	€3.00 per sq. meter	= <u>€923.55</u>
€2,472.97 @ 0.5%				= €12.36
Say	€10.00			

The appellant's comparisons are at Appendix 2 to this Judgment.

Cross examined by Mr MacEochaidh BL, Mr. McCarroll agreed that the McGowan property was used as a comparison when the subject property was being revised in 2003 and not at the 2005 revision. However he maintained that as the subject property, pre-revision, was now the respondent's comparison No.1, he was entitled to look at how its valuation was arrived at.

The valuation revised in 2005 was:

Office	163.40 sq. metres	@	€30.75 per sq. metre	= €5,024.55
Office	98.00 sq. metres	@	€25.00 per sq. metre	= €2,450.00
Factory	1,120.10 sq. metres	@	€20.50 per sq. metre	= €22,962.05
Store	307.85 sq .metres	@	€10.00 per sq. metre	= €3,078.50
Store	98.00 sq. metres	@	€10.00 per sq. metre	= €980.00
Concrete yard	2,000.00 sq. metres	@	€1.25 per sq. metre	= €2,500.00
25 Horsepower				= €250.00
13 Tonnes Gantries				= <u>€800.00</u>
Total NAV				€38,045.10
RV @ 0.5%				= €190.00

In the 2005 Revision the offices were reduced from €34.14 to €30.75 per sq. metre, the factory from €23.92 to €20.50 per sq. metre. The store, concrete yard and gantries remained the same. The HP was reduced from €1,000.00 to €250.00.

In relation to Flemings Engineering, Mr. McCarroll said access to both the subject property and to Flemings was through a narrow road or street. He also said that concrete block, as in

Flemings, was more expensive than cladding, as in the subject property, and that therefore Flemings was more expensive.

He said that Danny McGavigan's premises, though in a rural location, was right on the side of a main road. He agreed that there were two sections, one better than the other, the old section had a higher valuation than the new section for some unknown reason.

He said that Multicrete, a common comparison was just off the N15 while the subject property was some distance from it.

He said that Scafftex was in a much superior location than the subject property, near the Lifford-Letterkenny road and highly visible from it. The offices in Scafftex were much smaller than those in the subject property.

Mr. Seamus McMenamin is Chief Executive of the appellant company and a founder member of same. Having taken the oath, he said that the property concerned was engaged in the manufacture of a small crane used in the construction industry. He said that the location, inherited from his father, was not his first choice. He had to take the cheapest possible option. They intended to leave and go elsewhere later. Two buildings were there for years and had been the property of his father and were now mainly used for storage and not for fabrication. The premises were 4-5 km from Killygordon. The road to the North was closed for 30 odd years. The property was paying a rent.

He said there were two entrances into Flemings property in St. Johnston – one off the street for cars, the other off the main road at the rear for lorries. Lorries did not go into the street in St. Johnston – they used the rear entrance.

Danny McGavigan's was in a much better location than the subject. Scafftex was just 70-80 metres off the main road and was a much better quality building than the subject.

Cross examined, he said the property was steel framed – block on block. He affirmed that the two entrances were always there in Flemings.

**The Respondent's Case.**

Mr. Thomas Cassidy, a District Valuer in the Valuation Office, having taken the oath, adopted his written précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief.

He said that after the 2003 Revision he met Mr. McMenamín and agreed that there were errors in the revision – in measurement, HP and location and that as a result in the 2005 Revision the RV was reduced from €226 to €190. He said that the yard was used for storage purposes.

He further said that he used 5 comparisons (see Appendix 3 to this Judgment) the first being the subject property (2003 Revision), Comparison No.2 - Multicrete, the common comparison. Comparison No.3 - Donegal Waste Disposal Ltd., was revised in 2005. This was situated in Glenties a good distance from the subject property. It was an agreed valuation. There were no doors or windows in the premises. It was single skinned and was prone to flooding. The yard was not included.

Comparison No.4 related to a workshop/factory two miles southeast of Malin village. The appeal in that case was withdrawn at the Tribunal Hearing. He said the yard was not separately valued. He did not know if there was a kitchen unit display department in the premises. No plant or machinery was valued.

Comparison No.5 related to premises in Ballintra village, a good distance away. It was a good standard purpose built detached workshop consisting of concrete wall and clad construction and was visible from the main Donegal Town/Ballyshannon road in south county Donegal but with access from a secondary road only.

Cross examined by Mr McCarroll he said that he relied on the 2003 Revision of the subject property in respect of this appeal. He did not change the valuation of the stores – he relied on the “tone of the list”.

He agreed that on the 2003 Revision he relied on the valuations in Scafftex and McGowan Brothers. Mr. McCarroll put it to him that Scafftex had a much better location, was on a minor road but highly visible from it and that they manufactured scaffolding – a similar type

industry to that carried on by the appellants. Mr. Cassidy said the use of the property was not relevant.

He agreed that the areas and HP were wrong in the 2003 Revision.

In relation to the Multicrete comparison (the common comparison) he said that it and Scaftex were in much similar locations.

In relation to the Danny McGavigan comparison he said that from an examination of Valuation Office records the valuations on the old and new workshops have apparently been interchanged in error but he could not swear to this.

### **Findings and Determination**

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and make the following findings.

1. The subject property is in fact a modern purpose built industrial building with offices together with a poor quality industrial building all used in the manufacture of portable cranes. The modern part is of steel and metal cladding whereas the old buildings are constructed with concrete walls and pitched roof. They have been there for years and were the property of Mr. McMenamin's father.
2. The premises are difficult to find. The approach road is a narrow single carriage of secondary construction and leads to the village of Castlederg, Co. Tyrone. This road was closed for over 30 years.
3. The subject property is the only industrial concern in the area and is on poor quality agricultural land.
4. The subject does not have a main sewage connection – a sewage treatment plant only.
5. The subject is about 4.83 km from the small village of Killygordon and a further distance from the twin towns of Ballybofey/Stranorlar.



6. Mr. McMenemy stated in his evidence that the site was not his first choice. He had to take the cheapest possible option. They intended to move and go elsewhere later.
7. The gantries and HP seem to be included in the levels per sq. metre in the valuations of Fleming Engineering, Danny McGavigan, the common comparison of Multicrete and the other premises belonging to McMenemy Engineering. Similarly, the yard in Fleming Engineering, Danny McGavigan and the other McMenemy Engineering premises seem to be included in the levels per square metre in those valuations.
8. The main comparisons in the area are Fleming Engineering in St. Johnston, McMenemy's other premises in Killygordan and Multicrete (the common comparison). Of these both Flemings and McMenemy's other premises have considerably lower valuations per sq. metre on both the Factory/Workshop and the Offices than the subject. Flemings also has a lower level per sq. metre on its Store than the level on either of the Stores in the subject.

Having regard to the foregoing, the Tribunal finds that the net annual value and the rateable valuation of the subject property should be calculated as set out hereunder:

Office	163.40 sq. metres	@	€28.00 per sq. metre	= €4,575.20
Office	98.00 sq. metres	@	€23.00 per sq. metre	= €2,254.00
Factory	1120.10 sq. metres	@	€18.50 per sq. metre	= €20,721.85
Store (old)	307.85 sq. metres	@	€ 7.00 per sq. metre	= €2,154.95
Store (new)	98.00 sq. metres	@	€10.00 per sq. metre	= €980.00
Concrete Yard	2000.00 sq. metres	@	€ 1.00 per sq. metre	= <u>€2,000.00</u>
			Total NAV	= €32,686.00

No allowance is made in relation to the HP and gantries as this seems to be the practice in Co. Donegal rating area.

Rateable Valuation - €32,686.00 @ 0.5% = €163.43

Say €163.00

And the Tribunal so determines.