

Appeal No. VA89/0/016

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

Donegal Co-operative Creameries Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop, Stores, Mill, Offs and yard at Lot No. 4Aa, Newtowncunningham, Co. Donegal
Quantum - Comparisons, profits

B E F O R E

Henry Abbott

Barrister Chairman

Brian O'Farrell

Valuer

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
DELIVERED ON THE 2ND DAY OF MAY, 1990.

By notice of appeal dated the 27th day of July 1989, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £250 on the above described hereditaments.

The grounds of appeal as set out in the notice of appeal are that

- (a) the valuation is excessive;
- (b) the valuation is bad in law;
- (c) no account had been taken of the net annual value of this property in determining the rateable valuation.

Description of property

The property is located in the village of Newtowncunningham, Co Donegal which is 12 miles from Derry city and 14 miles from Letterkenny. It comprises a detached two storey dwelling house together with a range of buildings which are used as a hardware store, storage and purpose built grain stores. The dwelling is of stone construction having a dashed external finish and a pitched slated roof. The stores to the rear are built with stone walls with a cement rendered external finish, wooden windows and doors and a concrete floor. The grain stores and other buildings are of portal steel framed construction with single skinned cladding of either corrugated iron or asbestos. Walls are either of concrete block or solid concrete. Flooring is of concrete. The property also includes a grain drying facility which is used for the retail of agricultural hardware and the storage of grain and fertiliser. The property is serviced with mains water, electricity, sewers and telephone.

In a written submission received on the 18th April, 1990 Mr Patrick McCarroll, Chartered Surveyor auctioneer and Estate Agent of Bank Place, Carndonagh, Co Donegal said the property has a neglected air about it. He said that there is little evidence of regular maintenance programme and the general level of upkeep is poor. He said that in his opinion the correct rateable valuation assessment on the property should be in the region of £18.00 and £76.00 as follows:-

(a) Garage premises;

Rental value	£2,880
Rateable valuation	£ 18 (£2,880 x 0.63%)

(b) Remaining property;

Estimate of rental value	42,123 sq. ft. x 0.25 = £10,530
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Rateable value	£ 66.34	(£10,530 x 0.63)
add for grain bins	<u>£ 10.00</u>	
Total	£ 76.34	
	Say £ 76.00	

He said that the above valuations were arrived at taking into consideration the comparisons which he submitted and the profitability of the property and the fact that there is no alternate use.

Mr McCarroll submitted three comparisons as follows:-

1. Ballymacarry, Buncrana, Co Donegal. June 1987.

Some 79,860 square feet of industrial buildings and land having a total area of 10.068 acres was purchased in June 1987 for £99,578.00. A grant of 50% was received by the purchasers.

Purchase price	£988,578.00
Less 50% grant	<u>£499,289.00</u>
Actual cost	£499,289.00
Allow for surplus land	
6 acres x £3,550 x ½	<u>£ 10,650.00</u>
Actual cost of buildings	£488,639.00

Arriving at a rental value

$$£488,639.00 \div 8 \text{ YP} = £ 61,079.00$$

$$£ 61,079.00 \div 79,860 \text{ sq. ft.} = 0.76 \text{ per sq. ft.}$$

Comment

- (A) This is a modern purpose built industrial building located in the town of Buncrana.

- (B) The quality and specifications surpass the basic functional shell of the property under review.
- (C) This property has alternate uses and since being purchased is fully utilised.

2. Nena Models Ltd., Magheradrumman, Milford, Co Donegal.

The rateable valuation assessment on this property was agreed with the Valuation Office in 1989 at £100.00.

Applying the 0.63% ratio this gives a rental of £15,873.00

$$£100 \div 0.63 \times 100 = £15,873.00$$

$$£15,873.00 \div 35,000 \text{ sq. ft.} = £0.45 \text{ per sq. ft.}$$

Comment

- (a) This property has been purchased by a wool merchant for the storing of wool.
- (b) This property is situated in a rural location similar to the property under review.
- (c) A quantum reduction should be applied for the property under review.

3. Part of the subject property is let at a monthly rent of £400.00.

The premises let comprises:-

"All that garage premises at Newtowncunningham including any furniture effects and fittings specified in the third Schedule."

The furniture effects and fittings include almost 80 items (not counting each separate socket). All the items that are required to set up and establish a garage from day one. Indeed as this was a fully operational garage premises there must be an element of

Goodwill attached to this rental. It is his opinion that 40% of the rental can be allocated to rental for the "furniture effects" and this would give a rental for the building of £240.00 per month or £2,880.00 per annum.

This building has a gross external floor area of c. 3,932 sq. ft.

3,932 sq. ft. x £0.73 = £2,880.00

Comment

- (a) This is a small compact unit already developed as a garage.
- (b) The rental reflects the specialised nature of the letting.
- (c) This is a once off letting, there will be no demand for similar units in this complex.
- (d) Again a quantum reduction would apply to the entire property.

Mr Christopher Hicks, an appeal valuer in the Valuation Office submitted a written precis of evidence which was received on the 10th April, 1990 in which he outlined the valuation history of the property. He said that the subject property was inspected in July 1984 and the rateable valuation was increased from £135 to £250. In November 1984 this was appealed and inspected by the appeal valuer and a rateable valuation of £250 was agreed unchanged. The property was again listed for revision in 1988 and no change was made to the rateable valuation. An appeal was lodged but following prolonged negotiations between the agent for the appellant and the appeal valuer no agreement was reached.

Mr Hicks says that the rateable valuation here is in line with recently revised comparable properties in Co Donegal. He provides a list of five comparisons which are attached hereto as Appendix "A".

Commenting on other points made by the appellants at various stages during the appeal procedure he said that all the comparisons attached are similarly seasonal. The premises stay open all the year round but very little business is done at some times of the year whereas during the high season the shop and stores are busy for up to 18 hours per day. With regard to the sub-letting of part of the property Mr Hicks said that it is not an "arms length" contract and that no request had been made to have this part of the property rated separately.

Mr Hicks says this type of building in Co Donegal is invariably owner occupied and that there is no suitable rental evidence available. However, he said that good quality industrial space in a good area would normally be available at a maximum of £1.75 per sq. ft. The lowest likely letting value is probably 75p per sq. ft. and he says that this is the rate used in devaluing comparisons where there is a large area of old buildings.

He said that the rate of 80p/sq. ft. used for the subject premises is only slightly above the minimum and appears reasonable considering that this is a smaller area of newer buildings and includes a retail shop.

Mr Hicks calculates the rateable valuation as follows:

45,000 sq. ft. @ 80p	=	£36,000
Bins 800 tons @ £4	=	£ 3,200
Estimated H.P. 150 @ £7	=	<u>£ 1,050</u>
		£40,250

Estimated N.A.V. = £40,250 @ .63% = £253.58

Say R.V. £250

Oral Hearing

At the oral hearing which took place in Donegal town on the 19th April, 1990 Mr Patrick McCarroll represented the appellant and Mr Christopher Hicks represented the respondent. Both the appellant and the respondent made submissions along the lines of the written precis of evidence which are already outlined. Mr McCarroll said that the Commissioner of Valuation had failed to value separately the garage which was now let to and occupied by another person. Mr Hicks said that there never was a request for a separate valuation but that it would be more appropriate to do this at 1st appeal stage. With regard to Mr McCarroll's first comparison Mr Hicks questioned why the I.D.A. grant should be deducted from the purchase price in arriving at a rateable valuation. Mr Hicks pointed out that Mr McCarroll had used differing methods in calculating the rateable valuation in this comparison and if the methods were reversed a different picture would emerge.

Mr McCarroll said that the Commissioner of Valuation had not taken net annual value into account in reaching a rateable valuation. He said that the Valuation (Ireland) Act, 1852 had prescribed an estimate of the net annual value as the basis of valuation, a concept which is re-stated in the Valuation Act, 1986. He said that the accounts which were prepared specifically for the Newtowncunningham operation of Donegal Co-op shows that margins are very tight. He said that in the Rosses Point Hotel Company Ltd. v The Commissioner of Valuation I.R. [1987] p. 143, Judge Barron expressed the opinion that "Profit earning ability is the basic element in determining the net annual value."

Mr McCarroll handed in a series of photographs (Appendix "B") and a letter dated the 18/4/1990 from Irish Snack Food Company Ltd., which is one of the comparisons offered by the respondent, to the effect that the current rental of their potato store, known as the GT building is £17,395 per annum.

The Tribunal has come to the conclusion that while the appellant's buildings are still functional as grain stores and a complex in which grain may be dried or treated with chemical preservatives they do not match up to the high standard of some of the buildings mentioned by both valuers for the purpose of comparison. However, the Tribunal must have regard to the comparable valuations of other similar grain handling premises in the area of Donegal mentioned in the summary of comparisons of both valuers and the fact that like the subject premises they also have a seasonal trade when arriving at an appropriate valuation of the subject premises. The Tribunal, therefore, cannot hold with the contention of Mr McCarroll that the valuation of the subject premises should be drastically reduced having regard to his rental value calculations. The Tribunal has considered the judgment of Barron J. in the case Rosses Point Hotel Company Ltd v. Commissioner of Valuation I.R. [1987] p. 143 in assessing what weight ought to be given to the appellant's Trading & Profit and Loss Accounts for the years 31st December, 1986, 1987 and 1988. The Tribunal finds that the part of the judgment referred to by Mr McCarroll is applicable but that it has not been quoted in full or appropriately. The quotation which taken in full as appropriately applying to the instant case should read as follows:

"profit earning ability is the basic element in determining the net annual value. It is based not on actual profits but on what the prospective tenant would anticipate would be his profit"

While the accounts referred to for the years 1986, 1987 and 1988 show a net loss in the first two years, the Tribunal is mindful of the fact that in all years a gross profit was made and a substantial, (if declining) turnover was achieved. The Tribunal notes that in the most recent year, 1988, gross profits were actually increased on a reduced turnover and for the first time in three years a small net profit of £11,077 was achieved. The Tribunal finds that a falling level of turnover in monetary terms is probably a more significant factor than any figures for profit however calculated and also that the figures reflect a slower moving economy in relation to home grown barley and grain, a product which the subject premises primarily serves. Having

regard to all the circumstances of the case the Tribunal has come to the conclusion that an appropriate rateable valuation of the subject premises would be £190.