

Appeal No. VA96/3/083

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

A.I.B. Bank, O'Connell Street, Sligo

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank at Map Ref: 3, O'Connell Street, Townland: Knappagh Beg (part of), ED: Sligo East,
Urban District of Sligo, Co. Sligo
Quantum - Passing rent

B E F O R E

Mary Devins - Solicitor

Deputy Chairman

Marie Connellan - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF JULY, 1997

By Notice of Appeal dated the 29th day of July, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £175 on the above described hereditament.

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

- "(1) The valuation is excessive and inequitable.
- (2) The valuation is bad in law".

The Property:

The premises is a substantially new structure constructed behind an existing facade. It is located in a prime retail site and is finished to a high standard.

The premises is located in a designated area and is held on a lease for 9.75 years from 9th July, 1992 at a rent of £46,000pa.

The accommodation comprises:-

Banking Hall	1,162 sq.ft.	(108 sq.m.)
Offices (1st fl.)	450 sq.ft.	(41.8 sq.m.)

Written Submissions:

A written submission was received on the 19th May, 1997 from Mr. Desmond Killen, FRICS, FSCS, IRRV, a Fellow of the Society of Chartered Surveyors in the Republic of Ireland and a Director of Donal O'Buachalla & Company Limited on behalf of the Appellant.

In his written submission, Mr. Killen set out a description of the property and its valuation history. He submitted that in arriving at his calculation of the correct rateable valuation on the subject premises he had had regard to two methods of valuation, the rental method and the comparative method. In relation to the rental method, Mr. Killen submitted that certain adjustments must be made to the rent of £46,000pa before arriving at the correct rateable valuation on the subject property:-

- (1) Adjustment to the rent to take account of the designated status, and
- (2) Adjustment to 1988 rent levels.

In relation to the comparative method, Mr. Killen submitted two types of comparisons, that is, valuations on other banks:-

- (1) Bank of Ireland, 25 Stephen Street. RV£325.
- (2) Allied Irish Bank, 3 - 5 Stephen Street. RV£275.
- (3) Bank of Ireland, Grattan Street. RV£325.

and valuations on other premises recently revised:-

- (1) Hibernian Insurance, 32/33 O'Connell Street. RV£140.
- (2) First Floor Offices, 21b, O'Connell Street. RV£16
- (3) Moffits, 13/14/15, O'Connell Street. RV£265.

Having taken the foregoing into consideration Mr. Killen said that the subject would have a Zone A price of £30 psf as set out below:-

"			£		£
Zone A	368 ft ²	@	30	=	11,040
Zone B	318 ft ²	@	15	=	4,770
Rear	476 ft ²	@	7.50	=	3,570
Upper Floor	450 ft ²	@	4.00	=	1,800
	425 ft ²	@	4.00	=	<u>1,700</u>
					22,880 NAV
		@	0.5%	=	115"

Mr. Killen submitted the following from his calculations as set out above:-

- on a rental method an RV of £90 would be achieved.
- on a comparative method using other banks an RV of £105 would be achieved, and
- on a comparative method using other properties recently revised an RV of £115 would be achieved.

A further document was received on the 3rd June, 1997 from Mr. Killen in the form of an Agreement dated 7th February, 1992 between Clive and Marie Howard and Allied Irish Banks Plc.

A written submission was received on the 15th May, 1997 from Mr. Christopher Hicks, Valuer in the Valuation Office on behalf of the Respondent.

In his written submission, Mr. Hicks set out a description of the subject property. He assessed the rateable valuation on the premises as follows:-

"Rent £46,000 from 9th July, 1992:	@	76%	=	£34,960
	@	0.5%	=	£174.80
		Say	=	<u>£175</u>
<u>Devalues:</u>				
Ground Floor:	1,162 ft ²	@	£25.00	
First Floor:	450 ft ²	@	£ 8.00	
Second Floor:	425 ft ²	@	£ 5.00	
Attic:	125 ft ²	@	£ 2.00	

OR

Zone A:	18' + 20'	360	@	£44.60
Zone B:		360	@	£22.30
Balance:		442	@	£11.15"

Mr. Hicks in support of his valuation submitted four comparisons in a non designated area as follows:-

- (1) **Adams, 41 O'Connell Street, Sligo.**
RV £190 (1996). Rent of £38,000pa from September, 1989. Reviewed to £38,500pa from September, 1994.
- (2) **H. Samuel, 42 O'Connell Street, Sligo.**
RV £165 (1990). Rent £33,000pa from September, 1989. Reviewed to £33,000pa from September, 1994.
- (3) **Tylers, 43 O'Connell Street, Sligo.**
RV £165 (1990). Rent £33,000pa from September, 1989. Reviewed to £33,000pa from September, 1994.
- (4) **San Sad (Singh), 7 O'Connell Street, Sligo.**
RV £62 (1994). Rent £12,480 from April, 1992.

Mr. Hicks also gave details of four properties in a designated area as follows:-

- (1) **Stanton Sports, 22 O'Connell Street, Sligo.**
RV £190 (1996). Rent £50,000pa from November, 1994.
RV devalues at £50,000 @ 76% = NAV £38,000.
- (2) **Body Shop, 13 O'Connell Street, Sligo.**
RV £85 (1994). Rent £24,000pa from September, 1992.
RV devalues at £24,000 @ 71% = NAV £17,000.
- (3) **Brian Green, 11 Tobergal Lane, Sligo.**
RV £30 (1996). Rent £7,800pa from September, 1995.
RV devalues at £7,800 @ 77% = NAV £6,000
- (4) **Ulster Bank, Unit 3 Bridge Street, Sligo.**
RV £125 (1992). Rent £30,880pa from November, 1990.
RV devalues at £30,880 @ 81% = NAV £25,000.

Oral Hearing:

At the oral hearing which was heard initially in Sligo on the 29th day of May, 1997 and was resumed in Dublin on the 1st day of July, 1997, Mr. Desmond Killen of Messrs. Donal O'Buachalla & Company Limited appeared on behalf of the Appellant. The Respondent was represented by Mr. Christopher Hicks of the Valuation Office.

Mr. Killen adopted his written précis as his sworn evidence and submitted that the rent passing in relation to the subject premises was artificial and must be viewed as such. He said that the rent reflected the availability of the rates relief and tax incentives available under the designated area scheme, the costs of relocating the previous occupiers business and the extensive conversion works carried out by the landlord in order to render the premises suitable for bank accommodation.

Mr. Killen referred also to the option of the Appellant's to acquire the freehold interest in the property but when the Agreement in relation to the option was in fact produced to the Tribunal it was clear that the option was to acquire the freehold interest at full market value.

Mr. Killen said that the adjustment made by Mr. Hicks in relation to allowances for the designated area status and the back dating to 1988 rent levels was not sufficient. He referred to his comparisons attached to his written précis and said that if the subject premises were to be treated as any other commercial property in O'Connell, Sligo Zone A of the ground floor could not devalue at more than £30.

Mr. Hicks also adopted his written précis as his sworn evidence. He submitted that the rental evidence in relation to the subject premises must be considered of primary importance. In this connection he said that the property was located in what he described as the High Street of Sligo and that even if the subject were out of line on a square foot basis with other properties in O'Connell Street the passing rent should not be ignored.

Referring to Mr. Killen's comparative evidence, Mr. Hicks said that the bank comparisons were not relevant in that they were old style traditional banks not located in the main shopping street. He submitted that Hibernian Insurance was much less attractive than the subject, that Moffitt's was an old obsolete building which was now being rebuilt and that the first floor offices of the TSB Bank at 21B, O'Connell Street had a particular difficulty in relation to access.

Determination:

The subject property is purpose built and its location in the main shopping street in Sligo cannot be ignored. It is not directly comparable to the other banks in Sligo.

The Tribunal must, in accordance with *Section 11 of the Valuation (Ireland) Act 1852*, have regard primarily to the passing rent. Undoubtedly the situation of the subject in a designated area with the concomitant rates relief and tax advantages must be taken into account in deciding whether or not the passing rent reflects the actual NAV. The Tribunal notes Mr. Hicks' submission that his allowance of 24% reflects not only the designation of the subject but also the backdating of rents to 1988 levels which, he said, varied very little from the rents in 1992.

It seems to the Tribunal that while the Respondent may have made sufficient allowance in relation to the designated area status he may not have made sufficient allowance in relation to the backdating to 1988.

While acknowledging that the devaluation of the subject property does appear to show it as being somewhat out of line with comparable properties on the same street the Tribunal is nonetheless compelled by statute to have regard primarily to the passing rent.

In the circumstances therefore, having regard to the passing rent and making what it considers appropriate allowances for the designated area status of the property and the backdating of the rent to 1988 values, the Tribunal determines that the correct rateable valuation of the subject is £160.