

Appeal No. VA96/3/084

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

**Comer International Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory at Map Ref: 42Af, Townland: Ardnagappary, ED: Magheraclogher, RD:  
Dunfanaghy Co. Donegal

Quantum - Higher RV assessed than at first appeal

**B E F O R E**

**Mary Devins - Solicitor**

**Deputy Chairman**

**Fred Devlin - FRICS.ACI Arb.**

**Deputy Chairman**

**Rita Tynan - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 4TH DAY OF JULY, 1997**

By Notice of Appeal dated the 29th July, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,300 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 property is a factory premises located in an Udaras Na Gaeltachta Industrial Estate at Derrybeg, Co. Donegal. The factory is constructed as a single bay 570 feet long by 216 feet wide. The eaves height is 27 feet with a ceiling at 20 feet. The office accommodation is a two storey block projecting from the factory but not integral with it.

**Valuation History:**

The property was first assessed in November, 1994 at a rateable valuation of £1,300. No change was made to the valuation at First Appeal and it is against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,300 on the subject hereditament that an appeal lies to the Tribunal.

**Written Submissions:**

A written submission was received on the 23rd June, 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 said that while the valuation was disputed the area and valuation of the boiler were agreed:-

**(a) Buildings**

Office	557.5 sq.m.	(6,000 sq.ft.)
Factory (incl. plant rooms & stores)	11,476.0 sq.m.	(123,359 sq.ft.)
1st Floor - Stores/Canteen	549.5 sq.m.	(5,916 sq.ft.)
Boiler House	96.0 sq.m.	(1,033 sq.ft.)

**(b) Plant**

Boiler - Agreed RV £16  
Motive Power - 3,752 HP

Mr. Killen indicated that in his opinion two methods of valuation were appropriate, one the rental method and two the comparison method.

**(1) Rental Method**

Mr. Killen indicated that there was a lease on the subject premises for a 9 year period from 8th December, 1994 to the 7th December, 2003. Mr. Killen said that this averaged out at £250,500pa.

**(2) Comparison Method**

Mr. Killen said that the subject was much larger than any of the adjoining factories in Derrybeg but said that the best comparison in his opinion was Fruit of the Loom,

Buncrana (VA90/1/009 - RV £2,200 affirmed). Mr. Killen said that at 1992 First Appeal parties agreed that the above RV of £2,200 should be devalued as follows:-

High Bay Warehouse (30ft)	111,000 sq.ft.	@	£2.00	=	£222,000
Offices	12,000 sq.ft.	@	£2.00	=	£ 24,000
Balance	125,600 sq.ft.	@	£1.40	=	£175,840
			<b>NAV</b>		<b>£421,840</b>
			<b>RV</b>		<b>£2,657</b>
			<b>Plant RV</b>		<b>£50</b>
			<b>Total RV</b>		<b>£2,700</b>

**With Additions:**

Ground Floor of 2 storey production	19,010	@	£1.40	=	£26,614
First Floor of 2 storey production	17,400	@	£1.00	=	£17,409
			<b>NAV</b>		<b>£44,023</b>
			<b>RV</b>		<b>£277</b>

**Total RV at 1992 First Appeal - Agreed RV £2,975.**

Mr. Killen said that there was no addition for plant and HP in the production area.

Mr. Killen also referred to two other comparisons in Donegal:-

(a) **Gallagher Brothers, 31a Main Street, Killybegs, Co. Donegal.**

RV £760 reduced from £850.

1992/4 First Appeal. Devalues at:-

Offices	4,025	@	£2.75	
Production	27,810	@	£1.90	

(b) **Fish Industries/IAWS, Lot 52B, Killybegs, Co. Donegal.**

RV £640 reduced from £760.

1992/4 First Appeal. Devalues at:-

Offices	3,179	@	£2.50	=	£ 7,947
Production Area (part tiled, part basic construction)	33,100	@	£1.35	=	£44,685

Mr. Killen also supplied the Tribunal with a copy of the lease on the subject premises.

Mr. Killen submitted a supplementary précis to the Tribunal on the 27th June, 1997 based on information supplied by the Respondent. In his supplementary submission Mr. Killen

supplied a detailed breakdown of the analysis of Fruit of the Loom at 1994 revision as follows:-

<u>"(a) 1994 Revision</u>	<b>Sq.ft.</b>		<b>£</b>		<b>£</b>
Factory	102,960	@	1.75	=	180,180
Kitchen	3,024	@	1.40	=	4,234
1st Fl Office	2,066	@	2.00	=	4,132
Loading Bay	1,280	@	1.00	=	1,280
Canopy etc.	1,990	@	0.50	=	995
					NAV <u>190,820</u>
					RV 1,202
	<u>Add</u>				Boiler 66
					Boiler 244
					HP 1,302 @ 0.05 65
					Pipeline <u>20</u>
					1,597
					OV <u>2,975</u>
					4,572
					Say <u>4,580</u>

<u>(b) 1995 Revision</u>	<b>Sq.ft.</b>		<b>£</b>		<b>£</b>
Factory	84,331	@	1.50	=	126,497
Office	3,789	@	2.00	=	7,578
Water Tank	890,000 gals				16,450
W T Plant Buildings	2,295	@	1.50	=	<u>3,442</u>
					153,967
					@ 0.63% 970"

As a result of the information received in relation to his primary comparison, Fruit of the Loom, Mr. Killen amended his assessment of net annual value and rateable valuation and said that in his opinion the correct net annual value for the subject premises is as follows:-

"	<b>m<sup>2</sup></b>	<b>ft<sup>2</sup></b>		<b>£</b>		<b>£</b>
Clear Span Factory	8,154.5	87,775	@	1.50	=	131,662
Grd Floor of 2/S Section	549.5	5,916	@	1.25	=	7,395

1st Floor of 2/S Section	549.5	5,916	@	1.00	=	5,916
Balance of Factory	2,747.0	29,568	@	1.35	=	33,917
Boiler House	96.0	1,033	@	1.00	=	1,033
Offices		6,000	@	1.80	=	10,800
				<b>NAV</b>		<b>196,723</b>
				<b>RV</b>	@	<b>0.5%</b>
						<b>984</b>
Add HP		3,752	@	0.05		188
						Boiler
						<u>16</u>
				<b>Total RV</b>		<b><u>1,188"</u></b>

In relation to motive power, Mr. Killen submitted that if the total amount of the motive power was to be valued, the valuation would be 3,752 HP at 5p or £188 RV. On the other hand he said that if it was treated in like manner to Fruit of the Loom then the amount for plant would be considerably less.

Accordingly, Mr. Killen submitted that the maximum rateable valuation to be assessed on the subject is:-

Buildings	£1,000
Boilers	£ 16
HP	<u>£ 187</u>
<b>Total</b>	<b>£1,203</b>
<b>Say</b>	<b>£1,200</b>

A written submission was received on the 18th June, 1997 from Mr. Christopher Hicks, a District Valuer on behalf of the Respondent.

In the written submission, Mr. Hicks described the subject premises. He said that it had been constructed in 1993 at a total cost of £5.5m excluding site. This devalued at £40 psf overall and indicated the high quality of the building. He said that the factory had an exceptionally wide clear span giving an unusually large unobstructed floor area, allowing for a higher density of machines than would otherwise be the case. He said that the construction resulted in a floor space which was more useful and versatile because of its lack of supporting columns.

By way of comparison Mr. Hicks also offered the Fruit of the Loom factory in Ballymacarry, Buncrana, Co. Donegal as a suitable comparison. He said that the Fruit of the Loom factory had been the subject of two appeals to the Tribunal and a subsequent appeal to the

Commissioner of Valuation which resulted in an agreed breakdown as set out in his written submission. Mr. Hicks said that the Fruit of the Loom factory cost approximately £20 psf while the subject cost double that figure.

In the light of these considerations Mr. Hicks assessed rateable valuation on the subject premises as follows:-

"Clear Span Factory	87,775 ft <sup>2</sup>	@	£2.00 =	£175,550
Ground fl. of 2/s section	5,916 ft <sup>2</sup>	@	£1.40 =	£ 8,282
1st fl. of 2/s section	5,916 ft <sup>2</sup>	@	£1.00 =	£ 5,916
Balance of Factory	29,568 ft <sup>2</sup>	@	£1.75 =	£ 51,744
Boiler House	1,033 ft <sup>2</sup>	@	£1.50 =	£ 1,550
Offices	6,000 ft <sup>2</sup>	@	£2.00 =	<u>£ 12,000</u>
				<u>£255,042</u>
NAV:	£255,042	@	0.5% =	£1,275
Horse Power	3,752	@	5p =	£ 188
Boiler	6,500 lbs/hour	@	£2.50 =	<u>£ 16</u>
				<u>£1,479"</u>

### **Oral Hearing:**

At the oral hearing which took place in the Courthouse, Letterkenny, Co. Donegal on the 4th day of July, 1997 the Appellant was represented by Mr. Des Killen of Messrs. Donal O'Buachalla & Company Limited and the Respondent by Mr. Christopher Hicks of the Valuation Office.

### **Determination:**

The Tribunal has taken careful note of the written précis including the addenda of both parties in this case and has also considered the comments, applications and objections made at the oral hearing today. Its noteworthy that the same comparison namely Fruit of the Loom has been used by both Appellant and Respondent and that there is agreement in relation to the devaluation of that comparison with the exception of the matter relating to horsepower and whether or not that was included in the several valuations arrived at in respect of the Fruit of the Loom premises.

The Tribunal, somewhat reluctantly, but necessarily must refer to the Respondent's valuation on page 4 of his written précis which is of somewhat limited assistance to the Tribunal in that it advances an argument for a figure which is not the figure appealed against and which

touches on an area which has been dealt with comprehensively by the Tribunal in an earlier case (VA95/1/108 - Dunnes Stores Limited v. Commissioner of Valuation). This appeal lies against the figure of £1,300 and it is that figure which the Tribunal has considered.

Therefore, taking into account the rental evidence which is incontestable, the comparative evidence of Fruit of the Loom and also noting, the situation in relation to the query over horsepower in the comparative evidence the Tribunal determines that the correct rateable valuation of the subject is £1,250.