

Appeal No. VA97/2/009

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

**Ulster Bank (Terenure Road East)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Bank at Map Reference 91.93.95/Unit 1.2 Terenure Road East, Ward: Rathfarnham,  
County Borough of Dublin  
Quantum

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Rita Tynan - Solicitor**

**Member**

**Ann Hargaden - FRICS.FSCS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 24TH DAY OF JULY, 1998**

By Notice of Appeal dated the 11th April 1997, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £194 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 appeal proceeded by way of an oral hearing which took place on the 4<sup>th</sup> day of February 1998 in the Tribunal Offices in Dublin. Ms. Sheelagh O’Buachalla, BA, an associate of the Society of Chartered Surveyors and a director of Donal O’Buachalla & Company Limited appeared on behalf of the appellant. Mr. Brian O’Flynn, a District Valuer with 22 years experience in the Valuation Office appeared on behalf of the Commissioner of Valuation.

### **The Property**

Tenure

The property is held under a 35 year lease from 11<sup>th</sup> July 1994 at a rent of £27,000 per annum with five year rent reviews.

### **Expenditure**

Tenant’s expenditure amounts to £110,843 as referred to in Appendix One attached hereto.

### **Location**

The property is located on the Terenure Road East close to Terenure Road North. It is situated at the end of a terrace of shops away from the centre of Terenure Village.

### **Description**

The subject premises comprises part of the ground floor of a two-storey red brick building.

The total net lettable area of the premises which is L-shaped is 1,468 sq.ft.

Accommodation comprises of lobby with automatic teller machine, banking hall, offices, strong-room, canteen and WC’s.

### **Valuation History**

In September 1994 the subject property was inspected and then revised. On the 9<sup>th</sup> November 1994 the valuation lists issued and the R.V. was fixed at £100 and £94. On the 7<sup>th</sup> December 1994 occupier’s agent appealed the revised valuation to the Commissioner of Valuation. On the 25<sup>th</sup> March 1997 the Commissioner issued his decision to amalgamate the R.V. at £194. On the 11<sup>th</sup> April 1997 the appellant lodged an appeal to the Valuation Tribunal.

**Submissions of both parties**

Ms. O’Buachalla having taken the oath adopted her written précis dated 8<sup>th</sup> January 1998 as her evidence in chief. She made an application to the Tribunal to amend her valuation on foot of her being in receipt of the letter dated the 15<sup>th</sup> January 1998 as referred to in Appendix Two hereto from Mr. Brian O’Flynn wherein he commented on comparisons and set out the position on tenants improvements (fit out and rent). Ms. O’Buachalla’s revised valuation as submitted was:

Lease rent £27,000 (adjust to 1988 JLW index) x 81%

£21,870 @ 0.63%

R.V. £138

Say £140

Ms. O’Buachalla’s submission included the following points;

1. That in accordance with the principle of valuation – as you value so you devalue – she did not intend to add anything back for fitout.
2. Using 0.63%, fitout was included in her valuation.
3. Her submission of £16 p.s.f. was with regards to the passing rent as the best evidence of N.A.V.
4. She stated that the rent was not a shell rent and that the premises was furnished to a state that the tenant could go in and put in their own equipment and that the premises was ready for occupation.
5. The subject premises was originally built as two shop units and that regard should be made to retail units and passing rents.

6. With regard to estimates of N.A.V., she had regard to the passing rent ant to the expenditure and also to the other banks and properties in the area.

She cited her comparisons as referred to in Appendix Three attached hereto.

Mr. O'Flynn's cross examination principally centred on details of her comparisons to include banking halls, expenditure and agreed fitout.

Mr. O'Flynn having taken the oath adopted his written précis dated 15<sup>th</sup> December 1997 as his evidence in chief. He stated in his submission that the subject premises was in a well established shopping area with two other banks nearby, one at the crossroads being the Bank of Ireland and another at the Rathfarnham Road being the AIB approximately 15 metres from Terenure Crossroads.

He further submitted that there was a shell rent of £27,000 per annum on a 35 year lease with five yearly rent reviews and that there was expenditure of £110,883 on the premises by way of tenant's improvements. He referred to the schedule of improvements he had been furnished with by the appellant and he excluded elements of fit out which he classified as tenant's improvements.

He submitted his valuation as outlined on page 6 in his précis.

Shell Rental form 11/07/1994	=	£27,000 p.a.
Add: Expenditure on improvements, £110,883 @ £10 y.p.:	=	<u>£11,088</u> £38,088

Indexed by the C.P.I. to November '88

1994 Index 93.7

111.2	=	£32,093
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@ 0.63%, R.V.: = £202.19

The R.V. of £194 (as fixed on the property)

@ 0.63% equates to a N.A.V. of = £30,793

The N.A.V. devalues as follows:-

Nett lettable area excluding w.c.'s + passages: = 1,468 ft<sup>2</sup>  
= £20.97 p.s.f.

Or gross internal area inc. w.c.'s + passages: = 1,626 ft<sup>2</sup>  
= £18.93 p.s.f.

He cited his comparisons as referred to in Appendix Four of his précis and attached hereto.

Mr. O'Flynn highlighted the issue of tenant's improvements referring to the following Tribunal decisions:

A.I.B., Howth Road, Clontarf VA94/2/004

A.I.B., Main Street, Ballinasloe VA92/21

P.W.A. International Limited VA93/2/035 and the Case Stated therein.

He stated that in assessing improvements he had regard to the Case Stated in the P.W.A. International Limited, referring to the ruling of Lord Esher in *Laing -v- Bishop Wearmouth 1878 3QBD299 38 Digest 553, 934* which is referred to in the case of *Tyne Boiler Works Company -v- Long Benton Overseers 1886, 18QBD 81 38 Digest 533, 781*. Mr. O'Flynn stated anything he had taken as an improvement is in the light of that judgment meaning that any expenditure that rendered the premises suitable for use as a bank he had taken as an

improvement. He further stated that in his view his valuation was in line with other recently revised properties in the area and also in line with other banks which have been dealt with by way of appeal to the Valuation Tribunal.

He further stated that including fit out and costs is a well established practice of valuation and that the argument really revolved around how much was rateable.

Under cross-examination by Ms. O’Buachalla, he stated that he valued the subject premises as a bank and presumed that it was let at a shell rent.

### **Determination**

The Tribunal has considered the written submissions and the evidence of both parties and in view of the foregoing and having regard to the arguments adduced and in relation to the comparisons the Tribunal considers that the arguments advanced by the Respondent regarding his comparisons, and the cost of the tenants improvements and in the light of the submission made in that regard that his estimate of N.A.V. is persuasive.

Accordingly, the Tribunal dismisses the appellant’s appeal herein and affirms the valuation of the Commissioner of Valuation. The Tribunal therefore determines the R.V. of the subject property to be £194.