

Appeal No. VA97/6/019

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

Bank of Ireland (Lower O'Connell Street)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank at Map Reference 6/7 Lower O'Connell Street, County Borough of Dublin
Quantum - Banks to be valued as retail or in comparison with other financial institutions

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

George McDonnell - F.C.A.

Member

Anita Geraghty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF AUGUST, 1999

By Notice of Appeal dated the 14th day of October 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £855 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that "the valuation is excessive and inequitable in accordance with the provisions of the Valuation Acts".

The relevant valuation history is that the property was included in the May 1994 quarterly revision. The decision of the Commissioner of Valuation was to leave its existing R.V. of £1,450 unchanged. On appeal the rateable valuation was reduced to £855.

A written submission prepared by Mr. Thomas Davenport, ARICS ASCS, Chartered Surveyor, Lisney Estate Agents, Auctioneers and Surveyors, 24 St. Stephen's Green, Dublin 2, on behalf of the appellant was received by the Tribunal on 19th March 1998.

The written submission set out Mr. Davenport's calculation of a fair rateable valuation as follows:

		Sq.Ft.	£ per Sq.Ft.	
<i>Ground Floor</i>	Banking Hall/Offices	2,245	35	£78,575
<i>Mezzanine</i>	Offices	1,468	5	£ 7,340
	Kitchen	364	4	£ 1,456
<i>Basement</i>	Strongroom/Bookroom	965	5	£ 4,825
	Stores	757	3	£ 2,271
Total Net Annual Value				£95,000

Alternatively on a zoning basis:-

Zone	Sq.Ft.	£ per sq.ft.	Total
Ground Floor			
Zone A	736	55.00	40,480
Zone B	736	27.50	20,240
Zone C	736	13.15	10,120
Remainder	37	7.00	259
Mezzanine			
Offices	1,468	5.00	7,340
Kitchen	364	4.00	1,456
Basement			
Strongroom/Bookroom	965	5.00	4,825
Stores	757	3.00	2,271
Total			£87,000

Reducing factor to translate NAV into RV = 0.63%

Estimate of Rateable Valuation : £95,000 x 0.63% = R.V. £600

The written submission contained a schedule of six comparisons based on market rents for retail premises in O'Connell Street, Dublin.

Additionally the written submission contained a schedule of five other retail premises in O'Connell Street, Dublin analysed as to their N.A.V.'s and R.V.'s.

A written submission prepared by Mr. Bernard Stewart on behalf of the respondent was received by the Tribunal on 20th March 1998. Mr. Stewart is a District Valuer in the Valuation Office with twenty seven years experience there.

The written submission stated that the rationale of the valuation was derived from the Tribunal decision in *Ulster Bank Limited -v- Commissioner of Valuation – VA96/5/003*.

The written submission set out the calculation of the rateable valuation as follows:

	<i>Sq.ft.</i>		<i>£ p.s.f.</i>	
Gr. Flr. Banking Hall etc.	2,150	@	52.50	
Less 5% for less extensive				
Frontage compared to Ulster Bank			50.00	£107,500
Pt. of gr. Flr. recessed to side	95	@	30.00	£ 2,850
1 st Flr. mezzanine offices	1,468	@	9.00	£ 13,212
Rear canteen (off set)	364	@	6.00	£ 2,184
Basement vault & book room	965	@	8.00	£ 7,720
Porters room & computer room	284	@	5.00	£ 1,420
Storage area	473	@	2.00	<u>£ 946</u>
				£135,832

R.V. 0.63% of E.N.A.V. £135,830

£855.00 R.V.

The written submission contained a schedule of five comparisons being financial institutions in O'Connell Street, Dublin.

The written submission also contained details of three retail properties on O'Connell Street, Dublin which were described as being for reference purposes.

The oral hearing took place at the Tribunal's offices in Dublin on 25th day of March 1998. The appellant was represented by Mr. Owen Hickey B.L. and the respondent was represented by Mr. Mark Sanfey B.L.

In his sworn testimony Mr. Davenport said the floor areas of the subject property were agreed with the respondent.

Mr. Davenport said the key issue in arriving at a rateable valuation of the subject was the appropriate comparisons to be used.

Mr. Davenport said his comparisons were based on market rents for retail properties in O'Connell Street, Dublin. Additionally Mr. Davenport stated that his research showed that the N.A.V.'s established by the Valuation Office for the properties analysed in his written submission were higher than the appropriate market rents in November 1988.

Mr. Davenport said that the subject had a modern plate glass shop front like the standard shop fronts for retail units. Also the subject had a ground floor open plan layout which made it suitable for retailing.

In further testimony Mr. Davenport said that the upper floors in the property were separately valued. He further described his approach to the valuation and said that the accommodation in the basement was of poor standard. He also said that the mezzanine offices had headroom of 8½ feet and that this accommodation suffered from a lack of natural daylight. Mr. Davenport said the total area of the subject was circa. 5,800 sq.ft. and that in arriving at an N.A.V. there should be a quantum allowance for the hypothetical tenant taking the entire letting.

In support of his approach to the valuation of the subject Mr. Davenport referred to two Tribunal decisions; *Irish Permanent Building Society –v- Commissioner of Valuation – VA96/2/010* and *Bank of Ireland –v- Commissioner of Valuation – VA95/6/013*. The former case decided that a financial institution should be valued in line with adjoining retail properties while the latter case decided that banks should be valued as occupiers of similar commercial properties are valued.

In further testimony Mr. Davenport said that the subject could be converted to retail use without substantial reconstruction.

Mr. Davenport said that the basis of his valuation was the evidence as to market rents and rateable valuations of comparable and nearby retail units on O'Connell Street.

Mr. Davenport then gave evidence as to these comparisons.

Numbers 43/44 O'Connell Street had a value of £44 p.s.f. on an overall area of 1,494 sq.ft. of ground floor space based on an October 1991 rent of £87,000 per annum. Using the Jones Lang Wootton property index the relevant value in November 1988 was £38 p.s.f. Number 43/44 O'Connell Street was a corner location with double frontage. It had a smaller area on the ground floor than the subject and possibly a better layout.

Number 17 O'Connell Street Upper had a rent at 1st April 1985 of £31,000 per annum. This produced an overall ground floor space of 1,562 sq.ft. at £19 p.s.f. Using the Jones Lang Wootton property index this gave the relevant value of £22 p.s.f. in November 1988. The subject had a better frontage and better layout with respect to this comparison.

Number 14/15 O'Connell Street Upper had a rent on 1st March 1991 of £38,000 per annum and this gives a value of £30 p.s.f. for 1,086 sq.ft. of ground floor space. Using the Jones Lang Wootton property index gave a value of £26 p.s.f. in November 1988. The subject is larger at ground floor than this comparison. The subject, however, has a wider frontage and a better layout.

Number 49 O'Connell Street Lower had a rent on 26th July 1991 of £52,000 per annum. This produced a value of £39 p.s.f. for 1,128 sq.ft. of ground floor space. Using the Jones Lang Wootton property index gave a relevant value of £34 p.s.f. in November 1988.

Number 33 O'Connell Street Lower had a rent on 1st October 1990 of £53,000 per annum. This produced a value of £35 p.s.f. on ground floor space of 1,170 sq.ft. Using the Jones Lang Wootton property index gave a relevant value of £30 p.s.f. in November 1988.

Number 52 O'Connell Street Lower had a rent of £41,000 per annum on 1st April 1991. This produced a value of £28 p.s.f. for 1,091 sq.ft. of ground floor space. Using the Jones Lang Wootton property index gave a relevant value of £25 p.s.f. in November 1988.

Numbers 49 O'Connell Street Lower, 33 O'Connell Street Lower and 52 O'Connell Street Lower all had smaller areas at ground floor than the subject. Mr. Davenport said that he had put a higher value p.s.f. on the subject for ground floor space due to its wider frontage and better layout in comparison to these properties.

Mr. Davenport said that this set of comparisons established a range of values to ground his valuation of the subject.

In further testimony Mr. Davenport referred to his second set of comparisons. This showed N.A.V.'s where there was no evidence of actual market rents. The values p.s.f. derived from the N.A.V.'s were higher than the values p.s.f. in November 1988 derived from actual market rents. Mr. Davenport concluded that these N.A.V.'s for November 1988 were higher than actual market rents for November 1988.

Mr. Patrick Clark, Group Property Surveyor of the Bank of Ireland gave sworn testimony as to a bank in Belfast, which now traded as a Tesco store and illustrated the latter trading situation with two photographs.

Mr. Stewart in his sworn testimony adopted his written submission as his evidence to the Tribunal. Mr. Stewart said his valuation was based on banking comparisons nearby and revised and agreed in the last few years.

Mr. Stewart then referred to his comparisons.

The first comparison was the result of a Tribunal decision (*Ulster Bank Limited –v- Commissioner of Valuation – VA96/5/003*). This property was two doors away from the subject on the same side of the street.

Mr. Stewart had based his valuation of the subject on this comparison making an allowance for the fact that the subject has a less extensive frontage. The basement and the vault in the subject was the same as in the Ulster Bank. The mezzanine offices in the subject property were valued at a higher rate than the Ulster Bank because these offices had a service lift and a type of air conditioning unlike the first floor offices in the Ulster Bank. He had put a lower value on the first floor canteen in the subject because it was located behind the mezzanine offices at the rear of the building.

As to the Irish Permanent Building Society Mr. Stewart's second comparison, this had a frontage to O'Connell Street and Lower Abbey Street. The ground floor on O'Connell Street had a value of £60 p.s.f. and the ground floor on Lower Abbey Street had a value of £45 p.s.f. The Irish Permanent had values of £10 p.s.f. and £9 p.s.f. for first floor offices.

Mr. Stewart's third comparison was Allied Irish Banks 10/11 O'Connell Street Lower. This property had a ground floor value of £57 p.s.f. after making allowance for internal difficulties including four large pillars. The ground floor area of this property was however, smaller than the subject.

The National Irish Bank 65/66 O'Connell Street Upper had a good traditional bank frontage like the subject. The ground floor banking hall there had a value of £60 p.s.f.

Mr. Stewart's final banking comparison was the Irish Nationwide Building Society, Number 1 O'Connell Street Lower. A smaller ground floor area than the subject had a value of £69 p.s.f.

Mr. Stewart referred to three shops that he had included in his written submission for reference purposes.

Hamilton Long next door to the subject had low shop headroom. It had a ground floor value of £44.14 p.s.f. McDonalds across the road from the subject had a ground floor value of £43.24 p.s.f. Brereton's of 29 O'Connell Street Lower had a value of £40 p.s.f. for overall net 1,080 sq.ft. after 1991/4 first appeal.

Mr. Stewart commented on Mr. Davenport's evidence about values p.s.f. derived from N.A.V.'s being higher than values p.s.f. derived from market rents for the same property. Mr. Stewart said leases referred to properties originally taken and did not take into account improvements and that this accounted for the discrepancy. Again in connection with Mr. Davenport's use of the Jones Lang Wootton property index Mr. Stewart said this was irrelevant in the case of agreed N.A.V.'s. These N.A.V.'s were the agreed rental levels at November 1988.

Mr. Stewart said that a bank would pay a premium to occupy a building like the subject with its magnificent listed frontage.

Mr. Stewart said that only half the frontage of the subject contained within the arch was plate glass. If a shop was to occupy the property there would be substantial reconstruction required. The doors to either side of the arch would be removed. The stairs at the front of the building would be moved to the back of the building. The strong room and book room in the basement would have to be changed to accommodate retail storage. The security screens on the ground floor would have to be removed.

Mr. Stewart said a bank could move into the property without additional expenditure. Finally Mr. Stewart said he had valued the subject property in its actual state.

Under cross examination by Mr. Hickey, Mr. Stewart accepted that he had not produced any market rents in his written submission. Mr. Stewart further accepted that market rents are the best evidence if available.

Mr. Stewart was asked by Mr. Hickey why the shops in his written submission were described as for reference purposes. In reply Mr. Stewart said that shops were a different category of property. In further replies Mr. Stewart said he would expect banks in O'Connell Street (depending on structure) to rent at a premium of 20% on comparable shops. This

opinion was based on the agreed valuations for banks and also on the Tribunal decision in the Ulster Bank case.

Under cross examination by Mr. Hickey as to the evidence given by Mr. Clark about the bank in Belfast which had been converted to a shop Mr. Stewart said that no evidence as to rent had been provided as to that property.

Mr. Hickey put it to Mr. Stewart that banks would only pay slightly more than the rate for ground floor offices in O'Connell Street. Mr. Stewart did not agree with this and he said no evidence had been given to the Tribunal as to the rate p.s.f. for ground floor offices in O'Connell Street.

Counsel for the appellant and the respondent agreed that as the net issues in this case were the same as those in the immediately succeeding appeal Bank of Ireland 28 Lower O'Connell Street –v- Commissioner of Valuation – VA97/6/022 their submissions in the succeeding appeal would extend to the instant appeal.

The Tribunal has considered the written submissions and the evidence offered by the appellant and the respondent. The Tribunal has also considered the submissions made by the appellant and the respondent.

The Tribunal finds that the banking comparisons offered by the respondent are the most appropriate to the determination of this case. This finding is based on the uncontradicted detailed evidence of Mr. Stewart as to the substantial reconstruction required to convert the subject to shop use. To reiterate that evidence two front doors would have to be removed, a stairs re-located to the back of the building, the basement storage would have to be changed and security screens removed on the ground floor. Accordingly Mr. Davenport's shop comparisons does not provide a suitable basis for valuing this property.

Therefore relying on the respondent's banking comparisons the Tribunal affirms the decision of the Commissioner of Valuation in fixing a rateable valuation of £855 on the subject property and the Tribunal determines the rateable valuation of the subject hereditament to be £855.

