

Appeal No. VA98/3/052

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

Governor and Company of the Bank of Ireland (Portlaoise) APPELLANT

and

Commissioner of Valuation RESPONDENT

RE: Bank at Map Reference Lot No. 21 Main Street, Maryborough, Portlaois Urban, R.D.
Mountmellick, Co. Laois

B E F O R E

Barry Smyth - FRICS.FSCS

Deputy Chairman

John Kerr - MIAVI

Member

Tim Cotter - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 31ST DAY OF JULY, 2000

By Notice of Appeal dated the 4th day of August 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £320 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the assessment is excessive, inequitable and bad in law having regard to the provisions of the Valuation Acts and on other grounds also."

The appeal proceeded by way of an oral hearing which took place on the 13th day of March 2000 at the Tribunal Offices in Dublin. The appellant was represented by Mr. Owen Hickey B.L. Mr. Thomas Davenport ARICS ASCS, Chartered Surveyor of Lisney gave evidence. The respondent was represented by Mr. Brendan Conway B.L. instructed by the Chief State Solicitor. Mr. Denis Maher, a District Valuer with approximately 24 years experience in the Valuation Office gave evidence on behalf of the respondent.

On a preliminary issue Mr. Hickey objected to the inclusion in Mr. Maher's précis of an extract from Mr. Davenport's without-prejudice-submission to the Valuation Office in relation to the initial appeal and in particular the estimate of N.A.V. and thus R.V. contained therein. The Tribunal ruled that references to such without-prejudice-submission should not be included in the précis of evidence and that they would ignore those figures in assessing the N.A.V. and R.V. in the instant appeal.

Material Facts agreed or found by the Tribunal

Valuation History

1980 revision/appeal R.V. £275

1990/2/revision/appeal - Valuation Tribunal Appeal VA92/2/043 - R.V. £200

1997/4 revision/appeal - R.V. £200 increased to R.V. £320 and remained unchanged on appeal.

The instant appeal is against this figure of £320.

Situation

The property is situated in the centre of the town of Portlaoise with frontage both to Main Street and Lyster Square which in turn has frontage to the inner by-pass also known as James Fintan Lawlor Avenue. The property is directly beside Lyster Lane, the main link between Main Street and Lyster Square. New developments in designated areas on the east side of Lyster Square and also developments on the west side of Lyster Square and the Portlaoise Shopping Centre on the south side of the inner bypass road have diverted business in the town from Main Street to Lyster Square. Occupiers fronting Lyster Square car park include First Active Building Society, AIB

Bank, Portlaoise Post Office, ACC Bank, Educational Building Society and Portlaoise Credit Union. Main Street occupiers include a variety of retail users and financial institutions. The population of Portlaoise (1996 Census) is approximately 9,500 and is expected to increase primarily due to Portlaoise now becoming a commuter town for Dublin, because of its accessibility by both road and rail.

The Property

The property comprises a part two storey and part single storey rectangular shaped bank premises with frontage to Main Street of approximately 31 feet and frontage to Lyster Square of approximately 41 feet the total depth being approximately 125 feet. The ground floor comprises a banking hall with ancillary offices and strong room and the first floor ancillary offices with kitchen and toilet facilities.

In recent years new external facades have been provided on both elevations. Additional office accommodation has been provided at first floor level and there has been internal refurbishment. The total costs were in the order of £290,000.

Accommodation

The following accommodation is agreed

Ground Floor	banking hall/offices	305 m2 (3,277 sq. ft.)
Strong Room		9.1 m2 (98 sq. ft.)
First Floor	offices/kitchen/stores	135 m2 (1,448 sq. ft.)

The Appellant's Case

Mr. Davenport stated that this is a modern retail/office building differing somewhat from traditional banks and that it is situated within a recognised retail area with its neighbours used for retail purposes and therefore a retail level of rent would be appropriate. The premises is relatively long and narrow with a maximum width of 33 feet and an overall depth of 120 feet

although it does have dual frontages and access from both front and rear. There is a difference in floor level between the front and rear sections of the ground floor.

He referred to various Tribunal Judgements including Bank of Ireland Tullamore - VA95/6/013, Bank of Ireland Main Street, Bray - VA96/2/054, AIB Sutton - VA95/6/25 and AIB George's Street, Dun Loaghaire - VA93/2/008.

Mr. Davenport argued that all development in recent years in Portlaoise had taken place in designated areas to the detriment of the Main Street, despite it's upgrading.

He listed nine comparisons the details of which are appended to this decision. In summary the details of these are as follows:

1) Unit 15 - Lyster buildings:

First Active Building Society

Analysis: RV: £55

Ground floor shop 534 sq. ft. @ £16psf

First floor offices 483 sq. ft. @ £5psf

This is a designated area

2) 22A Main Street, Portlaoise - Dowlings

35 year lease from August 1990 @ £16,000 per annum

Analysis of rent

Ground Floor 670 sq. ft. @ £15psf

First floor offices 930 sq. ft. @ £ 6psf

This is a designated area

3) Various units in Lyster Building. 1989 rent review gives a range of rents for retail areas in the order of £13.12psf to £15.30psf for units in the order of 500 sq. ft.

4) Allied Irish Bank

Map Lot 19B Lyster Square, Portlaoise

This comparison is common to both parties

1994/3 Revision. Agreed R.V. £270

NAV therefore £54,000

Analysis

Ground floor 3,633 sq. ft. @ £12.25psf

First floor 1,507 sq. ft. @ £ 6.00psf

Mr. Davenport stated that this is a purpose built bank building dated from 1986 with extensive frontage onto Lyster Square car park of approximately 180 feet. The property has a huge profile onto Lyster Square and a dominating presence over the surrounding retail area.

5) Two Units at James Fintan Lawlor Avenue

Analysis

NAV: £12psf and £12.80psf

6) Large unit James Fintan Lawlor Avenue with ground floor 7,396 sq. ft. NAV @ £5psf

Mr. Davenport made the following comments on the respondent's comparisons:

The AIB building was the most dominating one on the square and in a better pitch than the subject premises and an infinitely superior building to the Bank of Ireland building. In his view the respondent was applying £16psf on the subject premises based on the respondent's comparison of the ACC building alone, which, in his opinion was an unreliable comparison as the letting was higher than the market rents at the time; that premises was designated and in the 1998 rent review the rent had been increased by only 5% whereas various indices show a growth of 25% over the same period.

The FBD premises in the adjoining property is let at only £10psf. In his opinion the rents in his comparison number three the Lyster Buildings should be reduced in rent to allow for time and designation and not increased by 30% as the respondent had done. In relation to Mr. Maher's

other comparisons he commented that the TSB Nenagh was a modern unit, designated and with a smaller floor area than the subject.

The AIB Nenagh was a modern corner premises on the Main Street with only £15psf applied to a smaller area. The Ulster Bank, Carlow, was a new building designated and smaller. AIB Navan was a third generation building with air conditioning and visually superior to the Bank of Ireland, Portlaoise. The Irish Nationwide, Portlaoise, had a rent of only £16psf on 516 sq. ft. and First Active a rent of £18psf although in his opinion this analysed at £16psf. He expressed the view that the only relevant comparison in the respondent's list was the AIB premises at £12.50/£12.25.

Mr. Davenport estimated the NAV and thus rateable valuation on two bases:

1) Overall Basis

Banking hall/offices	3,277 sq. ft. @ £10.00psf	=	£32,700
Strong Room	98 sq. ft. @ £ 6.00psf	=	£ 588
First floor offices	1,448 sq. ft. @ £ 5.00psf	=	£ 7,240
Total		=	£40,528

2) Zoning Basis

Car park frontage	Zone A 736 sq. ft. @ £18.00psf
	Zone B 712 sq. ft. @ £ 9.00psf
Main Street frontage and	Zone A 439 sq. ft. @ £15.00psf
	Zone B 646 sq. ft. @ £ 7.50psf
Remainder	842 sq. ft. @ £ 4.50psf
First Floor	1,448 sq. ft. @ £ 5.00psf
N.A.V. =	£42,115

N.A.V. £40,000 per annum
@ 0.5% = R.V. £200

In cross-examination Mr. Davenport said that Portlaoise was the main commercial and retail town in the area with a number of modern shopping developments. He stated that he looks at the characteristics and location of a building and then looks for appropriate comparisons and

endeavours to compare buildings of similar function with each other. In this instance he regarded the bank as a retail unit because it has frontage to two retail areas namely Lyster Square and Main Street. He accepted that the pre-revision valuation of £200 was a Tribunal decision and that since that date expenditure of £290,000 had been incurred on the premises. Although the premises had been changed in appearance and upgraded, in his view this did not add to the rental value significantly. He accepted that the frontage to Lyster Square had been upgraded and that Lyster Square itself had been upgraded. He did not feel that the bank would require very considerable works to alter to retail use.

In his opinion, Lyster Square was the main frontage because of the bypass and the fact that the majority of the developments had taken place fronting the bypass. He accepted that it was reasonable to look at all comparisons including banks. He accepted that the rent on No. 22 Main Street, Portlaoise at 1990 reflected £15.00psf whereas an analysis of the rateable valuation of the First Active Building Society premises fronting Lyster Square was either £16 or £18psf.

The Respondent's Case

Mr. Maher stated that Portlaoise was now bypassed by a major motorway type road and that it had become a residential dormitory town for Dublin with a consequent increase both socially and economically since the building was last valued.

The effect of the refurbishment work was that the building has been improved both internally and externally and 800 sq. ft. had been added on the first floor. It is now more imposing with a traditional exterior and modern interior.

New developments in designated areas to the east of the bank and on both sides of the relief road have transferred the main business area in the direction of Lyster Square and adjoining areas. Improvements in Lyster Square mean that the rear of the premises is now approached directly off the Square rather than through a yard. The main street was considerably upgraded and is now a one-way road system and is much more user friendly. There is no evidence of reduction of rental values in the street.

He calculated the rateable valuation as follows:

Ground Floor	3,375 sq. ft. @ £16.00psf
First Floor	1,448 sq. ft. @ £7.00psf
Total = £64,136 N.A.V.	
@ 0.5% R.V. £320	

Mr Maher said that for comparison purposes he had looked at banks in the town, particularly AIB and the ACC and building society premises and he also looked at banks in similar towns. In his opinion the FBD building is an office building and the ACC comparison showed that banks will pay more rent than other users. He expressed the view that the AIB premises is undervalued. It had been done on the basis of the subject premises prior to its refurbishment. The pre-refurbished Bank of Ireland had been analysed at £12.00 and this figure was applied to the AIB. He expressed the view that it was reasonable to compare banks with banks in similar sized commercial towns. The AIB, Navan, one of his comparisons is a state-of-the art premises and the subject Bank of Ireland is recently renovated and refurbished. He did not accept that the AIB in Portlaoise was the only valid comparison and said that one must look at the other comparisons. In total Mr. Maher provided eight comparisons, the details of which are appended to this determination and in summary are as follows:

1. ACC, Portlaoise

94/3 First Appeal

Floor Area 2,100 sq. ft.

Situated at the edge of Lyster Square.

1993 rent on a 35 year lease of £35,000 p.a. with an addition of £10,000 p.a. payable for 10 years for structural works.

2. FBD, Unit 10AC/Unit 1 Kellyville Center

Ground Floor 1,453 sq. ft.

R.V. determined at £70 equivalent to approximately £10psf and lease 10 years from February 1995 at £16,000 p.a., fit out extra cost £60,000.

3. *AIB, Portlaoise*

1994/3 First Appeal, Analysis of RV

Ground Floor 3,626 sq. ft. @ £12.50

Store room £6.00psf

First floor 1,507 sq. ft. @ £6.00psf

4. *TSB, Nenagh*

Ground Floor 1,800 sq. ft. @ £16.00psf

Estimated N.A.V. £32,000

25 year lease from September 1992 £38,500 p.a.

5. *AIB, Nenagh*

2,638 sq. ft. @ £15.00psf

Estimated N.A.V. £55,000

6. *Ulster Bank, Carlow*

Ground Floor 2,157 sq. ft.

Estimated NAV £16psf

In this case the Tribunal in VA96/5/013 made an allowance of £1psf to reflect the fact that the building is designated.

7. *AIB, Navan. VA95/1/023*

RV £505

Analysis

Ground Floor 4,989 sq. ft. @ £15.75

8. *Irish Nationwide, 23A Main Street, Portlaoise*

1990 Revision,

Public Office 516 sq. ft. @ £16psf

9. *First Active, Lyster Square*

1994/3 First Appeal

Valued as a vacant shop

Ground Floor 500 sq. ft. @ £18psf

In cross examination in relation to comparable and similar function, Mr. Maher expressed a view that comparing a bank with another bank is the best comparison to follow and that banks should only be compared with banks if appropriate comparisons are available, but if retail comparisons are available he will look at them. In this case his prime comparisons in his opinion are banks and there are two available. He accepts that AIB is comparable but in his view needs to be adjusted because it was based on the subject Bank of Ireland before it was refurbished. He stressed that in his view the AIB premises was superior to the original Bank of Ireland premises but not the present Bank of Ireland premises and therefore it was not appropriate that it should be valued at the same rate. He accepted that the AIB was somewhat more prominent but that all pedestrian traffic from Lyster Square to and from Main Street funnels through Lyster Lane right beside the Bank of Ireland premises.

In response to a question that assuming that £12.50 per sq. ft. was correct for AIB, he accepted that £12.50 would be correct for the Bank of Ireland because it had dual access. He did not accept that there was any evidence for a reduction in rental values on Main Street. He accepted that on a zoning basis, because of the access and the car parking, it would be appropriate to have a higher rate per square foot on the Lyster Square frontage. In relation to designation he said that the difference in rents varied depending on location and in many cases it was marginally small.

In re-examination he stated that each property must be assessed on its own merits and comparisons adjusted to deal with the facts of the subject premises. He stated that he did not have all the information he needed in relation to the Bank of Ireland, Portlaoise and he questioned the AIB figure and therefore looked at other county towns that are more the less the same size. He stressed that the Bank of Ireland now has good access to the rear as well as from the Main Street and has an extra 800 sq. ft. on the first floor and has been totally refurbished and also that in 1992 the Tribunal had fixed a figure of £12psf on these premises. It was clearly more valuable now than then and the ACC premises was a valuable comparison.

In summing up Mr. Hickey said that there was no support for the proposition that banks pay more rent than other traders and that the Tribunal or Commissioner may not impose its own valuation. The Commissioner cannot impose his own figures.

Mr. Conway referred to the two Tullamore cases and quoted extensively from VA95/6/006, the AIB case and stated that while it was relevant to look at commercial properties generally when banks occupy particular buildings fitted out to a high standard that this must be taken into account. In his view the Bank of Ireland decision of the 24th of February 1997, VA95/6/013 does not affect the AIB case. In the subject case the Bank of Ireland gave the bank a typical façade for its type. He also stated that it was appropriate that the Valuer may consider other towns and that this was quite an imposing building.

Mr. Hickey in response said that this building does not attract higher rents than its neighbours.

Determination

There is little dispute between the parties about the location or nature of these premises although the appellant argues that Main Street has suffered in rental terms because of developments on the inner relief road and those fronting Lyster Square but was unable to produce any rental evidence to justify this assertion. Clearly however the emphasis on trade has turned towards Lyster Square and the inner bypass and there have been considerable developments in this immediate area. Lyster Square has been considerably upgraded and to take advantage of this Bank of Ireland have also upgraded their Lyster Square frontage to present a good quality bank frontage to this area. While AIB appears to be a more imposing building, it has frontage only to Lyster Square whereas the Bank of Ireland has the advantage of dual frontage both to Lyster Square and additionally to the traditional Main Street and is immediately adjacent to the principal route between the Lyster Square car parking area and the Main Street. The Bank of Ireland has also improved its general ground floor area and increased its first floor area by 800 sq. ft. It is hard to see therefore how the Tribunal could determine the same rateable valuation as sought by the appellant on these improved and enlarged premises as it did in VA92/2/043, which was also carried out under the NAV system, although taking cognisance of the Tribunal decisions in

relation to Tullamore and other bank cases outlined by the appellant. It is very difficult to find comparisons of similar sized buildings of quality and as well-located as this Bank of Ireland premises in Portlaoise and the only comparison approaching a similar size is of course the AIB premises which according to the respondent's Valuer was valued principally on the basis of the Tribunal decision on the Bank of Ireland premises in its pre-improved condition. We are reluctant to give too much cognisance to rateable valuations of banks or other premises outside the immediate rating area.

The Tribunal determines the rateable valuation of these premises on the following basis:

Ground Floor	313.5m ²	@	£150 per m ²	=	£47,025
First Floor Offices etc	134.5m ²	@	£64.50 per m ²	=	£8,675.25
Total NAV	=	£55,700	@ 0.5%	=	£278.50
			Say	=	£275