

Appeal No. VA98/3/055

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

Bank of Ireland (Nenagh)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank at map Reference 43a 44 (incl Lab 2 Connolly St. and 1 Lewis St.), Mitchell Street, Nenagh North, Nenagh, Co. Tipperary

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Barry Smyth - FRICS.FSCS

Member

Michael Coghlan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF MAY, 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 £410 on the aboved described hereditament.

The grounds of Appeal as set out in the Notice of Appeal are that" the assessment is excessive and 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 15th of November, 1999, at the offices of the Valuation Tribunal in Dublin. The appellant was represented by Mr. Owen Hickey B.L. with Mr. Tom Davenport A.R.I.C.S. A.S.C.S., Chartered surveyor of Lisney. The respondent was represented by Mr. Brendan Conway B.L. with Mr. Patrick Berkery B.Comm. Dip. Planning & Dev. Economics Dip. Sc. For. Man., a valuer with the Valuation Office.

Having taken the oath, each valuer adopted as his evidence in chief his written submission which had been exchanged with the other valuer and submitted to the Tribunal.

Material facts agreed or found by the Tribunal

1. Valuation History

1983 Revision/Appeal RV £400

1993/4 Revision RV £400 and following appeal reduced to RV £350

1997/4 Revision RV £425 - on appeal this was reduced to £410

It is against this latter figure of £410 that an appeal has been made to the Tribunal

2. Situation

The property is situated at the junction of Mitchel Street and Connolly Street with frontage to both and in addition rear access from a laneway off Connolly Street in the centre of Nenagh. Pearse Street and Kenyon Street are the principal Streets in the town with Mitchel Street and Connolly Street being somewhat secondary but the subject premises occupies a prominent corner position facing Pearse Street and Kenyon Street.

3. Property

The property comprises a two storey over ground floor and basement corner building with two storey and single storey rear extensions. The main buildings are of traditional construction with an external elevation of dressed granite to the ground floor and cement rendering above. The rear section of the building is partly of traditional construction and partly of modern concrete construction with elevations of cut stone and pointed concrete brick. There is a rear yard providing car parking with access from a laneway.

4. Accommodation

Ground floor

Banking hall/offices	317	sq.m.
Rear offices (Agri business centre)	102	sq.m.
First floor offices	192	sq.m.
Office over Agri business centre	28	sq.m.
Second floor - staff room/stores	62	sq.m.
Basement Stores	57	sq.m.

5. Expenditure

In recent years £65,000 was spent on refurbishing the ground floor section of the property and £150,000 on providing the Agri business centre to the rear of the property

6. Title

Freehold

The Appellant's Case

Mr. Davenport in his evidence stated:

1. The building has all the characteristics of an office building and should be valued accordingly. In no circumstances could it be said that this building meets the requirements of a modern retail premises.
2. The building has a certain prominence at the junction of Connolly Street and Mitchel Street and is located within a retail area.
3. The building extends to 758 sq.m. and must be treated as a single letting with an appropriate quantum allowance.
4. Apart from the ground floor no expenditure has been committed to the remainder of the property for a considerable period of the time. The basement is poor with head room of only 7" 6'.
5. He drew the Tribunal's attention to its decision in the case of Bank of Ireland, Tullamore VA95/6/013, Bank of Ireland, 87/89a Pembroke Road, VA96/2/055, Bank of Ireland, 111 Main Street, Bray, VA96/2/054 and Allied Irish Bank, Howth Road, Sutton, VA95/6/025.

Mr. Davenport proposed a rateable valuation on the premises of £270, calculated as follows:

Banking hall/offices	3,412 sq.ft. @ £10 per sq.ft.	=	£34,120
Rear offices (Agri business centre)	1,093 sq.ft. @ £6 per sq.ft.	=	£ 6,558
First floor offices	2,061 sq.ft. @ £4 per sq.ft.	=	£ 8,244
Offices (Agri business centre)	295 sq.ft. @ £4 per sq.ft.	=	£ 1,180
Store/Canteen	662 sq.ft. @ £3 per sq.ft.	=	£ 1,986
Basement/Stores	609 sq.ft. @ £3 per sq.ft.	=	£ 1,827
TOTAL	£54,000 NAV @ .5% = R.V.		£270

Mr. Davenport provided five comparisons.

The following is a summary of the more relevant points arising from these comparisons.

1) Lot No 1a,2a Pearse Street (Including Lot No. 60AB,61,62 Kenyon Street)

Formally occupied by Joseph O'Connor Nenagh Ltd - Mini Market

1994/4 Appeal - 1997/4 Revision - RV £125

Analysis:

Ground floor: 2,150 sq.ft. @ £11.00 per sq.ft.

Attic RV £5

This property has subsequently been subdivided and in the 1998 revision list appears at RV £46 and RV £72.

2) Lot No. 59, Kenyon Street, Nenagh

Dennis Finnerty Chemist

1994 Revision - RV £65

Analysis:

Front retail 405 sq.ft. @ £16.00 per sq.ft.

Mid section 145 sq.ft. @ £12.00 per sq.ft.

Balance 767 sq.ft. @ £ 6.50 per sq.ft.

Overall 1,297 sq.ft. @ £10.00 per sq.ft.

3) Lot No. 1A,1B/1 Kenyon Street, Nenagh

Galvins Menswear Shop

1995/4 Appeal - RV £75

Analysis:

Front shop	605 sq.ft.	@ £16.00 per sq.ft.
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Rear shop	600 sq.ft.	@ £ 8.00 per sq.ft.
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Overall	1,205 sq.ft.	@ £12.00 per sq.ft.
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First floor

Stores	240 sq.ft.	@ £ 2.00 per sq.ft.
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4) Map Reference 5B/12B/13 Pearse Street, Nenagh

Supermacs

November 1993 Appeal - RV £135

Analysis:

Ground floor

Retail	1,953 sq.ft.	@ £9.50 per sq.ft.
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Offices/stores	689 sq.ft.	@ £4.00 per sq.ft.
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First floor

Retail	1,046 sq.ft.	@ £4.00 per sq.ft.
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Second floor

Staff rooms	473 sq.ft.	@ £3.00 per sq.ft.
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NAV £27,000

Rent 1992 - £31,200

5) 16/17 Pearse Street, Nenagh - Mid Western Health Board Offices over ACC Bank

First Floor

Mid Western Health Board

2 year 11 month lease from the 1st of January 1994 @ £5,200 per annum

Analysis:

Floor area	876 sq.ft.	@ £6.00 per sq.ft.
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Second Floor

Tenant: Mid Western Health Board
 Lease: 2 year 11 months from the 1st June 1994 @ £3,380 per annum
 Analysis
 Floor Area: 1,115 sq.ft. @ £3.00 per sq.ft.

In reference to VA98/3/054 Bank of Ireland, Kilkenny, where the Tribunal has stated that there are locations where a bank use is of greater value than its neighbouring users because of the commercial reality of the location, Mr. Davenport was of the view that this would not apply in this instance.

In relation to Mr. Berkerys submission and comparisons, Mr. Davenport made the following comments:

1. That the main access to the Agri business centre is from the rear and the rate per sq.ft. applied on offices by the valuation office is much too high due to this access.
2. Comparison No.1, the T.S.B. relates to a brand new building in a designated area with a banking hall of only 1,800 sq.ft. His comparison of Supermacs is immediately next door and the rate per sq.ft. is less than the T.S.B. which seems to indicate that the valuation office are treating banks as a distinct group. The NAV appears to be the passing rent from September 1992 adjusted to 1988 by 20%.
3. Re: comparison No.2, AIB.
 This building was developed in the mid1980's and is a fine substantial modern building yet has a banking hall of only 2,638 sq.ft. compared with 3,412 sq.ft. in the subject.
4. Comparison No.3, Ulster Bank is located at the end of Kickam Street and has a considerably smaller floor area.
5. The quantum and age of the subject building would indicate that Mr. Berkery's figure of £14 per sq.ft. is too high and the level that is to be applied is his estimate of £10 per sq.ft.

Cross Examination

In cross examination, Mr. Davenport accepted that he had agreed the 1993/4 appeal at RV £350 and that subsequent expenditure on the premises amounted to £65,000 and £150,000 within the last 2 to 3 years. However the £350 RV was agreed on the basis of other banks and other towns

before the precedent set by the Tullamore case VA95/6/013. He accepted that the Bank of Ireland was a prominent corner building no distance from Kenyon Street/Pearse Street *albeit* on the opposite corner; that the Agri business centre has access from the bank main area as well as from the rear and that the premises has been a bank since the mid 19th century; in explaining why he had introduced no banks among his comparisons, he acknowledged that there are three banks in Nenagh as introduced by Mr. Berkery plus two where the user had changed but that he was valuing the property as a building not as a bank; he queried why the T.S.B. NAV and RV are higher than the neighbouring Supermacs premises which is larger and the rateable valuation of which he had agreed with Mr. Berkery.

In re-examination by Mr. Hickey, Mr Davenport indicated that the Bank of Ireland Parkway centre in Limerick paid 25% less than the open market rental value on any other premises in the same centre on review and that there are other shopping centres where banks pay the same rent.

The Respondent's Case

Mr. Berkery in his evidence stated:

1. That it would be hard to find a better location in Nenagh than that of the subject premises.
2. The Valuation Tribunal in Bank of Ireland, Kilkenny, VA98/3/054 had stated that there are locations where a bank use is of greater value than its neighbouring users because of the commercial reality of the location .
3. The business centre is provided with a rear access particularly to suit clients that like privacy but that access is also available through the main banking hall area.
4. The NAV rate per sq.ft. is less than in the comparable AIB and T.S.B. premises. The T.S.B. NAV reflects the open market rent and it is a smaller building located at a disadvantage to the Bank of Ireland premises. The Ulster Bank premises is off the main route.
5. In relation to the appearance of premises, it is to be noted that an effort was made to make the T.S.B. look like a traditional bank.

Mr. Berkery assessed the rateable valuation as £410 calculated as follows:

Banking hall, ground floor	3,412 sq.ft. @ £14.00 per sq.ft.	£47,768
Business centre, ground floor	1,093 sq.ft. @ £14.00 per sq.ft.	£15,302
Offices existing, first floor	2,061 sq.ft. @ £ 6.00 per sq.ft.	£12,366
Offices new, first floor	295 sq.ft. @ £ 6.00 per sq.ft.	£ 1,770
Offices, second floor	662 sq.ft. @ £ 3.50 per sq.ft.	£ 2,317
Basement/Store	609 sq.ft. @ £ 4.00 per sq.ft.	£ 2,436
TOTAL NAV	£81,959 @ 0.5% = £409.79 Say RV £410	

He provided three comparisons, in summary they are as follows:

1) Trustee Savings Bank, Nenagh.

1993/4 First Appeal.

Ground Floor:

Bank	1,800 sq.ft. @ £16.00 per sq.ft.
First floor kitchen and stores	230 sq.ft. @ £ 7.00 per sq.ft.
Second floor stores	685 sq.ft. @ £ 3.00 per sq.ft.

NAV £32,465 @ 0.5% = £162.30 Say RV £160

The rent from September 1992 on a long lease was £38,500 per annum.

2) AIB, Nenagh VA97/2/038

1994/4 First Appeal RV £275 NAV £ 55,000

Analysis:

Banking hall, manager's office and safe	2,638 sq.ft. @ £15.00 per sq.ft.
Rear lobby/store	246 sq.ft. @ £10.00 per sq.ft.
First floor offices, canteen and stores	1,664 sq.ft. @ £ 6.00 per sq.ft.
Second floor stores	960 sq.ft. @ £ 3.00 per sq.ft.

3) Ulster Bank VA97/2/037

1994/4 First Appeal - RV £170 - NAV £34,000

Analysis:

Ground floor:

Banking hall 2,143 sq.ft. @ £15.00 per sq.ft.

First floor:

Canteen/Stores 419 sq.ft. @ £ 6.00 per sq.ft.

He indicated that he had applied a rate of £14 per sq.ft. to the subject because of its size and in response to a question from the Chairman of the Tribunal in relation to the T.S.B. being 1,800 sq.ft. @ £16 per sq.ft. as opposed to £14 per sq.ft. on the total ground floor area of 4,500 sq.ft. in the subject, he stated that the Bank of Ireland was better located and a better premises.

In cross examination, Mr. Berkery agreed that banks did not need to be compared only with other banks but could be compared with shop premises along side but that Nenagh has only started to develop as a commercial centre and he was unaware of any shop premises that could be compared with this bank premises.

He did not accept that the rear area, the Agri business centre, should be treated as offices and at a lower figure than the banking hall because it is accessible through the front door and is at ground floor level.

Determination

Firstly, the Tribunal would like to make one point clear. It was suggested that the subject premises was not capable of being altered to retail use. The relevance of this in assessing a rateable valuation is not clear to the Tribunal. The Tribunal stated in *VA96/2/010* - Irish Permanent Building Society, 22A Upper Baggot Street that where the premises has all the physical characteristics of a shop and is located in a predominantly retail area that it was appropriate that a bank type premises should be valued on the same basis as a retail shop. The Tribunal however has not said that banks must be valued on the basis of the nearest retail

premises which is quite a different point. In the case of Bank of Ireland, Kilkenny - *VA98/3/054*, the Tribunal stated that there are locations where a bank use is of greater value than its neighbouring users because of the commercial reality of the location.

A particular difficulty in this case is that the rateable valuation and thus NAV was agreed by the appellant's consultant in 1993/4 at £350 and since then there has been expenditure totalling £215,000 on the premises including the provision of a new Agri business centre to the rear.

The Tribunal has stated before that it is not appropriate to revisit an agreed valuation within five years of its agreement unless the premises has been considerably altered or in other exceptional circumstances. The appellant argues that it is appropriate to deal with the entire valuation because of the decision in *VA95/6/013 - Bank of Ireland, Tullamore* and it is noted that the respondent has also treated the valuation in its entirety rather than attempting to add an NAV for the Agri business centre onto the existing RV/NAV. The Tribunal therefore sees no reason in this instance not to follow the basis which is applied similarly by each valuer with the exception of the precise rate per sq.ft. applied to various areas.

In the view of the Tribunal it is difficult to compare this obvious bank with the type of retail premises proposed by the appellant and we are more inclined to follow the comparisons put forward by the respondent in that they relate to similar type buildings recently revised and are all located in Nenagh. A reduction in the rate per sq.m. to be applied is appropriate to account for quantum and location and we are also of the view that it is not appropriate to apply the same rate per sq.m. to the Agri business centre which is clearly located to the rear with its own separate access albeit with access also through the banking hall. The total floor area of the banking hall and the ground floor business centre together would be almost double that of the banking hall in the AIB or Ulster Bank comparisons.

The Tribunal assess the rateable valuation as follows:

Banking hall/offices	317 sq.m @ £150 per sq.m.	£47,550
Agri business centre	102 sq.m. @ £ 65 per sq.m.	£ 6,630
First floor offices (including those over the Agri business centre)	220 sq.m. @ £ 65 per sq.m.	£14,300
Second floor		
Staff room/stores	62 sq.m. @ £ 32 per sq.m.	£ 1,984
Basement stores	57 sq.m. @ £ 32 per sq.m.	£ 1,824
TOTAL NAV	£72,288 @ 0.5% = RV	£361.44 say £361

And the Tribunal so determines.