

Appeal No. VA99/3/004

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

Ulster Bank (Pearse Road, Sligo)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank at Map Reference Lot No. 11-13, Rope Walk, Sligo East, UD: Sligo Co. Sligo

B E F O R E

Fred Devlin - FRICS.ACI Arb.

Deputy Chairman

Michael Coghlan - Solicitor

Member

George McDonnell - F.C.A.

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF JUNE, 2000

By Notice of Appeal dated the 19th day of July 1999 the appellant appealed against the determination of the Commissioner of Valuation in fixing a ratable valuation of £60 on the above described hereditaments.

The grounds of the Appeal as set out in the said Notice of Appeal are that " the rateable valuation is excessive, inequitable and bad in law".

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal on the 8th of May, 2000 at 9.30 am at which the appellant was represented by Ms. Sheelagh O'Buachalla of GVA Donal O'Buachalla and Company Limited and the respondent was represented by Mr. Damien Curran ARICS, ASCS, a District Valuer in the Valuation Office.

At the commencement of the hearing Ms. O'Buachalla sought an adjournment until the afternoon in order for her to be able to provide information to the respondent regarding the cost of work carried out to the subject hereditament by the appellant company.

After some consideration the Tribunal denied this request and now makes the following general observations:

1. In accordance with standard practise, the Tribunal does not permit adjournments unless there are substantial reasons for so doing. The circumstances in this case were not considered sufficient to meet this criteria.
2. The appeal system in the rating code is a two-stage process. Following revision there is a first appeal stage where the Commissioner of Valuation appoints a Valuer to investigate the matter and prepare a report so that the Commissioner can issue a determination. At this stage the appeal Valuer seeks from the appellant and/or its Valuer a submission setting out in some detail the grounds of the appeal accompanied by additional information upon which the appeal is founded including the cost of any alteration works etc. At this stage also discussions and negotiations usually take place, which in the majority of cases usually result in the appeal being resolved by agreement or withdrawn. In those instances where there is no agreement the appellant can and often does proceed to the second appeal stage i.e. to this Tribunal.
3. Once the appeal is referred to the Tribunal it is subject to the rules of the Tribunal. The rules provide that précis of evidence are prepared submitted and exchanged fourteen days before the commencement of the oral hearing. At this stage all matters of fact should have been agreed and all information relevant to the valuation of the appealed property supplied, exchanged and agreed well in advance of the oral hearing. In this regard there is a mutual obligation on the parties to supply any and all relevant information and facts sought and

equally to pursue the information sought with all necessary vigour. This is particularly so in regard to the expert witnesses who now have an overriding responsibility to this Tribunal to provide independent advice to it. Information given therefore should be truthful and complete as to fact and opinions given must be objective and honest. For further information on the role of valuers acting as expert witnesses the Tribunal would recommend the Practise Statement prepared by the Royal Institution of Chartered Surveyors which is mandatory to members of that body and members of the Society of Chartered Surveyors. In this regard see also the comments of this Tribunal in the case of *Irish Shell Ltd. (Oriental Oil Company) -v- Commissioner of Valuation – VA95/1/055*.

The Property

The subject property comprises an end of terrace two-storey building located at the junction of Vernon Street and Pearse Road. The accommodation provides a Banking Hall at ground floor level with administration offices overhead.

The agreed accommodation is as follows:

Ground Floor Bank	=	692 sq. ft.
First Floor Offices	=	606 sq. ft.

The premises were previously occupied by the AIB and is now occupied by the appellant company under a 35 year FRI lease from 1st January, 1994 at an initial yearly rent of £12,000 per annum with rent reviews at five yearly intervals.

Valuation

The property was revised in May 1998 when the two existing valuations of £50 and £16 attributed to the ground floor bank premises and overhead office accommodation respectively were amalgamated to give a rateable valuation of £66. At First Appeal Stage this figure was reduced to £60 and it is against this assessment that the appeal to this Tribunal now lies.

The Evidence

Ms. O'Buachalla having taken the oath adopted her written précis as being her evidence in chief given under oath. In her précis of evidence Ms. O'Buachalla valued the NAV of the subject hereditament as follows:

Ground Floor: Banks and Offices	64.3 ms (692 sq. ft.) @ £107.64 = £6,921
First Floor: Offices	56.3 ms (606 sq. ft.) @ £ 53.82 = <u>£3,030</u>
Total NAV	= £9,951

@ 0.5 % = RV £49.75

Say £50

In arriving at this assessment of NAV she had regard to the passing rent of £12,000 as agreed in 1994. In her opinion the Commissioner of Valuation was incorrect in attributing an additional valuation of £10 to the ATM facility.

Mr. Damien Curran, having taken the oath adopted his précis of evidence as being his evidence in chief and put forward the following opinion of NAV calculated on two basis as set out:

Rent Reserved: As at 1/2/94 (Shell Unit)	£12,000.00
Indexation to Nov. '88	£10,250.00

Note: J.L.W. Retail Index = 459/387

C.P.I. = 599/518

Add for tenants improvements (say 15%) £ 1,537.50

Incl. ATM. £11,787.50

Say £12,000.00

@ 5% £60.00

Alternative Valuation:

Rent Reserved: As at 1/2/94 £12,000.00 Indexation to Nov. '99 £10,250

Gr.flr. 692 sq. ft. @ £10 sq. ft. £6,920

1st fl. 606 sq. ft. @ £5 sq. ft. £3,030

Add for tenant improvements (A) Refurbishment of entire building: say 10% £ 995

(B) Instalment of ATM: 10% of Gr.flr. rent £ 692

£11,637

Say £12,000

@ 5% **£ 60.00**

Findings

- 1) Both valuers have used the passing rent as the basis of their determinations of NAV and the only difference is in relation to what if any adjustments should be made to reflect the benefit of the ATM facility and the improvement works carried out by the rated occupier.

- 2) In accordance with Section 11, of the Valuation (Ireland) Act 1852, the NAV is to be determined on the basis of "*rebus sic stantibus*" and hence the hereditament is to be valued with the benefit of any works carried out by the tenant in so far as the works enhance the rental value. The extra cost of the works itself is not necessarily the major criteria as the enhancement in rental value may be disproportionate to the costs incurred. In this instance the Tribunal accepts that certain works were carried out by the occupier in improving the first floor accommodation and fitting out the ground floor in the corporate style. In the absence of any actual figures Mr. Curran adjusted the NAV to reflect the added value of these works of a non-specified nature and extent. On balance his adjustment of 10% in the opinion of the Tribunal seems to be on the high side and in the absence of concrete evidence as to the scale and nature of the works, the Tribunal considers an allowance of 5% to be more appropriate.

- 3) In relation to the ATM facility there is a fundamental difference of opinion between the two valuers. Ms. O'Buachalla in response to a direct question from the Tribunal considered the presence of an ATM facility to confer no added value to the hereditament. Mr. Curran on the other hand was of a contrary opinion and attributed 10% of the valuation attributed to the ground floor to reflect the presence of the ATM facility.
- 4) As a general statement the Tribunal considers the presence of an ATM facility enhances the efficiency of Bank premises and the ability to trade outside normal business hours and hence provide a better service to its customers. Thus it is reasonable to say that a hypothetical Bank premises with the benefit of an ATM facility will fetch a higher rent than one without, all other circumstances being equal and hence this should be reflected in Net Annual Value.
- 5) Where a Bank hereditament is being valued by comparison with other Bank premises all of which have ATM facilities no problem arises since like is truly being compared with like. However, in those instances as indeed with the subject appeal where Net Annual Value is being directly derived from Rental Value or by comparison with other similar but non Bank premises some adjustment must be made to reflect the presence and benefit of the ATM facility. This can be done either by attributing a separate valuation figure for the facility itself or by increasing the valuation attributable to the ground floor of the subject hereditament by an appropriate amount. Since ATM facilities are to be found in locations other than attached to bank premises such as Shopping Centres, Railway Stations etc, there is evidence of open market rental values to which regard can be had.
- 6) Since this Tribunal is obliged to have regard to the evidence adduced to it by expert valuation witnesses it would be helpful if practitioners involved in rating practise and the Valuation Office for the sake of consistency were to agree upon a common valuation method having regard to the fact that the Tribunal considers the presence of an ATM facility to be an enhancement to rental value and hence Net Annual Value.
- 7) In relation to the circumstances of this appeal both valuers used the passing rent payable under the lease as the primary basis for determining Net Annual Value. It is common case

that the incoming occupier expended money in carrying out works of a non specified and unquantified nature and installed an ATM facility. Ms. O'Buachalla made no allowance for any enhancement in rental value as a consequence of these actions whereas Mr. Curran did. The Tribunal finds Mr. Curran's approach to be the correct one as far as this appeal is concerned.

Determination

Having regard to the evidence adduced and arguments proffered and the above findings the Tribunal determines the Net Annual Value of the subject hereditament to be as follows:

Passing rent	£12,000 per annum
Basic Net Annual Value derived therefrom	£10,000
Add 5% for enhancement in rental value due to works	£ 500
Add for enhancement due to ATM facility	£ 500
Net Annual Value	£11,000

Rateable Valuation @ 0.5% = £55