Appeal No. VA00/1/009

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Kilsaran Concrete Ltd. **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Office, Quarry/Sandpit and land at Lot No. 1D, Gallstown, E.D. Clogher, R.D. Louth County Louth
Quantum - Quarry, weighted average ex-pit price as basis of assessment

B E F O R E
Barry Smyth - FRICS.FSCS **Deputy Chairman**

Finian Brannigan - Solicitor **Member**

Tim Cotter - Valuer **Member**

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

By Notice of Appeal dated the 26th day of April 2000, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £505 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that
" the valuation is excessive, inequitable and bad in law when rental levels and other factors are taken into consideration"

The appeal proceeded by way of an oral hearing which took place on the 10th day of July, 2000 at the Tribunal Offices in Dublin. The appellant was represented by Mr. Brian Bagnall, ARICS, ASCS, MIAVI., Brian Bagnall & Associates and the respondent by Mr. Malachy Oakes ARICS, a District Valuer with over 20 years experience in the Valuation Office.
Having taken the oath each valuer adopted his written précis as his evidence in chief which had previously been exchanged with the other side and submitted to the Tribunal.

Material Facts Agreed or Found by the Tribunal
Valuation History
In August 1999 the revised valuation list was published with the valuation increased from £86 to £505. In September 1999 an appeal was lodged against this revised valuation and on the 29th March 2000 the Commissioner issued his decision making no change. On the 28th April 2000 an appeal was lodged to the Valuation Tribunal.

Agreed Rateable Valuations and Disputed Valuations
The parties have agreed a valuation of £80 on the buildings, plant and machinery and the only item in dispute therefore is therefore the £420 valuation on the quarry.

Situation
The property is situated in Gallstown in Co. Louth approximately three miles south east of Dunleer, approximately one and a half miles off the Dublin/Belfast road, seven miles north of Drogheda and twelve miles south of Dundalk.

The Property
The property extends to approximately 130 acres. There are various buildings but there is no dispute in relation to the valuation of these.
Output

1996	68,987 tonnes
1997	113,124 tonnes
1998	243,626 tonnes
1999	703,252 tonnes

Ex-pit Price

The weighted average ex-pit price for this quarry is £2.41 per tonne.

Factor to adjust ex-pit price to November 1988

The agreed factor to adjust the ex-pit price from November 1999 to November 1988 is 0.79.

The Appellant's Case

Mr. Bagnall in his evidence stated;

1. The quarry had only opened in 1996.
2. There are a number of disabilities including;
   - (i) Constant water pumping.
   - (ii) Difficult undulating terrain which has an impact on stripping and which results in a lot of "weathered stone" which is of low value.
   - (iii) The quarry has vertical stone beds which makes blasting and rock break-up more difficult.
   - (iv) The access road leading from the old N1 to the quarry 1½ miles distance is very poor standard and considerable money would have to be spent on maintaining it. He was therefore of the view that the disability of factor 3% was appropriate.
3. The maximum efficient quarry distribution area is approximately 20 miles.
4. There are a number of other quarries in the area without planning permission and not conforming to the required safety standards but they are competition and set price levels.

He provided three comparisons the details of which are appended to this decision.
These show ex-pit prices ranging from £2.45 to £3.00 to £3.76 per tonne and royalties ranging from 5% to 6% and disability allowances of 5% and 5.91%. Mr. Bagnall calculated the rateable valuation as follows;-

Annual Average Output over the period from 1996 to July 1999 inclusive (NB: the date of valuation is August 1999) 233,293 tonnes

Royalty	5% of the ex-pit price of £2.41 = £0.12p		
Therefore royalty		=	£27,995
Adjusting at 1988 (using the sand and gravel price index as agreed 0.79)		=	£22,116
Rateable Valuation at 0.5%		=	£110.50
Deduct disability allowance of 3%		=	£3.32
		=	£107.18
	Say	=	£107
Add the agreed Plant and Buildings		=	£35
		=	£45
Total RV			£187.00

In cross-examination Mr. Bagnall provided the following information:

1. The water requiring pumping is surface water but it does require 24 hour pumping.
2. Damage to the access road is partially because of the quarry's own trucks but on a better road this would not arise and a contribution of £250,000 had been made to the local authority for upgrading the road.
3. There is some disability in the undulating terrain.
4. The weighted average ex-pit price is the correct figure to use as it reflects the output of the various products and the price achieved for those products.
5. The quarry is not as yet selling the high cost or high value road surfacing material that it is capable of producing.
6. In his opinion the average ex-pit price quoted in comparisons is based on the same calculation as the weighted ex-pit price that he has used.
7. He accepted that the high quality road surfacing product could be delivered to greater distances than his suggested 20 miles for the average product but the output of this product is to date minimal.
8. He also accepted that the Drogheda bypass and the Balbriggan bypass were in the radius of this quarry.

The Respondent's Case

Mr. Oakes in his evidence stated that there were four factors

(a) Output

(b) Ex-pit Price

(c) Royalty

(d) Disability

and developed each of these.

(a) Output

Initially there were only three products and now there are eight products and an asphalt plant. In his opinion therefore the years 1998 and 1999 were relevant and he took the average of those two years to estimate the output of 426,095 tonnes

(b) Ex-Pit Price

He stated the ex-pit price supplied in the 1998/3 Revision when three products were produced at £2.00 per tonne and later when eight products were produced a figure of £3.50 per tonne was provided to the revising valuer and subsequently £2.30 per tonne to the appeal Valuer. In the 1993/3 First Appeal the figure of £2.41 was supplied. In relation to ex-pit price he felt it was important to consider the type of stone quarried and quoted from the planning application for this quarry which referred to high quality surface dressing aggregate.

(c) Royalty

In his opinion royalties are in the range of 5% plus or minus 2.5% and recent cases decided by the Tribunal have been in the order of 5%. In his opinion in this case because of the various positive factors the upper end was appropriate.

(d) Disability

He felt that because of the nature of this quarry no disability allowance should be made.

Mr. Oakes calculated his valuation as follows:

Ex-pit price	£3.50 per tonne

Royalty at 7.5% =	£0.2625p per tonne		
Output	426,095 tonnes @ £0.2625p	=	£111,849
Adjusting to 1988 as a correcting figure of .79 gives		=	£88,360
And the rateable valuation at 0.5%		=	£441.80
	Say	=	£440
To which was added the agreed buildings of		=	£80
Total valuation		=	£520

This figure is adjusted downward from the £545 in this précis because of the alteration of the adjustment to 1988 on the sand and gravel index from .83 to .79.

Mr. Oakes provided two comparison the details of which are appended to this report and show ex-pit prices of £2.00 and £3.76 and royalties of 9% and 5% and one having a disability of 5%.

In cross examination Mr. Oakes stated that he had taken the total output for 1999 because he did not have a figure up to the valuation date of August, 1999. He based his ex-pit price on the figure that had been provided to him initially and to the revising Valuer.
He does not accept that the ex-pit price provided and the weighted ex-pit price are the same. The ex-pit price of £3.50 had been provided by the pit manager Mr. Peter Ryan and there was no explanation for any other figure. He accepted that the photographs provided, showed some ground stone colouring, but did not accept that this weathering was a disability. In his opinion all quarries pumped water and required water for various processes, therefore the necessity to pump is not a disability. In his opinion this was a premium product and a royalty of 7.5% was appropriate. He did not accept that the early years of output reflected the capacity of the quarry.

In summing up Mr. Bagnall said that the ex-pit price was initial and that the output should be treated on a long-term basis and that the year 1999 was exceptional. The ex-pit price is low because of the competition from local quarries. 7.5% royalty is the maximum in the guidelines. The quarry is located in County Louth and does not have access to the Dublin market.

In summing up, Mr. Oakes said that the quarry was ideally situated to capitalise on the national road programme and that the quarry produced premium stone and a quality product. The quality of product can be transported for up to 70 miles economically. In his opinion the road network was well developed locally.

Determination

The Tribunal has considered all the evidence put forward by the parties and agrees with the parties summary that there are four relevant points, the output, the ex-pit price, the royalty and the disability.

(a) Output

In the Tribunal's view it is inappropriate to take the early years as these are start up years and as such do not reflect the capabilities of the quarry. The Tribunal has therefore taken the year 1998 and, seven months of the year 1999 and gets an average output of 413,833 tonnes.

(b) Ex-pit price

The average weighted ex-pit price of £2.41p per tonne is in the opinion of the Tribunal the appropriate figure in this instance. This is adjusted to 1988 by the agreed factor of .79 giving a 1988 ex-pit price of £1.90p per tonne.

(c) Royalty

This is undoubtedly a well located quarry capable of producing premium product and therefore a royalty at the top end of the range is appropriate. The Tribunal therefore uses a royalty of 7.5%.

(d) Disability

No persuasive argument was put to the Tribunal that any disability is appropriate in this case.

The Tribunal therefore calculated the rateable valuation as follows:

Average output	=	413,833 tonnes
Ex-pit price adjusted to 1988 £1.90 per tonne	=	£786,283

Royalty @ 7.5% gives an NAV of £58,971 and the agreed factor of 0.5% gives an RV of £294.86

Say £295 to which is added the agreed plant and machinery	=	£80
Total RV		**£375**

And the Tribunal so determines.