

Appeal No. VA04/2/027

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 2001**  
**VALUATION ACT, 2001**

**Shannon Transport & Warehousing Company Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: E.D. Ballyvarra, Annacotty, Lot No. 1A/1, Annacotty Industrial Park, Co. Limerick.

B E F O R E

**John F. Kerr, BBS.,ASCS.,MRICS.,FIAVI.**

**Deputy Chairperson**

**Patrick Riney, FSCS.,MIAVI.**

**Member**

**Joseph Murray, Barrister**

**Member**

**JUDGEMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 6th DAY OF OCTOBER, 2004**

By Notice of Appeal dated the 8<sup>th</sup> day of April, 2004, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €3,600 on the above described property.

The Grounds of Appeal as set out in the said Notice of Appeal are that:

- (1) The valuation is excessive and inequitable having regard, inter alia to the valuation of comparable properties and the tone of the list.
- (2) The Commissioner's decision in determining this appeal is invalid and bad in law.

**At issue**

**Quantum**

The appeal proceeded by way of an oral hearing, which took place in the Tribunal Offices, Ormond House, Ormond Quay, Dublin, on the 6<sup>th</sup> July 2004. The Appellant was represented by Mr. Alan McMillan, ASCS, MRICS, MIAVI, a Director of GVA Donal O’Buachalla. Mr. Ray Ryan, Financial Controller of the Appellant firm was also present and gave evidence at the Hearing. The Respondent was represented by Mr. David Molony, B.S.c., MRICS., a District Valuer with the Valuation Office.

In accordance with the rules of the Tribunal, prior to the commencement of the hearing the parties had exchanged their respective submissions to the Tribunal. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal.

### **The Property**

The property is described as a Hi-Bay warehouse facility constructed in 2002, on a site acquired in 1995 from SFADCO, and first valued in 2003. It is located in Annacotty Business Park on part of the “campus” of the former Ferenka industrial premises. The property is situated in a rural location, adjoining the Murroe Road, approximately 1.6 km off the N7 and 6 km from Limerick city centre, or 4 km from the Parkway Roundabout in Limerick.

The building is situate within its own defined and self-contained site and access to same is provided via the estate entrance and an internal road system and it does not enjoy frontage or exclusive access to the public road. It may be further described as a purpose built, free standing, steel framed portal warehouse, with ancillary offices, staff areas, canopy and surface car parking.

The warehouse is laid out in three Bays under a low-pitched, metal decked roof providing a head room of 10 metres, over reinforced concrete floors in Bays 1 and 2, with Bay 3 remaining unfinished.

There are staging areas to the front and rear of the warehouse with reduced headroom serving grade and dock leveller access points to Bays 2 and 3. Bay 1 features a drive-through canopy. There are offices, a driver’s rest area, canteen and toilets at the rear first floor level of the building. Administration offices are located on two floors and are well fitted with suspended ceilings, fluorescent light fixtures, double glazed windows and a passenger lift.

## Floor Areas

The following floor areas are agreed.

### Warehouse

Bays 1 & 2: 7,536 sq.m

Bay 3: 3,768 sq.m

11,304 sq.m

Loading Bays / Staging areas: 1,327 sq.m

Canopy (to Bay 1): 470 sq.m

Rear offices, rest area 138 sq.m (Adjustment agreed at Hearing by Mr. McMillan to his submission)

Administration offices: 600 sq.m.

TOTAL: 13,840 sq.m

All areas were measured on a gross external basis.

## Services

Lighting: Sodium units in the warehouse areas and ceiling mounted fluorescent units elsewhere.

Heating: No heating in the warehouse areas. OFCH in the administration offices and electric heating in the rear offices and staff area.

Water: Mains water

Sewer: Temporary connection to local sewage treatment plant.

A mobile racking system has been installed in Bays 1 and 2.

## Tenure

It is understood that the property is held freehold.

## **Valuation History**

The property was revised on 22<sup>nd</sup> October, 2003, described as a Warehouse and a Valuation Certificate issued declaring an R.V. of €3,600.

The Appellant's Agent made representations to the Revision Officer on 19<sup>th</sup> November, 2003, but the R.V. remained unchanged.

The Appellant firm filed an Appeal to the Commissioner of Valuation on 19<sup>th</sup> December, 2003 and on 16<sup>th</sup> March, 2004, the Commissioner issued his decision not to change the R.V. A formal Appeal against the foregoing decision was filed by the Appellant with the Valuation Tribunal on 8<sup>th</sup> April, 2004.

## **Appellant's Case**

At the invitation of the Tribunal, Mr. McMillan introduced his witness, Mr. Ray Ryan, who assumed his position in the stand, took the oath, and provided the Tribunal with a review and synopsis of the Appellant's case, from his particular point of view. He confirmed that he had been involved in the design, planning and construction of the relevant property, declaring it as a "normal warehouse structure", which he said provides services to a number of the firms cited in the comparison properties set out in the respective submissions of their Consultant Valuer and indeed also those of the Valuation Office. He indicated from the outset that he was very surprised to see some of the Valuation Office's comparisons introduced, and noted in particular that the rate of €54.67 per square metre sought by the Valuation Office equated to what he described as the per square metre rate applicable to the very best of Hi-Bay warehouses in premier Dublin locations near the M50, such as Tibbett & Britten at Ballymount. He indicated that they provide services for Tibbett & Britten but that their own facility has not exceeded a utilisation level of 35% to date. He also informed the Tribunal that he was verbally advised that the Rates might be much less than the €198,000 currently being charged. He reiterated the rural location of the property, its poor ingress and egress and its competition from places such as Shannon, the Ballysimon Road near Limerick and the National Technology Park adjacent to the University of Limerick in Castletroy.

Mr. McMillan then took the stand and having formally adopted his précis as his evidence in chief, summarised its contents and highlighted what he considered to be the appropriate valuation considerations. He contended that the Valuation Office had erred in terms of communication procedures and quantitatively in terms of the nature, location and purpose of the comparable properties chosen by them from First Appeal stage to present. He was particularly critical of the single comparison cited by the Valuation Office in their Valuation Report, namely that complex occupied by Cabletron Systems Ltd., and later by Flextronics Ltd., and currently idle. He noted that that structure is considerably smaller in area to the subject, a little less than 50% whereas the RV on same is only 61% of that applying to the subject. He also challenged the three comparisons cited by the Valuation Office at First Appeal stage, namely Cook (Ireland) Ltd., Eamon O'Toole & Partners Ltd., and Vigitek Ltd., all located within the National Technology Park adjacent to the University of Limerick campus and, in Mr. McMillan's view, inappropriate or unsuitable comparisons based on function, quantum and/or location.

Mr. McMillan contended that the evidence provided by the Valuation Office initially in relation to Cabletron has apparently been dropped and then cited the three properties in Dublin namely, Tibbet & Britten, Shamrock Foods and Walsh Western, as being properties bearing similar range RV's to the subject but, in his view, in much more desirable and significantly better warehouse locations with access to much greater levels of demand for the services purveyed from same. He expressed serious concern and dissatisfaction with the manner in which the Valuation Office had apparently designated the Appeal Valuer, being one and the same as the Revision Officer, together with the manner in which the Appeal decision was arrived at in the absence of consultation between the Valuation Office and himself. He expressed the opinion that such a procedure does not represent fair treatment of the Appellant.

During the course of the Hearing, Mr. McMillan provided the Tribunal with a booklet containing additional photographic images, dated July 2004, showing: the ESB property on Ballysimon Road; Vistakon within the National Technology Park; Roches Feeds, Dock Road, Limerick; Vigitek at the National Technology Park; Cabletron / Flextronics, also at the National Technology Park and finally Cook (Ireland) Ltd., within the same Park.

Mr. McMillan provided the foregoing copy images to highlight the significant difference in nature, purpose and siting of these properties with that of the subject, noting that the ESB and Roches Feeds buildings were used by the Appellant when filing the Appeal Application to the Valuation Office in December, 2003.

Mr. Molony of the Valuation Office commenced cross-examination of Mr. McMillan by suggesting it was disingenuous of the latter to introduce comparison properties located in Dublin in his submission and referred to Section 49 (1) of the 2001 Valuation Act to support his view. Mr. McMillan clarified that he is relying upon the local comparisons set out on page 6 of his précis of evidence, namely the ESB depot at Ballysimon and Vistakon at the National Technology Park and agreed during hearing to delete reference to the Roches Feeds premises on the Dock Road as it is not within the same Rating Authority area as the subject. Mr. Molony again emphasised his view that the reference to the Dublin properties should not have been included. Mr. McMillan, in reply to questions, confirmed that the ESB premises at Ballysimon was his primary comparison and was valued in November of 1989, shortly after the building was constructed. He stated that it is a warehouse with a high specification. Mr. Molony queried Mr. McMillan's view of the building and made reference to its possible imminent demolition. Mr. McMillan also confirmed that the offices within that structure are of a lower standard than the subject. In reply to further questions, Mr. McMillan advised that the Vistakon complex is a manufacturing plant but with a warehousing component. Mr. Molony mused as to why Rating procedure under the new Act does not now allow Valuers to consider comparison properties which may be situated across the road if the Rating Authority boundary delineates same.

### **Respondent's Case**

Mr. Molony then assumed his position in the stand, took the oath, formally adopted his précis as his evidence-in-chief and reviewed his submission. He commenced by highlighting the special design and specification, particularly in terms of height, applicable to the subject property and referred the Tribunal to the **VA97/4/039 - Walsh Western International**, which offered special consideration to warehouse space with higher than normal headroom. Mr. Molony acknowledged that Cabletron Systems Ltd., since Flextronics Ltd., and currently idle, was designated as the comparison used at the time of Revision by the Valuation Office though it was noted as a factory premises in their report. Mr. Molony confirmed to the Tribunal that the Valuation Office was no longer relying upon such as a comparison property. Mr. Molony confirmed that the subject property appeared to be in excellent condition and finished to a high specification, internally and externally, with hard and soft landscaping. He confirmed that the building costs amounted to €6.48 million, the site cost a little over €711,000, site works amounted to almost €508,000 and the automatic racking installed in two of the three bays amounted to €1.5 million, including VAT, producing a total input cost figure of €9.20 million. He summarised and confirmed the gross external area measurements of the various components

of the complex and having applied a rate per square metre to each area, calculated an estimated NAV of €15,779.82, which in turn produced a rounded up R.V. of €3,600.

When Mr. Molony concluded the summary of his précis, Mr. McMillan commenced cross-examination, drawing attention to Mr. Molony's apparent role as both Revision Officer and Appeal Officer on the case, and this debate concluded with a reference made to an apparent directive from the Valuation Office taking effect on July 1<sup>st</sup>, 2004, which would provide for separation of the roles of Valuers within the Valuation Office between Revision and Appeal stages. The discussion reverted to the property again and Mr. Molony explained that the high specification extended to include and refer to the warehouse's high eaves and the automatic racking system within two bays, which taken together, probably accounted for a premium of approximately 5% on the standard square metre rate for like warehouses without such specifications. Mr. McMillan challenged the employment of one single comparison property introduced by the Valuation Office at Revision and intimated that the 2001 Valuation Act requires the use of more than one comparable. Mr. Molony confirmed that Comparison No. 1, being Cook (Ireland) Ltd., comprises no warehousing and the primary activity carried out within that complex is that of R & D. Mr. McMillan challenged the introduction of the forticrete clad Eamon O'Toole & Partners Ltd., building as Comparison No. 2 and Vigitek, being Comparison No. 3, as not being warehouses, although the latter, he acknowledged, does comprise some warehousing, to one side. Mr. McMillan also challenged the use of these comparisons in terms of age, design and floor area quantum relative to the subject. He also acknowledged that the ESB building may be the closest in function, though the eaves are not as high as the subject and that it was in a new condition when valued and may have the nearest equivalent purpose to the subject but with a significantly different proposed RV.

Mr. Molony then cross-examined Mr. Ryan, the latter confirming that the Valuation Certificate relates to a valuation task and not to its effect on the operation of the business or the financial bottom line. Mr. Ryan, in reply to a question, confirmed that the firm had been previously located at Ballysimon and they had assumed that the road to the subject would be improved at an early date when they made their decision to move to their current location. Mr. Ryan accepted Mr. Molony's statement that the level of occupancy of the subject had no effect on the rating exercise. Mr. Ryan suggested they had been provided with an indicative RV by the Valuation Office prior to the development of the subject, at a much lower level than presently proposed. He added that there are approximately 30 staff, made up of warehouse personnel, trained forklift drivers and materials handling personnel working in the premises. He confirmed that the racking installed in the two bays is not considered high-tech, is not automated, as it is mechanically

operated on rails, the latter which are fixed and the racking itself, which may be disassembled. He informed the Tribunal that of the €1.6 million spent on the foregoing, part of that was expenditure on improvements integrated with the building. He stated that the firm would wish to be located in the National Technology Park and though the Wang or former Dell complex lies empty, the nature of Shannon Transport & Warehousing Ltd., business would not be permitted within the said Park.

### **Closing Arguments**

Mr. McMillan and Mr. Molony both provided closing summaries to the Tribunal and Mr. McMillan specifically questioned if the aforementioned racking would be deemed rateable when the Judgement by the Tribunal issued.

### **Findings & Conclusion**

1. The subject warehouse complex is new, built to a high specification of considerable size and, though in a rural location, is in relatively close proximity to the city of Limerick and the Limerick to Dublin National Primary Route N7.
2. Ingress and egress to the property is somewhat limited, but it is acknowledged that the new Limerick Relief Road northern extension lies in close proximity to the subject.
3. The matter of the rateability of the racking was not specifically addressed in the Appeal documentation exchanged by the parties and submitted to the Tribunal, and was thus considered *obiter dictum*.
4. The floor layout, design and comparative dimensions of the respective functional areas within the subject complex or property confirms the subject as primarily one purpose built and designed for warehousing functions.
5. The combined gross external floor area of all of the foregoing amounts to a little over 3.4 acres of floor space.



6. The Tribunal notes that though all bays are under roof, one bay is essentially not yet utilised for the intended purpose as the finished floor has not yet apparently been installed.
7. The Tribunal accepts the argument proffered by the Appellant that the ESB complex in Ballysimon, though older but within the same Rating Authority area, is the most useful of the comparisons cited by both parties and notes that it too was valued when the premises was newly constructed.
8. The Tribunal disregards the information provided on the properties referenced in the Appellant's précis of evidence, which are located outside the Rating Authority area of Limerick County Council.
9. The Tribunal acknowledges that the three comparisons provided in the Respondent's précis of evidence comprise some relevant office, stores, plant room and loading bay areas within all or some, the scale, location and function of each of the three are not considered as particularly useful comparisons, and accordingly, provide little if any support to the Respondent's assessment of NAV.
10. The Tribunal notes the acceptance by both parties of the relevance and usefulness of the ESB comparison on the Ballysimon road, and all of the arguments adduced by both parties during the course of the Hearing, together with supplementary submissions made at the Hearing.
11. The Tribunal also acknowledges the obligation prescribed by the Act to value the property "*rebus sic stantibus*" and is required to consider the subject vacant, to let as a single entity with approximately 3.4 acres of floor area, apparently without heating or a sprinkler system, in the location above described.

## Determination

In accordance with all of the foregoing and noting the contents of a letter dated 24<sup>th</sup> June, 2004, from the Appellant's Consultant, addressed to the Registrar of the Valuation Tribunal, drawing attention to a typographical error on page 7 of their précis of evidence under the heading Estimate of Valuation, which should correctly read a rate of €30.74 per sq. metre applicable to the 7,536 sq. metres of Bays 1 and 2 in the warehouse, and then applying identical rates to those estimated by Mr. McMillan in his précis, as set out hereto.

### Warehouse:

Bays 1 and 2:	7,536 sq.m @ €30.74	- €231,656.64
Bay 3:	3,768 sq.m @ €27.67	- €104,260.56
Loading Bays/Staging:	1,328 sq.m @ €27.32	- €36,280.96
Canopy to Bay 1:	470 sq.m @ €13.66	- €6,420.20
Rear offices, rest area:	138 sq.m @ €34.15	- €4,712.70
Administration offices:	600 sq.m @ €41.00	- €24,600.00
<b>TOTAL:</b>		<b>€407,931.06</b>

**NAV €407,931.06 @ 0.5% = RV€2,039.66**

**Say RV €2,040**

And the Tribunal so determines.