

Appeal No. VA05/4/013

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

**Greaney Concrete Products Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory, Yard, at Lot No. 13B, Robertstown, Craggs, Rathkeale County Limerick

**B E F O R E**

**Michael P.M. Connellan - Solicitor**

**Deputy Chairperson**

**Joseph Murray - B.L.**

**Member**

**Frank O'Donnell - B.Agr.Sc. FIAVI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 9TH DAY OF MAY, 2006**

By Notice of Appeal dated the 22nd day of December, 2005 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €355.00 on the above described relevant property.

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

"On the basis that the RV as assessed is excessive, inequitable and bad in law. The original revision was not carried out in accordance with the terms of the valuation act in that only one comparable was used and this was not a comparable property per S.49."

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Ormond House, Ormond Quay Upper, Dublin 7 on the 20<sup>th</sup> March 2006. At the hearing the appellant was represented by Mr. Eamonn Halpin, B.Sc. (Surveying), ASCS, MRICS, MIAVI. The respondent was represented by Mr. James Devlin, BL, instructed by the Chief State Solicitor's Office. Mr. Ronan Browne, ASCS, MRICS, MIAVI, ACI Arb, a District Valuer in the Valuation Office gave evidence on behalf of the respondent.

### **Preliminary Issue**

The proceedings opened with a preliminary issue raised by the appellant. He claimed that section 49 (1) of the Valuation Act, 2001 was not complied with at the revision stage, as the Revision Officer used only one comparison, namely Cement Roadstone. Section 49 of the Valuation Act 2001 stated that a determination shall be made by reference to "values" of other comparable "properties". In other words, in his comparative evidence the Revision Officer should have used more than one comparison. The literal construction was the plural. Accordingly, the subject property was not properly valued at revision stage and the revision should be struck out. The appellant also referred to the Tribunal decision in **VA05/2/012 – Lidl Ireland GmbH** to support his claim. He also added that the comparison used was not comparable as it was a superior construction to that of the subject and located only 3 miles from Limerick. This, he said, was reflected in the Commissioner's 16.5% reduction at first appeal stage

The respondent's barrister, Mr. James Devlin, said that proceedings at the revision stage were outside the remit of the Tribunal and that if proper procedures were not followed at revision stage the appellant's remedy was to apply to the High Court seeking an order of *certiorari*. He said that the Tribunal had no jurisdiction in this matter and was confined to hearing appeals of the Commissioner's decision.

In this regard the Tribunal is concerned with:

- Quantum
- Interpretation of the Valuation Act, 2001.
- Precedent.

Accordingly, the Tribunal has decided that proceedings to which it was not privy at the revision stage are not within its remit and that the only matter before the Tribunal with which it is concerned in this case is the issue of quantum. In this case the quantum of the rateable valuation is €355 as per the Commissioner's decision and Valuation Certificate issued on 2<sup>nd</sup> December 2005.

### **Issues Agreed**

- Measurements - Yard area 4,650 sq. metres.
- Quantum - Horse Power & Silo. The appellant stated that these matters were not in contention and that the NAV of €2,000 on Horse Power & Silo was agreed between the parties.

### **Description**

The property is a new, purpose-built workshop of simple construction built in 2004, with yard. It is located in a rural area approximately 5 kilometres from the town of Foynes in County Limerick. The building is used to manufacture a range of concrete products. It is constructed of a basic steel portal frame with single skin (uninsulated) panels in the roof and side walls. Internally there is a concrete floor and a gantry crane in part. The eaves height is approximately 6 metres per the appellant, 6.5 metres per the respondent, in the main workshop and 9 metres per the appellant, 11 metres per the respondent, in the rear section. The workshop area measures 2,379.48 sq. metres and this comprises the front lower section of 1,933.33 sq. metres and the rear, higher section of 446.15 sq. metres. The yard measures 4,650 sq. metres.

### **Services**

Apart from electricity no mains services are connected to the property. Sewage disposal is by way of septic tank and water is provided from a well.

### **The Appellant's Case**

The appellant first pointed out the demerits of the subject property. He said that the property was a very simple construction and was not up to IDA-type standards. It was a most rudimentary structure with basic steel portal frame and non insulated single skin panels. It would not be suitable as a modern factory-type building. Its cheap cost of construction at €95 per sq. metre reflected its value. IDA-type buildings would cost 6 or 7 times more to

construct. It could not be compared to industrial premises in Limerick or Newcastle West. It was in a rural location on a minor road about 5 kilometres from Foynes and did not have the advantages of a factory building at the Port of Foynes or in a large rural town like Newcastle West. Apart from electricity, no main services were provided. Sewage disposal was by way of septic tank and water was provided from a well.

The appellant also made the following submissions:

- **Size: building and yard:** The total size of the factory building was 2,379 sq. metres and this included the front and rear sections. A hypothetical tenant viewing the premises would put a very moderate value on it because of its rudimentary structure.
- **Yard:** He said that a hypothetical tenant would not pay significantly more for the yard which measured 4,650 sq. metres. As there was enough space in the factory building itself there was no need for a yard of this size to store products and it was used mainly for the disposal of concrete waste which was used to level some of the uneven parts. A yard in a port or industrial area would have much more value. Much of the yard had difficult terrain. He said that yards should not be valued separately but should be included in the overall value of the premises and this was common valuation practice.
- **Uses:** This building, unlike other buildings, had limited alternative uses. It could be used for very basic products like steel or concrete, but would not be suitable for agricultural purposes.
- **Cost of construction:** €5 per sq. metre construction cost reflected the cheap quality of the building.
- **Location** on a minor road in a rural agricultural setting, rather than in a port or industrial town, was a drawback.
- **Gantry rails:** There was no definite valuation practice on valuing gantry rails. In the CCBI case (see Appellant's Comparison No. 2) the Commissioner had not increased the levels in 1998 to add for the gantry rails.

Mr. Halpin contended for the following valuation:

Workshop (6m eaves) 1,933.33 sq. metres	@ €17.08 per sq. metre	= €33,021
Workshop (9m eaves) 446.15 sq. metres	@ €20.50 per sq. metre	= €9,146
Silo 80 ton		= <u>€1,016</u>
		€43,183

Total NAV €43,000 (as rounded by Mr. Halpin at hearing) @ 0.5% = RV€215. At hearing Mr. Halpin amended his valuation to add an RV of €5 for Horse Power & Silo giving a final total RV of €220.

### **Appellant's Comparative Evidence**

- **No. 1 - Shannon Resources** (a common comparison), is situated in Ballyhahill village about 7 miles from the subject, is approximately half the size of the subject and is a high specification premises superior to the subject. It is constructed to a good modern standard with concrete floors, concrete walls and double skin insulated panels. It was first revised in 1991 and revised again in 1994. It was upgraded with more cold storage added and a further revision took place in 1998. This revision was appealed and the level on the Warehouse was reduced to €20.50 per sq. metre. Prior to this – at the 1991 and 1994 revisions - the level was even lower at €16.40 per sq. metre. With the addition of the higher specification cold storage area the levels were increased. The level is lower than that on the subject warehouse with the lower eaves at €23.92 per sq. metre.
- **No. 2 - CCBI Ltd.** is a modern factory in Foynes harbour removed from the quayside. It is smaller than the subject. It is a steel portal frame with single skin side panels and double skin metal deck. The factory area of 1,832.86 sq. metres is smaller than the subject property and is valued at a level of €24.65 per sq. metre, with a yard area of 1 acre valued at €6,348.69. This is a far superior location than the subject. Furthermore the yard area, being in a port, is far more valuable than the yard in the subject which is in a rural area. Like the subject property this property has gantry rails. Yet the Commissioner did not increase the level to allow for gantry rails. There is uncertainty as to whether or not the gantry rails were valued. The main advantage of this property is its seaport location.
- **No. 3 - James McMahon** - now vacant (a common comparison). This is a vacant factory building larger than the subject at 2,755 sq. metres and located near the gates of the Port of Foynes harbour. The building has corrugated asbestos. Blocks 3, 4 and 7 are valued at €20.50 per sq. metre, i.e. lower than the subject. The yard is valued at €2,539. The port location is superior to the subject's location.
- **No. 4 - Nolan Products Ltd.** This has a good location in an industrial estate in Newcastle West. It is much smaller than the subject. It is a single skin building similar in construction to the subject but in a superior location. The level on the main workshop

area is €23.87 per sq. metre which equates approximately to the lower eaves level on the subject.

### The Respondent's Case

Mr. Ronan Browne for the respondent said that the subject property was a modern purpose-built factory. The location was on a minor road but not far from the main road. He accepted that a yard in a port would be a lot more valuable. Greater eaves height allowed for higher values. Mr. Browne's main contention was that the subject property was a new, purpose-built building in a rural area with access to a main road. His comparisons no.1 (a common comparison) and no. 4, both located in the Port of Foynes, contained asbestos which would not encourage a hypothetical tenant. On cross-examination the respondent could not explain why the gantry rails were not valued in the CCBI case, the appellant's comparison no. 1.

Mr. Browne contended for the following valuation:

Factory (6.5 metres high)	1,933.3 sq. metres	@ €23.92 per sq. metre =	€46,237.36
Factory (11 metres high)	446.2 sq. metres	@ €27.34 per sq. metre =	€12,197.74
Yard	4,650 sq. metres	@ €0.96 per sq. metre =	€4,449.59
Horse Power & Silo		=	€2,000
Internal Rateable Fixtures		=	€6,000
Total NAV		=	€70,884.69
RV @ 0.5%		=	€354.42
Say			€355

### Respondent's Comparative Evidence

- **No. 1** - Grain Stores in the Port of Foynes; concrete and single skin asbestos; 4000 sq. metres fixed on appeal in 1990 at €27.34 per sq. metre. New stores measuring 3,298 sq. metres, larger than the subject and valued at €23.92 per sq. metre. These levels match those of the subject.
- **No. 2** – a high specification warehouse in Askeaton and, at 2,373 sq. metres, of similar size to the subject. It is located in a rural area about 15 miles from Limerick City i.e. nearer to it than the subject. The entire is valued at €27.34 per sq. metre, the same level as on the higher part of the subject.

- **No. 3 - Shannon Resources Ltd.** (a common comparison), stores with a chill room included. This was built originally as a single skin building, is largely makeshift with insulation added and is in seasonal use. It is in a very remote location with very narrow roads.
- **No. 4 James McMahon** - (a common comparison) now vacant. This is an old concrete and corrugated asbestos stores located outside the Port of Foynes being situated opposite the gates of the port. It has 7-metre eaves and is valued €20.50 per sq. metre which is lower than the subject. Mr. Browne said it was in a good location but was an obsolete shell structure. It would carry a higher value were it not in such a state of obsolescence. The photographs supplied indicate an old building. Asbestos in the building would not encourage a hypothetical tenant. The building was not in use. The rate of €20.50 per sq. metre reflected the nature of the building. A modern purpose-built building such as the subject had to be of more value.

## **Findings**

Having assessed the comparative evidence and the submissions of the parties the Tribunal finds as follows on the following factors:

1. **Cost of construction.** The first aspect of this case which concerned the Tribunal was the cost of construction of the subject property. The cost of construction at €95 per sq. metre appears to be relatively very cheap. Accordingly, this must reflect on its value. A stronger reinforced building would cost much more. IDA-standard buildings certainly would cost more.
2. **Location.** Every valuer knows how important the location factor is when valuing a building. The subject is set in a rural/agricultural environment and lacks the locational advantages of the some of the comparisons. These have the port location advantage which carries a higher value and outweighs what some buildings lack in quality such as their asbestos content. The appellant's comparison No. 4 also has the advantage of being located in an industrial estate in Newcastle West.
3. **Levels.** The subject levels are €23.92 and €27.34 per sq. metre on the lower and higher eaves portions respectively. These levels exceed the warehouse levels of €20.50 per sq. metre in the appellant's No. 1 comparison - Shannon Resources. These subject property levels also exceed those of block 3, 4 and 7 of the appellant's No. 3 comparison. The subject's lower eaves levels of €23.92 per sq. metre are similar to the level of €23.87 per

sq. metre on the main workshop in the appellant's comparison No. 4 in Newcastle West. The higher eaves level of €27.34 in the subject is the same as that on the respondent's comparison No. 2, a high specification warehouse in Askeaton.

4. **Construction material.** The subject property is a modern, purpose-built building with a basic steel frame and single skin panels. However, the building is of a rudimentary nature. The appellant's No.1 comparison is more comprehensive with concrete walls and double skin side panels. The appellant's No. 2 comparison is of a higher specification than the subject. Some of the older buildings in the comparisons are made of concrete and, while they may have asbestos material, they can have uses which the subject property cannot have. Because of their structure they can be used as grain stores and for other agricultural purposes.
5. **Gantry Rails.** In the CCBI case the level on the factory was not increased to allow for the gantry rails. There appears to be uncertainty as to what is the valuation practice regarding gantry rails. Accordingly, we reduce the Internal Rateable Fixtures (Gantry Rails) by 50%.
6. **Yard.** We make no reduction on the yard rate of €0.96 per sq. metre as the original area of approximately 6,000 sq. metres was reduced by agreement to 4,650 sq. metres. A large area of the yard is in use.

### **Determination**

Having regard to the foregoing the Tribunal determines the NAV and RV of the subject property as follows:

Factory (Lower eaves part)	1,933.3 sq. metres @ €20.50 per sq. metre	€39,632.65
Factory (Higher eaves part)	446.2 sq. metres @ €23.41 per sq. metre	€10,445.54
Yard	4,650 sq. metres @ €0.96 per sq. metre	€4,449.59*
Horse power and silo (agreed)		€2,000
Internal rateable fixtures (gantry rail)		<u>€3,000</u>
TOTAL NAV		€59,527.78
RV @ 0.5%		€297.64

Say RV €298

\* as per respondent's précis of evidence.

And the Tribunal so determines.