

Appeal No. VA90/1/009

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

Fruit of the Loom International Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory and grounds at Lot No. 1FGX Ballymacorry Lower, Buncrana, Co. Donegal

B E F O R E
Henry Abbott

Barrister Chairman

Paul Butler

Barrister

Mary Devins

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF JULY, 1991

By notice of appeal dated the 27th day of April 1990, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £2,200 on the above described hereditament.

The grounds of appeal as set out in the notice of appeal are that the (1) valuation is excessive, (2) bad in law, (3) no account has been taken of the N.A.V. in determining the rateable valuation assessment of this property.

An application for discovery of documentation by Mr Christopher Hicks of the Valuation Office was heard before the Chairman of the Tribunal, Mr Henry Abbott, on the 27th of May, 1991 and by order perfected on the 7th of June, 1991 the Chairman directed that certain documentation be made available to the respondent. A copy of this order is attached as appendix 1. The directions of this order were complied with fully by the appellant.

Description of Property

The property consists of part of part of an industrial complex which is situated in the townland of Ballymacorry Lower, which is south east of the town of Buncrana, Co Donegal. It is occupied by Fruit of the Loom International Ltd. who manufacture quality leisure wear at this plant.

Written Submissions

In a written submission received on the 5th of July, 1991, Mr Patrick McCarroll outlined in detail the description of the buildings, the subject of this appeal as follows:

Warehouse No. 1

This is a two-span symmetrically pitched steel portal framed building with double skinned metal roofing with roof lights. External walls consist of concrete block some 13'0" high with dashed external finish. The remainder consists of metal cladding. The flooring is reinforced and sealed. The high rise office accommodation occupies part of this warehouse. The clear floor to eaves height of most of the warehouse is 33'0" (10.05m). This eaves height is reduced to c. 18'0" (5.49m) under the high rise offices.

High Rise Offices

This office accommodation is effectively suspended from the roof to the warehouse and it provides the administrative offices for the company.

Three Storey Office Building

This is a modern, three storey purpose built office building. The accommodation comprises:

Ground Floor:	Entrance foyer and toilets.
First Floor:	Offices.
Second Floor:	Boardroom and toilets.

Production Area

Sewing Room

Lattice steel roof with insulated metal decking on metal columns. At the time of purchase, the floor of this building sloped to facilitate the manufacturing process of the previous occupier. This floor was levelled by the current occupier. The clear floor to eaves height is approximately 15'0" (4.57m).

Boxing and Finishing Area

This part of the complex is built with a combination of concrete and steel portal framed structures. Roofing consists both of corrugated asbestos and double skinned metal decking. Walls consist of a combination of concrete with a dashed external finish and metal cladding.

Cutting Room

Constructed with lattice steel roof, metal decking on metal columns. Walls are concrete with a dashed external finish and metal cladding. The clear floor to eaves height is approximately 13'3" (4.04m).

Boiler House

Metal portal framed building with double skinned corrugated asbestos roof with roof lights. Walls consist of a combination of concrete block and metal cladding. The clear floor to eaves height of this building is 12'0" (3.66m).

Canteen

This is part one storey and part two storey concrete block building with rendered external finish. Windows and doors are aluminium and flooring is of concrete. Roofing is asphalt. The ground floor is used as a kitchen and canteen and the first floor is used as offices.

Mr McCarroll said that the agreed areas under appeal are as follows:-

Warehouse No. 1	55,100 sq. ft. (5,119 sq. m.)
Offices - 3 storey building	4,500 sq. ft. (418 sq. m.)
High Level Offices	7,500 sq. ft. (687 sq. m.)
Balance	<u>109,400 sq. ft.</u> (10,163 sq. m.)
Total gross floor area	176,500 sq. ft. (16,397 sq. m.)

Mr McCarroll then outlined the history of Fruit of the Loom International Ltd. in Buncrana and the history of the Ballymacorrey Plant. Mr McCarroll said that in arriving at a calculation of the valuation he considered the following factors:-

- (a) the rental for the Ballymacorrey Plant
- (b) comparisons (Mr McCarroll offered eight comparisons, the details of which are attached as Appendix 2 to this judgment)

He said that on this basis he proposed that the rateable valuation of the subject should be as follows:-

Building

Office - 3 storey building	4,500 sq. ft. @ £1.50 = £ 6,750
High Level Offices	7,500 sq. ft. @ £1.30 = £ 9,750
Warehouse	55,100 sq. ft. @ £1.00 = £ 55,100
Production Area etc.	109,400 sq. ft. @ £0.80 = <u>£ 87,520</u>
	£159,120

Estimated N.A.V. of building, say	£ 159,000
Rateable Valuation @ 0.63% say	£1,001.00

Industrial Plant

Horse Power 567 H.P.	£ 25.00
70,000 gallon water tank	£ 7.00
15,400 gallon fuel tank	<u>£ 3.00</u>

Say £ 1,035.00

A written submission was received from Mr Christopher Hicks, Appeal Valuer in the Valuation Office on the 29th of August, 1990 in which he outlined the valuation history of the plant and described the property concerned. He said that the standard I.D.A. rent for industrial space in Donegal is £2.45/sq. ft. but on the open market space of this quality is usually available at between £1.50 and £1.75 per sq. ft. He said that he would estimate a minimum value of the premises as follows:-

High tech warehouse	55,100 sq. ft. @ £2.50 = £137,750
Balance	121,400 sq. ft. @ £1.75 = <u>£212,450</u>
	NAV £350,200

He said that applying a percentage of .63 as between the rateable valuation and net annual value one would arrive at a rateable valuation of £2,205 for the above property.

In an addendum to his precis received on the 9th of July, 1991 following the disclosure of documentation Mr Hicks said that the current rateable valuation of £2,200 is based on his own estimate of rent of £1.98/sq. ft. overall (176,500 sq. ft.). He said that this in turn is based

on comparisons with McCarter's old factory which he supplied as a comparison and which devalues as follows:-81,500 sq. ft. @ £2.25 per sq. ft.

He said that simply because one premises is substantially larger than another its rent per sq. ft. should be less is clearly incorrect in this case. He said that the larger factory is so much superior in all respects that any allowance for "quantum" is nullified. He said that in the light

of the most recent evidence that the rateable valuation should be calculated as follows:-

Total construction cost	£3,661,992
I.D.A. Purchase Price	998,578
Siteworks	245,164
Improvements on existing building	<u>190,575</u>
	£5,096,309

@ 10% N.A.V. = £509,631

£509,631 @ .63% = £3,210.67

Say R.V. £3,200

Oral Hearing

The oral hearing took on the 8th of July, 1991 in Dublin and Mr Patrick McCarroll represented the appellant and the respondent was represented by Mr Christopher Hicks.

Mr McCarroll outlined his submission and gave evidence on the measurements of the subject premises. Both valuers agreed that the issue of plant could be avoided and that the valuation could be established from the analysis of the net annual value of floor areas of

Warehouse No. 1	55,100 sq. ft. (5,119 sq. m.)
Offices-3 storey building	4,500 sq. ft. (418 sq. m.)
High Level offices	7,500 sq. ft. (697 sq. m.)
Balance	<u>109,400 sq. ft. (10,163 sq. m.)</u>
Total gross floor area	176,500 sq. ft. (16,397 sq. m.)

Mr Hicks corrected the information given on page two of his submission stating that the "high tech" warehouse was over 30 feet high rather than the seventy feet stated in the submission. Mr McCarroll strenuously argued that the valuation of the property could be obtained from an analysis of the property from 1985 to 1986 and from 1986 to 1987 rental charged by the IDA to McCarter in respect of an agreed 75,000 sq. ft. original premises. The rent paid per sq. ft. on this basis was, he said £1.03 per sq. ft. This figure, he stated, ought to be discounted by reason of delayed payments over seven years. Discounting was hotly contested by Mr Hicks on behalf of the respondent who referred to the payments schedule produced over the last seven years in respect of sums paid by the appellants in respect of the Ballymacorrey purchase, stating that the payments appeared to include a significant amount of interest however calculated on outstanding rent. This issue was not resolved between the parties but the Tribunal finds that however interest is calculated in the payment schedule it appears that some charge was made in respect of deferred rental payments and accordingly the Tribunal rules out any element of discounting. The assessment of Mr Hicks of the original rent for the part of the subject premises rented in 1985-86 and 1986-87 was £1.62 per sq. ft. This he stated was in respect of an old building with a sloping floor which had been extensively and successfully modernised to a high standard.

Mr McCarroll also stated that the larger industrial premises now under appeal should be valued on the basis of receiving a reduction of the estimated rent per square foot on the basis of the large quantum involved. This procedure was contested by Mr Hicks on behalf of the respondent who argued that standard modern industrial space would cost £20 per square foot to construct regardless of how much space was involved and that in the particular subject premises the cost of construction per square foot would be more in the region of £40. He also urged on the Tribunal a consideration of the schedule of rents in the Broomhill Business Park, Tallagh, Dublin 24, in which it is apparent that no significant reduction for the size of the industrial unit when calculating rents per square foot. The Tribunal is reluctant to accept

the quantum argument to any significant degree in this case by reason of the continued investment by the appellants in additional space at current market prices.

The Tribunal does not accept that the location of Buncrana for the subject premises is particularly disadvantageous. Indeed Mr Hicks submission that being close to the well developed highway network in the north of Ireland and fashionable cheaper shipping routes from there, the subject premises may well have a competitive edge on many other premises located elsewhere in the country. The premises appear to be state of the art from the point of view of automation of the storage of textile product and operate in a relatively buoyant segment of the textile market. The Tribunal accepts, notwithstanding Mr McCarroll's criticisms of the physical layout of the office complex, that they were purpose built by the appellants and occupied in such fashion as would indicate that management consider the layout to be of importance to their style and position as the guardians of a successful and extensive manufacturing company. While all comparisons offered by the parties have been helpful in highlighting various aspects of the subject premises the Tribunal must have regard to the criteria set out in section 11 of the Valuation (Ireland) Act, 1852 and section 5 of the Valuation Act, 1986. Section 5 reads

"5.-(1) Notwithstanding section 11 of the Act of 1852, in making or revising a valuation of a tenement or rateable hereditament, the amount of the valuation which, apart from this section, would be made may be reduced by such amount as is necessary to ensure, in so far as is reasonably practicable, that the amount of the valuation bears the same relationship to the valuations of other tenements and rateable hereditaments as the net annual value of the tenement or rateable hereditament bears to the net annual values of the other tenements and rateable hereditaments.

2. Without prejudice to the foregoing, for the purpose of ensuring such a relationship regard shall be had, in so far as is reasonably practicable, to the valuations of tenements and rateable hereditaments which are comparable and of similar function and whose valuations have been made or revised within a recent period."

The Tribunal is of the view that section 5 of the Valuation Act, 1986 drives it inevitably to rely on comparison number 1 offered by Mr Hicks in his precis of evidence relating to the premises of William P McCarter & Co Ltd, Church Street, Buncrana. This is the parent factory of the appellants in Buncrana town centre. It was last valued in July, 1988. The breakdown of Mr Hicks of the valuation is as follows:-

81,500 sq. ft. @ £2.25/sq. ft. = NAV £183,375

£183,375 @ .63% = £1,155 RV = £1,150.

Mr McCarroll indicated that although this factory has been extended since 1988 the valuation has not been increased and that this would indicate that the estimated rental of £2.25 per sq. ft. was not now valid. While Mr Hicks was not in a position to indicate whether the revision of the premises had been carried out in the recent past he did indicate that such a revision could have been carried out without having regard to building then in progress and that it would be pointless to adjourn the proceedings to try and find out exactly whether a revision of the Church Street premises was carried out since 1988. The Tribunal accepts that Mr Hicks has an accurate account of the valuation details of the Church Street factory and is influenced by same in determining the appropriate estimated value of the subject premises. Accordingly, the Tribunal affirms the rateable valuation of £2,200 in respect of the subject premises.