

Appeal No. VA90/1/018

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

**Shannonside Milk Products Co-op Ltd**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory and Land at Lot No. 39AC.40AC.41Ac Lung, E.d. Ballaghadereen, R.D. Castlerea,  
Co. Roscommon

Quantum - Boilers omitted in error from 86 revision, now to be valued

**B E F O R E**

**Henry Abbott**

**Barrister Chairman**

**Padraig Connellan**

**Solicitor**

**Veronica Gates**

**Barrister**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**DELIVERED ON THE 19th DAY OF OCTOBER, 1990**

By notice of appeal dated day of 27th April, 1990, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1320 on the above described hereditament.

The grounds of appeal are that the valuation is excessive, inequitable and bad in law. The valuation attributed to boilers and gas tank is excessive. Such further grounds as may be adduced in evidence. The premises comprise offices, canteen, toilets, boiler house with three oil fire boilers, workshops, stores, milk intake, evaporated and dried and drier buildings, pump house and water cooling structure. Tanks for milk, water and various oils are also in place on the site together with effluent treatment works, paved access ways, circulation in parking areas.

An appeal on these premises was previously before the Tribunal under the 1988 revision (VA/88/182). A judgement of the Tribunal was delivered on the 28th November 1989 wherein the rateable valuation was fixed at £1,124. The property was again listed for revision in 1989 by Roscommon County Council. The revising valuer included boilers for the first time in the valuation and also an LPG tank and increased the valuation from £1,124 to £1,320. It is against this increased valuation that the appeal now lies before the Tribunal.

### **Written Submissions**

A written submission was received from Mr. Patrick J. Nerney, B.E., Rateable Valuation Consultant, Valuer and Auctioneer on behalf of the appellant on the 12th October 1990. Mr. Nerney outlined the valuation history of the property and said that the factory was newly built around 1970/71 and commenced operating in mid 1972. He said that the Shannonside Co-op., acquired the property in 1974. He said that the valuation of the premises came before the Tribunal (Appeal No. VA/88/182) in 1989 by way of appeal against various tanks together with coal hoppers and motive power. Mr. Nerney said that the increase of £200 in the valuation on the 1989 revision can be attributed to boilers and an LPG tank installed in 1988 to which a valuation of £5 applies. Mr. Nerney said that the principal reason for installing boilers in 1982/83 were:

- a) Intake had been increasing over the previous years and this trend looked set to continue.
- b) Additional boiler capacity was required on account of the above.
- c) Coal was more economical fuel than oil.

The three oil fire boilers were installed in 1972. Mr. Nerney maintained that the Valuation Act, 1986, provided for the valuation of boilers among other items of plant and this became effective

on the 4th March 1986. He submitted that, as all the boilers were in place at that time, following the publication of the revised valuation list for 1986 the boilers in the subject premises, by implication, if not otherwise, were included in the valuation of the hereditament.

Mr. Nerney said that having regard to the fact that no additional boilers were installed subsequent to 1986 it was not open to the Commissioner to value the subject boilers as extras on revision in 1989. He said the obligation to base the 1986 revised valuation on an estimate of the Net Annual Value of the hereditament required that the various elements or component parts of the hereditament lawfully liable to valuation under the provision of the Acts, including the 1986 Act which was then in force, must be taken into account. Mr. Nerney made the point that there has been significant drop in the average intake of milk since the period 1984 to 1986 and that this results in three boilers being adequate to meet the steam raising requirements at peak periods. He said that this is indicative of the degree of under utilisation generally. He said that on this basis it was his opinion that the Net Annual Value of the hereditament is £142,000 and that a fair valuation would be £900 estimated as follows:-

R.V. agreed at £1,120 on 1988 1st Appeal  
as earlier submitted is also inclusive  
of boilers equates to:

Net Annual Value (£1,120/0.63%)	£177,778
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Deduct to make allowance for sustained downturn in milk supplies and resultant under-utilisation                      20% = Say	<u>£ 35,558</u>
Current Net Annual Value	£142,220

R.V. @ 0.63%	= Say	£900
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In a written submission received on the 11th October 1990, Mr. Patrick F. Berkery, a valuer with fourteen years experience in the Valuation Office on behalf of the respondent said that the two coal fire boiler cost £70,000 and £80,000 respectively eight years ago. He estimated the

current replacement cost of all five boilers as £375,000 which would yield a net annual value of £32,000 and by applying .63% would give a rateable valuation of £201.60, say £200. He then calculated the valuation of the entire property as follows:

R.V. as per VA/88/182	=	£1,124
Add for boilers	=	£ 200
L.P.G. Tank @ (5,000 @ £1/1,000 gals)	=	<u>£ 5</u>
		£1,329

Allowing for obsolescence                      Say = £1,320

Alternative Method of Valuation   O.V.                      £1,124.00

Oil Fired Boiler	1 x 20,000 lbs steam/hr @ £2 per 1,000lbs =	£ 40.00
Oil Fired Boiler	1 x 25,000 lbs steam/hr @ £2 per 1,000lbs =	£ 50.00
Oil Fired Boiler	1 x 30,000 lbs steam/hr @ £2 per 1,000lbs =	£ 60.00
CoalFired Boiler	1 x 30,000 lbs steam/hr @ £1 per 1,000lbs =	£ 30.00
CoalFired Boiler	1 x 36,000 lbs steam/hr @ £1 per 1,000lbs =	£ 36.00
L.P.G. Tank	1 x 5,000 gls @ £1 per 1,000 gals =	<u>£ 5.00</u>
		£1,345.00

To allow for obsolescence of coal fired boilers   Say £1,320.00

Mr. Berkery gave three comparisons as follows all relating to boilers:

- (1) North Kerry Milk Products Ltd. VA/89/24  
A Foster Wheeler solid fuel boiler with an output of 105,000 lbs/hr of steam was valued at £313 i.e. roughly £3 per thousand lb per hour.
- (2) VA/89/47 Carbery Milk Products Ltd.  
Boiler Agreed on the basis of £3 per thousand lb per hour
- (3) VA/89/75 Ballyclough Milk Products Ltd.  
Boilers Agreed on the basis of £3 per thousand lb per hour.

### **Oral Hearing**

At the oral hearing which took place in Galway on the 18th of October, 1990, Mr. Patrick Nerney represented the appellant accompanied by Mr. John Doyle from Shannonside Co-op.

Mr. Berkery represented the respondent. The issues before the Tribunal were (1) whether the boilers had been taken into account and aggregated in the previous rateable valuations and (2) if not what was the correct rateable valuation which could be attributed to the boilers.

Mr. Berkery admitted that there had been an error in not taking the boilers into consideration in previous years and Mr. Nerney submitted that they had in fact been taken into consideration and had been aggregated with the total valuation in the same way as motive power.

The Tribunal is conscious of the fact that this premises had been before it as recently as 1989. While no reference whatsoever was made to the rateable valuation of the boilers in that appeal reference was nonetheless made to the valuation of coal hoppers or silos, the purpose of which was to feed boilers. As only certain items were in dispute at the hearing of the previous appeal by the Tribunal, it would not necessarily be aware of what was contained in the items that were agreed between the parties.

Mr. Berkery gave evidence that it is not the practice of the Commissioner to aggregate boilers over the entire rateable valuation on other items and that in other cases boilers have been identified and valued individually. He said that it would be inequitable if this practice were not applied across the board. He accepted that it was an error that the boilers were not so valued separately in previous appeals since 1986 and in particular in the appeal which was before the Tribunal in 1989. The Tribunal has come to the conclusion that the boilers were indeed excluded by error in previous valuations but feels that this was a glaring exclusion particularly in the light of the coal hoppers being at issue as late as 1989. The Tribunal would reiterate what it had said in a previous case that it is not fair that appellants should be vexed year after year with fresh appraisals of their rateable valuation and would express the wish, as previously expressed, that valuations now fixed would remain in place for an appreciable length of time which it would regard as not less than five years. Of course, if circumstances change - if there are new buildings or installations, for example, the situation would obviously be different. Nevertheless, the

Tribunal feels in this case that in the interest of equity and fairness it must now take the boilers into consideration.

Mr. Doyle gave evidence of the drop of intake in milk and of the fact that the coal fired boilers, while again coming into their own due to the current oil crisis, in 1989 were more of a backup and because of the drop of intake in milk were somewhat surplus to requirements. Mr. Nerney pointed out in relation to the comparisons offered by Mr. Berkery that the North Kerry Milk Products Ltd., boiler which was valued at roughly £3 per 1,000 lb per hour related to the Foster Wheeler solid fuel boiler which could not be compared in terms of output or sophistication with boilers in this subject property. He also said that the Ballyclough Milk Products boiler was agreed not on the basis of £3 per 1,000 lb per hour but, as this was an 80,000 lbs per hour boiler, rather than the 40,000 maintained by Mr. Berkery, it would yield £1.50 per 1,000 lbs. Mr. Berkery on analysing comparisons of boilers mainly in the south agreed that £2 per 1,000 lbs per hour was the average rather than £3 as would be implied from his comparisons. Mr. Doyle also gave evidence to the effect that the location of his premises was a major disadvantage specifically as regards the boilers because the boilers of their main competitors, which were in the south of the country, could all be and some have been converted to natural gas, something which would be impossible in his case.

The Tribunal having considered all the above points determines that the rate of £1.50 per 1,000 lbs should apply to the oil fire boilers and a rate of 75p per 1,000 lbs to the coal fire boilers and that a rateable valuation of £2.50 should apply to the L.P.G. Tank. Thus the Tribunal determines that a total rateable valuation of £1,263.50 say, £1,260.00 should apply to this hereditament.