

Appeal No. VA90/2/074

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

First National Building Society, Kilkenny

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices (ground floor) at 59A High Street, Kilkenny Co. Kilkenny
Quantum - Ratio, location, comparisons

B E F O R E
Mary Devins

Solicitor (Acting Chairman)

Paul Butler

Barrister

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
DELIVERED ON THE 5TH DAY OF OCTOBER, 1990

By notice of appeal dated the 27th day of July, 1990, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £120.00 on the above described hereditament.

The Property

The subject premises is located on the north side of High Street, Kilkenny approx. 85 ft north west of the Town Hall and at the corner junction of High Street and "Butterslip". The property comprises a ground floor lock-up shop unit which forms part of a three storey building. The entire has been refurbished by the First National Building Society who now occupy the shop as a Building Society Branch Office. The overall frontage to High Street is approx. 19 ft. The property is generally of masonry construction with plastered and painted walls and pitched slated roof. A modern timber framed plate glass display window fronts High Street. Internally the property has been finished with plastered and either painted or papered walls and part tiled, part carpeted floors. Ceilings are of acoustic tiles in the public area and plastered and painted throughout the remainder. The accommodation has been sub-divided by means of timber stud partitions. The floor area of the premises has been agreed by both parties at 1,040 sq. ft. All main services are connected to the subject premises.

Written Submissions

In a written submission received on the 28th September, 1990 Mr Adrian Power-Kelly of Harrington Bannon, Chartered Valuation Surveyors, on behalf of the appellant said that it has been agreed with Mr Edward Hickey, Appeal Valuer that the net annual value of the premises as at the 1st November is in the sum of £19,000 per annum. He said that what remains to be determined is the relationship between net annual value and rateable value. He referred to section 5 of the Valuation Act, 1986 and said that the Commissioner of Valuation in determining the rateable valuation of the subject premises has applied .63% of the net annual value. He said that in his opinion this percentage is excessive and inequitable for the following reasons.

1. It is not appropriate to apply .63% of net annual value in Kilkenny. The appropriate percentage in Kilkenny is approximately .25%.
2. The rateable valuation is not in compliance with Section 5(1) of the Valuation Act, 1986.

Mr Power-Kelly read his written submission and made particular reference to No. 5 of his comparisons, viz. Irish Permanent Building Society, High Street, Kilkenny. His estimate of N.A.V. for the Irish Permanent is £43,250 and the current rateable valuation of £130 represents .3% of N.A.V. He contrasted these figures with those of the subject property where a .63% fraction of N.A.V. has been applied. Both parties agreed the N.A.V. of the subject premises at £19,000.

Mr Hickey referred to his written submission and pointed out that of Mr Power-Kelly's comparisons, four were retail units and were therefore not valid comparisons. In relation to the fifth of the appellants comparisons, viz. Irish Permanent Building Society, High Street, Mr Hickey stated that his estimate of N.A.V. of same would be considerably less than Mr Power-Kelly's, taking into account the fact that the subject property devalued at approx. £19 per sq. ft. while the Irish Permanent would devalue at £28 if one were to accept Mr Power-Kelly's figures.

The Law

Section 5 subsection 1 and 2 of the Valuation Act, 1986 states as follows:

"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."

In the judgment of Barron J. above referred to, he said that in reference to subsection 2 of Section 5 of Valuation Act, 1986 that it "is not a provision on its own. What is being sought is an overall proportion between hypothetical rents and valuations. This must be borne in mind when applying its provisions. What must be considered are valuations which:

- (a) are comparable;
- (b) relate to tenements and hereditaments of similar function; and
- (c) have been made or revised within a recent period.

Where there is evidence under each of these headings sufficient to obtain the relevant proportions then the valuations can be determined by reference to the subsection alone. Where the evidence is insufficient, then the overall proportions predicated by subsection (1) must be adopted. In each case, the sufficiency of the evidence is a matter for the Tribunal."

Determination

While the Tribunal is conscious of the desirability of achieving a uniformity in the ratio to be applied between N.A.V. and R.V. it does not accept the respondent's contention that this can be achieved by taking an average of properties which are not only widely diverse but each of whose range of ratios is extremely wide.

The Tribunal feels that the best comparison offered is that of the Irish Permanent but accepts Mr Hickey's contention that the estimated N.A.V. of £43,250 is unrealistic having regard to the letting value of the subject premises and to the fact that it is commonly accepted that 1st floor retail space commands a higher rent than 1st floor office space.

The Tribunal determines that an estimated rental value for the Irish Permanent premises might be fairly assessed at £32,000.

Having regard to all of the foregoing the Tribunal determines the rateable valuation of the subject premises at £76.