

Appeal No. VA90/3/074

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

**Trustees of Cork & Limerick Savings Bank**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Cork & Limerick Savings Bank, Ref: 8b, Sarsfield Street, County Borough of Limerick

**B E F O R E**

**Paul Butler**

**Barrister (Acting Chairman)**

**Padraig Connellan**

**Solicitor**

**Joe Carey**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF MARCH, 1991**

By notice of appeal dated day of 28th September, 1990, the appellant appealed against the determination of the respondent in fixing the rateable valuation on the above described hereditament at £205.00

A summary of evidence dated 20th March, 1991 was provided on behalf of the appellants and that summary is appended to this judgment at Appendix A. It is unnecessary to recite contents of that summary, the oral evidence given by the three witnesses therein referred to was in accordance therewith.

Mr William M Walsh, B. Agr. Sc. FRICS, a Chartered Valuation Surveyor and District Valuer in the Valuation Office, with an excess of 21 years experience in the practice of Valuation Surveying presented a written submission received by the Tribunal on the 19th March, 1991. In that submission Mr Walsh set out the relevant dates as follows:-

"89 Revision: Premises returned for Revision of Rateable Valuation by Limerick Corporation.

89 August: Subject premises inspected by Valuer from Valuation Office.

10th Nov 89: Valuation Lists issued R.V. fixed at £220.00.

7 Dec 89: D O'Buachalla & Co on the instruction of Cork and Limerick Savings Bank appealed against the assessment to the Commissioner of Valuation.

May '90: I inspected the hereditament having been deputed by the Commissioner of Valuation to inspect and report. I found that it consisted of a Bank premises at Sarsfield Street.

I considered the points put by appellants agent Alan McMillan for Donal O'Buachalla.

3 Sept '90: The Commissioner issued his decision which reduced the R.V. to £205 as agreed.

28 Sept '90: Appellant lodged an appeal to the Valuation Tribunal."

### **ORAL HEARING:**

The oral hearing took place at Ennis on the 26th of March, 1991. Mr Brian Russell, Solicitor, of Messrs O'Flynn, Exham, & Partners, Solicitors represented the appellants and Mr Walsh represented the respondent. Mr Russell called Mr E.J. Ivers, General Manager, Banking and Secretary of the appellants, Mr Sean Crowley, Manager of the Sarsfield Branch of the appellants and Mr Alan McMillan of Messrs Donal O'Buachalla & Co., Ltd. Mr Walsh called Fergus Quinlivan, Rates Inspector from Limerick Corporation.

It emerged in the opening that the only two points at issue were:-

1. Were the appellants notified of the request for revision pursuant to provisions to Section 3 (1) and 3 (4) of the Valuation Act 1988.

2. If there was a failure to notify the appellants as aforesaid, did this failure invalidate the revision?

Mr Ivers said that all notifications of intended revisions were sent to his office by the relevant branch. No notification was received in this case.

Mr Crowley said that notification would come in the first instance, to his office and he received none. Mr McMillan said that he first learned of the revision on inspecting the lists and had not until then been instructed by the appellants in relation thereto.

Mr Quinlivan in evidence said that there was no requirement to keep copies of notifications and no copies were kept. He said that notifications were, in the ordinary course, sent out in all cases but he was unable to establish that a notification was in fact sent in this case.

## **FINDINGS**

1. The Tribunal is satisfied that, once the failure to notify has been clearly put in issue by the appellants, there is an onus upon the respondent to establish that there was in fact notification. While in no way criticising either the Commissioner or Mr Quinlivan, the Tribunal is satisfied that this onus has not been discharged. It is a matter for Local Authorities to have procedures whereby vital matters can be proved.
2. Section 3(1) of 1988 Act provides that "An owner or occupier of any property, the rating authority or an officer of the Commissioner of Valuation may apply at any time for a revision of the valuation of any property entered in the Valuation Lists or for the inclusion therein of any property not so entered."

Section 3(4) (a) provides that "Where an application under subsection (1) of this section in relation to any property is made by any person other than the owner or occupier of that property, the owner and occupier, if known, shall be notified by the rating authority of the application."

It is clear from the foregoing that the power to apply for revision is subject to notification. The Tribunal is, therefore, satisfied that the revision is invalid.

