

Appeal No. VA91/2/014

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

**Ulster Bank Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Bank at Unit 15, Dundrum Shopping Centre, Co. Dublin

**B E F O R E**

**Henry Abbott**

**Barrister Chairman**

**Paul Butler**

**S.C.**

**Veronica Gates**

**Barrister**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 13<sup>TH</sup> DAY OF DECEMBER, 1991**

By notice of appeal dated 18th day of July, 1991, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £250.00 on the above described hereditament.

The grounds of appeal are that:

- (1) the valuation is excessive and inequitable
- (2) the valuation is bad in law.

### **The Premises**

The subject premises comprises two shopping units situated at the extreme end of the Dundrum Shopping Centre which is close to Dundrum village. The subject is located on the ground floor which has a total of sixteen units including the Anchor tenant "Quinnsworth". There are a further two units at a lower level and seven separate first floor units. All the ground floor units front on to the carpark.

### **Valuation History**

The bank was first assessed for Rateable Valuation at £130.00 on the 1973 annual revision. At appeal this was reduced to £120.00. The valuation remained unchanged until the 1990 revision which was published in May 1990 when the Rateable Valuation was increased from £120.00 to £250.00. This was appealed to the Commissioner of Valuation who made no change at first appeal stage. It is against this determination that the appeal now lies with the Tribunal.

### **Written submissions**

A written submission was received on the 6th September, 1991 from Mr. Desmond Killen, F.R.I.C.S., I.R.R.V., of Donal O'Buachalla & Co., on behalf of the Appellant. In this Mr. Killen said that the centre is somewhat dated in appearance, is on two floors with covered stairways. He said that the recent development of Nutgrove Shopping Centre has produced a most competitive alternative and modern shopping complex. He said that the banks premises are in double units, suitably divided by wooden-faced partition walls. Mr. Killen said that the premises are held under a lease for 35 years from the 18th November, 1971. There are seven-year reviews and the current rent from November, 1985 is £22,500 per annum. He said that the lease area is 1,800 square feet. Mr. Killen said that the areas which would be considered on a comparative basis with other banks total 1,399 square feet and the area for consideration

for comparison purposes for other units in the centre is 1,760 square feet. Mr. Killen sets out the details of the valuations of other banks/building societies as follows:

- (1) A.I.B., Clonkeen Road, Deansgrange, R.V. £310.00.
- (2) A.I.B., Tallaght, R.V. £475.00.
- (3) A.I.B., St. Bridget's Road, Artane, R.V. £235.00.
- (4) Ulster Bank, Tallaght, R.V. £160.00.
- (5) Bank of Ireland, Dundrum, R.V. £440.00.
- (6) First National Building Society, Main St. Dundrum,  
R.V. £90.00.

Mr. Killen analysed each of the above under a number of headings including the Net Annual Value and floor area. The details as supplied by Mr. Killen are attached as Appendix A. Mr. Killen supplied details of banks/buildings societies located on Main St., Dundrum, immediately opposite the centre. These are attached as Appendix B. Mr. Killen referred to evidence of rental value within the shopping centre and said that the most recent letting in the centre is in respect of Unit 2 occupied by Ashley Reeves where a rent of £21,750 was agreed in 1989. A rateable valuation of £115 was fixed in 1990 first appeal which gave an estimate of Net Annual Value (November, 1988) of £18,250, i.e. £21.50 per square foot. He said that the valuation of the Educational Building Society, Unit 13, was increased from £120 to £150 at 1990 first appeal and is appealed to the Tribunal. He said that this hereditament is a typical single unit with a lease area of 850 square feet. The rent of £15,500 per annum was agreed in 1985. He said that the subject premises is comprised of a double unit of area 1,800 square feet, the rent of which was agreed at £22,500 per annum in 1985. Mr. Killen produced statistics which he said indicate that the Respondent's estimation of the rental value of Units 3, 8, 9, 10 have increased by 17.5%, unit 13 by 53.5% and the subject, unit 15 by 76%. Mr. Killen said that in his opinion the subject bank is similar to the other units in the shopping

centre and would command a similar rental value, pro rata allowing for size. Mr. Killen then supplied two estimates of N.A.V. and rateable valuation as follows:

- (1) as a double unit, 1,780 square feet at £19 = £32,040 N.A.V. = £200 R.V..
- (2) as a comparison with other banks, 1,399 square feet at £22 = £30,778 N.A.V. = £190 R.V..

A written submission was received on the 26th August, 1991 from Mr. Christopher Hicks, Appeal Valuer, Valuation Office on behalf of the Respondent. In this Mr. Hicks said that in all the cases in the Dundrum Shopping Centre the base date is November, 1988 and the rent/rates ratio is .63%. He said that the factors to be considered are:

- (1) the rent as fixed at the most recent review 1985
- (2) new lettings close to the base date
- (3) the capital value of the lease
- (4) zoning.

He said that at the 1985 review the basic rent was fixed at £15,500 per annum. He said that one unit, Ashley Reeves, was let in 1984 at an agreed rent of £18,500. He said that this indicates that the tenants interest in the lease is worth an extra £3,000 per annum. He said that this rent was reviewed in 1989 to £21,750 making this the most recent rental evidence and also evidence very close to the base date of November, 1988. He said that all of this points to the fact that the rent at that date for the base unit would be no less than £20,000. He said that in calculating the rateable valuation an estimated rent of only £18,250 has been used and that this must be seen as exceptionally low. With regard to the subject premises Mr. Hicks said that initially the rent agreed in 1971 was £3,200 i.e. just over double the standard unit. He said that as a result of the 1985 rent review the bank pays £22,500 per annum, only 50% more than the single unit. He said that this must be seen as an aberration.

Mr Hicks deals with the valuation and zoning of Main Street banks as follows:

**Bank of Ireland:** Main Street, Dundrum, 1985 1st Appeal  
 Ground Floor business  
 Area: 3895 ft<sup>2</sup> @ £18 = £70,000 N.A.V.  
 @ .63% = **R.V. £440**  
**Zone A = £29 per ft<sup>2</sup>**

**A.I.B.:** Main Street, Dundrum, 1979 1st Appeal  
 Ground Floor business  
 Area: 2776 ft<sup>2</sup> @ £13.70 = £38,000 N.A.V.  
 @ .63% = **R.V. £240**  
**Zone A = £28 per ft<sup>2</sup>**

Mr. Hicks outlined his method of calculating the rateable valuation of the subject premises as follows:

- (1) Compare with standard units in Shopping Centre and add for extras:- Strong room, high security and high quality finish.

Standard Zone A is £32

Bank	Zone A	710 ft <sup>2</sup> @ £35	= £24,85
	Zone B	710 ft <sup>2</sup> @ £17.50	= £12,425
	Balance	360 ft <sup>2</sup> @ £ 8.75	= <u>£ 3,150</u>
		N.A.V.	= £40,425
		@ .63%	= <b>£254.68</b>

**OR**

Overall lease area 1780 ft<sup>2</sup> @ £21 = £37,380

Estimated cost of extras:

1780 ft<sup>2</sup> @ £50 per ft<sup>2</sup> = £89,000

Allow 50% for age = £44,500

Annualized @ 10% = £ 4,450

N.A.V. = £41,830

@ **.63%** = **£263.53**

- (2) Compare with A.I.B. Deansgrange VA/90/2/13 fixed by Tribunal at £310.

A.I.B. Deansgrange: 2,400 ft<sup>2</sup> @ £20.50 per ft<sup>2</sup> = £49,200 @ .63% = £310

Ulster Bank, Dundrum: 1399 ft<sup>2</sup> @ £20.50 per ft<sup>2</sup> = £28,680

Add 40% for better location

and smaller area \_\_\_\_\_ £11,472

N.A.V. = £40,152

@ **.63%** = **£252.96**

**Oral Hearing**

The oral hearing took place on the 11th September, 1991 and the Appellants were represented by Mr. Donal O'Donnell, instructed by Mr. Brian Glen, Solicitor for Ulster Bank. Mr. Aindrias O'Caoimh, Barrister represented the Respondent, instructed by the Chief State Solicitor. Also in attendance were Mr. Des Killen and Mr. Alan McMillan of Donal O'Buachalla & Co., and Mr. Tom Davenport of Lisney on behalf of the Appellants and Mr. Christopher Hicks on behalf of the Respondent. Mr. O'Donnell said that the rateable

valuation of £250 based on an estimated N.A.V. of £39,680 was out of line with the actual rent passing of £22,500 per annum. He said that a more appropriate rateable valuation for the subject concerned might be £190 - £200. Mr. Killen gave evidence as outlined in his precis of evidence and said that the current rent for the subject premises was negotiated at arms length and that the criteria in relation to location and size was met in that negotiation. He said that the location of the subject premises was the worst in the complete shopping centre and that it was likely to be by-passed by many shoppers. He said that the property was old fashioned and dated in appearance and that certain features such as the Strong Room could actually detract from its attractiveness to another occupier. Mr. Christopher Hicks said that he felt that this location was 40% better than Deansgrange and said that the rent of £22,500 was unrealistically low. Mr. O'Caomh on behalf of the Respondent informed the Tribunal that the small adjacent unit known as "Grenmay" had recently been acquired by the Ulster Bank. After some consultation with Head Office, a solicitor on behalf of the Appellant confirmed that this was the case and that a premium of £31,000 had been paid for "Grenmay" by Ulster Bank. Mr. Hicks said that the subject unit would be worth twice a single unit and that the subject had improvements carried out especially the Strong Room for which he had added approximately 9% to the standard £230 R.V. thus arriving at £250 R.V.. He referred again to the comparisons outlined in his precis of evidence. Mr. Killen said that a "Rates Impact Factor" had been used by the Commissioner of Valuation in the Northside Shopping Centre and other valuations this Summer. He said that this factor was a cushion against the increase in rates. Mr. Killen said that this factor should have been used in the calculation of rateable valuation of the subject premises. The Tribunal wished to get more details of the "Rates Impact Factor" and invited the parties to elaborate further on it. On the 25th November, 1991 Mr. Des Killen represented the Appellant and Mr. Aindrias O'Caomh represented the Respondent. Mr. Killen submitted a document outlining the basis on which, he understood, the "Rates Impact Factor" was calculated. He said that this would need to be confirmed by a representative of the Commissioner of Valuation. Mr. Aindrias O'Caomh said that for his

part he could see no basis in law for the "Rates Impact Factor" and although Mr. Killen said that the Factor was applied prior to the calculation of N.A.V., Mr. O'Caomh said that no formula in law could be used to determine what was a reduction in Net Annual Value.

The Tribunal has considered all the evidence and submissions of the parties and finds that the premises is somewhat dated. However, the Tribunal is not disposed to accept fully the arguments of the Appellants in relation to reducing the valuation down to the level urged by them. The Tribunal is mindful of the fact that there is significant commercial buoyancy in the area as evidenced by the Appellants purchasing the lease in the premises next door for a significant premium of £31,000. In the course of the hearing the Tribunal has taken the opportunity to concentrate on the "Rates Impact Factor" and is obliged to the parties for assisting the Tribunal in a preliminary analysis of this factor. The Tribunal has not considered the "Rates Impact Factor" to be of any influence on its consideration of this case and reserves its view in relation to the propriety of including this factor as a consideration in fixing a valuation on any particular premises. The Tribunal is most disposed to consider the so called "Rates Impact Factor" as a valuation tool which is available among many others rather than a result deriving from the legislative provisions of the valuation code.

Having regard to the foregoing considerations and all the circumstances of the case the Tribunal decides a rateable valuation of the subject property of £230.