

Appeal No. VA92/3/001

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

R & H Hall Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Grain Store (part) and yard at Lot No. 1D, Townland of Ballybricken, E.D. Carrigaline,
District of Cork Lower Co. Cork
Quantum - Ratio

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Mary Devins

Solicitor

Joe Carey

P.C. M.I.A.V.I.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF DECEMBER, 1993

By Notice of Appeal dated the 29th day of April, 1992, Donal O'Buachalla & Company Limited appealed on behalf of the appellants against the determination of the Commissioner of Valuation in fixing a rateable valuation of £870 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is excessive and inequitable and that the valuation is bad in law."

The Property

The property consists of a purpose built grain store (150m x 30m) on a 3½ acre site, approximately, with a conveyor system and hoppers. It is of steel portal frame construction with reinforced concrete floors and walls. The roof is acutely pitched and sheeted in insulated metal decking incorporating translucent roof lights. Six roller shutter gates provide access to the store. The capacity of the store varies between 9,000 tonnes and 18,000 tonnes depending on the nature and number of commodities stored.

The property is situated adjoining Ringaskiddy Port in the lower Cork Harbour area approximately 8 miles south east of Cork City and 4 - 5 miles from Carrigaline.

The accommodation comprises a grain store, office, weighbridge, conveyors, hoppers and yard.

Title

Held on a 99 year lease from Cork Harbour Commissioners at £15,543 per annum from 10th April, 1988. The rent is subject to rebate (Max £8,634 per annum) if more than 8,000 tonnes are imported.

Valuation History

- (1) Phase 1 of the grain store (50m x 30m) was newly built and valued for the first time at 1988 Revision at £450. At appeal this figure was reduced to £290.
- (2) Following a request from the local authority at 1990 Revision Phase 2 and 3 (100m x 30m) was rated and valuation increased to £1,150. The figure was reduced to £870 on 1st Appeal.

It is against this determination of £870 that the appeal lies to the Tribunal.

Written Submissions

A written submission was received on the 12th January, 1993 from Mr. John Devlin A.R.I.C.S., a Chartered Surveyor, employed with Donal O'Buachalla & Company Limited since 1984, on behalf of the appellant and is appended to this judgement.

In the written submission Mr. Devlin described the subject premises and the valuation history attaching to it. He described the property as in generally good repair consistent with its age, use and construction and said that all main services are connected to the property. In the written

submission Mr. Devlin set out the grounds of appeal in more detail and described the main matters of dispute as follows:-

- (a) the estimated Net Annual Value of the hereditament
- (b) the percentage ratio between N.A.V. and R.V.
- (c) that the valuation refers, in part, to property which is outside the valuation lot
- (d) that the valuation includes items of non-rateable plant and machinery, namely, conveyor

In relation to point (a) above Mr. Devlin stated that he had determined the Net Annual Value on the subject premises having regard to the following factors:-

- 1) Location
- 2) Quality of the buildings
- 3) The schedule of comparisons
- 4) Market conditions

He stated that, in his opinion, a fair estimate of N.A.V. of the entire property would be as follows:-

Warehouse	48,420 sq.ft. @ £1.80 p.s.f. =	£87,156
Offices	280 sq.ft. @ £2.50 p.s.f. =	£ 700
Weighbridge Pit		<u>£ 1,000</u>
		£88,856
Say:		£88,860

Mr. Devlin set out his estimate of the rateable valuation on the subject premises as follows:-

N.A.V. of entire building:	£88,860
LESS: N.A.V. of part of building outside Valuation Lot:	<u>£ 7,100</u>
N.A.V. of hereditament, Lot 1D Ballybricken:	£81,760
Ratio N.A.V. to R.V.:	0.5%
Therefore, R.V.:	£408.80
Say, R.V.	£410.00

Written submissions were received on the 15th January and 19th October, 1993 from Mr. Tom Stapleton, a District Valuer with 30 years experience in the Valuation Office on behalf of the respondent and these submissions are appended to this judgement.

In the written submissions Mr. Stapleton described the property and the valuation history attaching to it. Commenting on the appellant's grounds of appeal he stated that the valuation was agreed at 1988 First Appeal at £290 with £10 for portion outside high water mark. The building had now trebled in size and accordingly the valuation had been increased threefold to £870, and the part of the extensions outside the high water mark had been excluded. Mr. Stapleton set out his calculation of the Net Annual Value on the property as follows:-

(a) Grain store (phase 1,2,3) $4,500\text{m}^2 = 48,420\text{ft}^2 @ \text{£}3 \text{ p.s.f.} = \text{£}145,260$

Est. N.A.V. $\text{£}145,260 @ .63\% = \text{£}915$

Less part outside H.W.M = £ 45 (apportioned)
£870

(b) Sq.Metre basis $4,500 \text{ m}^2 @ 20\text{p} = \text{£}900$ (less part outside H.W.M.)

NOTE: Portion of the grain store crosses the line of the old H.W.M. and is therefore outside the rating area of the Council. The apportioned valuation £45 and £15 (£60 total) to be added whenever the maritime boundary is extended and resurveyed. Valuation £15 refers to weighbridge office also outside H.W.M..

He stated that in arriving at an N.A.V. consideration had been given to the location, the levels fixed in 1988 on the subject premises and on similar type building in the area, the benefits of the conveyor system installed since 1988 and the nature of the building. Mr. Stapleton set out his reasons for submitting that the appropriate ratio should be 0.63%. He also set out details of a number of comparisons of similar type industrial premises in the Cork area.

Oral Hearing

The oral hearing took place at City Hall, Cork on the 21st day of January, 1993, the 22nd day of June, 1993 and resumed on the 27th day of October, 1993. Mr. Desmond Killen and Mr. Jack Devlin appeared on behalf of the appellant. Evidence was given on the appellant's behalf by Mr. Michael Hall a Director of R & H Hall and by Mr. Donal O'Donovan, Consultant Engineer. Patrick Mc Carthy, Barrister-at-Law, instructed by the Chief State Solicitor appeared on behalf

of the respondent and Mr. Tom Stapleton and Mr. Peter Conroy of the Valuation Office gave evidence on the respondent's behalf.

The Ratio to be applied to Net Annual Value

The Tribunal heard submissions on the foregoing by way of preliminary issue. Mr. Killen argued that it was agreed between the appellant and the respondent that whether the ratio of Net Annual Value to Rateable Valuation should be 0.5% or 0.63% would be determined in accordance with the determination of the Tribunal in the case of **VA/92/3/007 - Allied Irish Bank -V- Commissioner of Valuation**. In that case the Tribunal determined, on the facts of that case, that the ratio should be 0.5%. Mr. Killen submitted that the respondent was now stopped from going behind that agreement. Mr. Mc Carthy accepted that it had been intended by both parties that the ratio in this case should follow that in the **Allied Irish Bank** case but was unsure of the form of agreement entered into.

The Tribunal is satisfied that an agreement was entered into and it ruled on this preliminary issue that the respondent is bound by this said agreement unless he had evidence available on the 27th October, 1993 that he could satisfy the Tribunal was not and could not have been available for the hearing of **Allied Irish Bank** case. Mr. Mc Carthy and his witness conceded that no evidence coming into the foregoing definition was available and the Tribunal indicated that it would determine that the appropriate fraction in this case should be 0.5% and it so determines.

NET ANNUAL VALUE

In relation to quantum Mr. Devlin referred to his written submission and the comparisons therein referred to. In particular, he referred to paragraph 9 of the submission. He said that the building was a low specification building and, on the basis of the application of the fraction of 0.5% he argued that the appropriate rateable valuation was £410.00. While indicating that all of his comparisons were important and they were taken into consideration by him, he accepted that the Haulbowline Industries premises (Comparison No. 4) was an appropriate comparison. He said that the value per square foot therein amounted to £2.25 whereas his valuation on the subject premises was £1.80. He argued that Haulbowline Industries was in a much superior location, that it had its own private wharf, and that it was not liable to stevedoring dues.

Under cross examination Mr. Devlin said that the location of the subject premises was remote. He said that the store was used for grain and foodstuffs. He accepted that the subject premises had a conveyor and that there was none in Haulbowline. He said that the apex of the building

was 59 feet, the eaves 29 feet and said that the extra height was due to the conveyor. The building was 30 metres wide.

Mr. Donal O'Donovan, a Consulting Engineer retained by the appellant said that the premises was really a shed and that the only thing he would have added was a double skinned roof. He had to make facilities for the overhead conveyor and had provided a re-enforced concrete wall with shutter doors. He said that the addition of phases 2 and 3 to the premises did not quadruple its capacity and that the occupational capacity of the premises was 12,000 to 18,000 tonnes.

Mr. Michael Hall, a Director of the appellant company R & H Hall said that he is in charge of operations for the store. He said that accessibility to Ringaskiddy is a problem. Trucks preferred to go to Passage West where they can make more than one trip per day. Cork dockers lay claim to the work in Ringaskiddy and Haulbowline managed with a far lesser work-force. He said that the cost of discharging shipping is approximately £1.00 per ton cheaper in Foynes which would amount to two to three hundred thousand pounds in an average year.

Under cross examination Mr. Hall says that in the subject premises a different approach has been adopted but it was doing the same job as the Haulbowline premises. He said that the subject premises would have less value for any other type of use than would the Haulbowline stores.

Mr. Stapleton in evidence said that applying the 0.5% ratio ruled on by the Tribunal, his rateable valuation would amount to £726.00. He said that in 1988 one-third of the area was agreed at £290.00 but accepted that the basis of this agreement was the old square metre basis. He emphasised that the subject premises as opposed to Haulbowline had installed a conveyor system at a cost of some £300,000. Taking an occupational capacity of 15,000 at 20p per ton per week gave one the equivalent of £10.40 per ton per annum which, in the witness's view gave a Net Annual Value of £156,000. The witness said that the obvious comparison is Haulbowline.

Under cross examination the witness accepted that overheads would have to be taken into account in valuing the premises as he did in direct evidence.

Determination

The Tribunal has had regard to all the submissions and the evidence adduced and it is satisfied that the best comparison available to it is the Haulbowline premises. The Tribunal is further satisfied that, despite some limitations mentioned, the subject premises is superior to the Haulbowline premises not least because of the installation therein of a conveyor system at a cost

of some £300,000. Having regard to the foregoing the Tribunal is satisfied that Mr. Stapleton's method of valuation is fair and reasonable. The Tribunal therefore accepts the N.A.V. applied by the respondent, and, having reduced it for the area outside the high water mark determines the Rateable Valuation as £690.