

Appeal No. VA92/3/007

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

**A.I.B. Bank, Ballincollig**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Bank Out-offices and Yard at Lot No. 17./10 - 11, Main Street, Village of Ballincollig,  
E.D. Ballincollig, District of Cork Lower, Co. Cork  
Ratio - Cork

**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 20TH DAY OF SEPTEMBER, 1993**

By Notice of Appeal dated the 20th day of May, 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 £200 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."

**The Property:**

The property consists of a two-storey bank premises with banking hall on the ground floor and offices overhead. It is located in the Main Street of Ballincollig. The agreed areas for the purposes of this appeal are:-

Ground Floor - 2,287ft<sup>2</sup>

1st Floor - 1,355ft<sup>2</sup>

**Valuation History:**

The premises comprise an old retail shop acquired by the bank in 1985. Purchase price £100,000. The site was cleared and a new bank was erected which opened in February 1988. The expenditure was £250,000 and fitting out £150,000. The valuation was fixed on 1988 Revision at £225. Following appeal the figure was reduced to £185.

At 1990 Revision following the revision of many commercial hereditaments in Ballincollig a valuation of £230 was determined by the Commissioner. This valuation was determined on the basis of .63% of Net Annual Value of £36,700 as at November, 1988. At appeal this figure was reduced to £200.

Following discussions between the parties agreement was reached that the Net Annual Value be calculated as follows:

Ground Floor - 2,287 sq.ft. at £10 p.s.f.	= £22,870
First Floor - 1,355 sq.ft. at £ 5 p.s.f.	= <u>£ 6,775</u>
Net Annual Value	£29,645

In consequence the appeal before the Tribunal lies in relation to the correct fraction to be applied to Net Annual Value in order to arrive at the rateable valuation.

**Written Submissions:**

A written submission was received on the 7th January, 1993 from Mr. Desmond M. Killen F.R.I.C.S., I.R.R.V., of Donal O'Buachalla & Company Limited, Valuer, Rating & Property Consultants, Estate Agents and Auctioneers, on behalf of the appellants.

In the written submission Mr. Killen set out details of the premises and the valuation history attaching to it. In the written submission Mr. Killen stated that the difference between the parties herein is confined to two major issues:-

- 1) the correct N.A.V. to be assessed on the premises and

- 2) the correct fraction to apply to the N.A.V. in order to arrive at the rateable valuation.

In a further submission dated the 7th January, 1993 Mr. Killen stated that agreement had been reached in relation to (1) above and that the issue remaining to be determined by the Tribunal related to the correct fraction to apply to the N.A.V. in order to arrive at the rateable valuation. On this issue Mr. Killen stated that the Commissioner of Valuation in the period mainly since 1988 had conducted a series of investigations into the relationship between N.A.V. and rateable valuations as existed in the then Valuation Lists. Pilot investigations were carried out in Henry Street and Grafton Street in Dublin and the fraction arrived at was .63%. Similar studies had been carried out in various other rating areas, for example, Cork City, Limerick City, Waterford City and Galway City. As a result of these investigations the net position was that the fraction of .5% applied to all county council areas with the exception of Dublin and that it also applied to 16 out of the 19 R.D.'s within County Cork, the exception to which a fraction of .63% had been applied was R.D. Midleton, Cork Upper and Cork Lower. The subject hereditament lies within the E.D. of Cork Lower.

Mr. Killen stated that, therefore, despite the fact that uniformity is the bench mark of the Valuation system, all of Cork County with the exception of the aforementioned 3 R.D.'s has rateable valuations calculated at .5% of N.A.V.. Mr. Killen stated that he had raised this matter at First Appeal and requested proof of any analysis throughout the single rating area of Cork County which would provide an average fraction of more than .5%. He had received no information on this matter. Mr. Killen cited a number of cases before the Tribunal where this matter is an issue:-

- (1) VA92/3/7 - Subject
- (2) VA92/6/17 - T.S.B., Ballincollig
- (3) VA92/3/8 - E.S.B., Carrigaline
- (4) VA92/6/19 - T.S.B., Carrigaline
- (5) VA92/6/22 - A.I.B., Carrigaline
- (6) VA92/3/1 - R.H. Hall, Ringaskiddy
- (7) VA92/6/29 - M.F. Kent, Ringaskiddy

Mr. Killen stated that it was essential that investigation and proof of a correct fraction be carried out by the Commissioner of Valuation. In the absence of such investigation the effect of the anomaly now existing is that rate payers in the aforementioned R.D.'s pay 26% more rates pro-rata than those in the remainder of the county.

Mr. Killen supplied details of a number of properties in the Ballincollig area which provide an analysis of the relationship between pre-revised valuations and N.A.V.'s as calculated by the Valuation Office. This information is attached as Appendix 1 to this judgment.

On the basis of the above information Mr. Killen submitted that a fraction of .5% ought to apply to the Net Annual Value.

A written submission was received on the 15th January, 1993 from Mr. Tom Stapleton, a District Valuer with 30 years experience in the Valuation Office on behalf of the respondent. In the written submission Mr. Stapleton set out details of the premises and the valuation history attaching to it as set out above.

Commenting on the appellant's grounds of appeal Mr. Stapleton stated that a pilot scheme had been carried out in C.B. Dublin in 1989 with a view to creating a consistent R.V./N.A.V. relationship. An R.V./N.A.V. ratio of .63% had been ultimately fixed and he said that this figure has since been applied in all C.B.'s, Co. Dublin, parts of Co. Cork which include rural districts of Cork Lower, Cork Upper, Midleton and Urban District of Midleton and a ratio of .5% had been applied between N.A.V. and R.V. in respect of remaining parts of the country. The subject premises are located in the rural district of Cork Lower which mainly consists of outlying areas south of the city. Included are the towns of Ballincollig and Douglas.

Mr. Stapleton stated that in recent years a comprehensive revision of hereditaments in Cork Lower region had been carried out and that in any such revisions the Commissioner could not be bound by historic levels of valuation if he was to achieve uniformity in rateable valuations throughout that town or part of the county. The towns of Douglas and Ballincollig had undergone significant change and development in recent years which had in its turn increased the rental and capital values of property there.

Mr. Stapleton stated that if the Commissioner was to achieve uniformity in the rateable valuation system within that part of the county he was obliged to value comparable properties of similar function on the same basis and this had been done in the instant case.

In relation to the appellant's challenge to the applicability of .63% and the application instead of a ratio of .5%, Mr. Stapleton stated that a considerable number of commercial properties had

been revised in the district of Cork Lower in recent times on the basis of .63% of Net Annual Value. Of the 114 appeals lodged following the 1990 Revision, 75% of the cases had been agreed on the basis of .63%. He also referred to the Valuation Appeal No: **VA92/3/29 - Moog Limited, (Ringaskiddy) V The Commissioner of Valuation** where the Tribunal have confirmed the valuation on the basis of .63% of N.A.V.. Mr. Stapleton contended that a high degree of uniformity had been achieved in Cork Lower on the basis of .63% and that to change to a .5% ratio now would, in fact, be creating a new anomaly. Mr. Stapleton had submitted an analysis of comparable properties in Ballincollig prior to the application of .63% to N.A.V. and these are attached as Appendix 2 to this judgment.

A further written submission was received on the 29th May, 1993 from Mr. Des Killen of Donal O'Buachalla & Company Limited. In the written submission Mr. Killen attached lists for R.D.'s Cork Upper and Cork Lower where premises were unaltered and R.V.'s had been increased, in order to establish the R.V./N.A.V. relationship prior and post revision. The results of these enquiries were tabulated in a letter accompanying the written submission dated the 24th May, 1993 and a copy of this tabular statement is attached to this judgment as Appendix 3.

A further written submission was also received from Mr. Tom Stapleton, of the Valuation Office. In the written submission Mr. Stapleton set out the background to the introduction of the .63% ratio in October, 1989. He mentioned the analysis of Grafton Street and Henry Street which had been carried out and which had led to the establishment of this ratio. He said that the ratio had achieved broad acceptance as it had resulted in large decreases in valuations in Dublin, about 30% on offices, 30 to 50% on factories. On Shopping Centres, however, valuations had doubled and trebled as they were the most out of line. He said that since 1989 the .5% or the .63% ratio had been used with few exceptions on revision. He said that these two fractions had gained acceptance without a solid statistical research base and he said that it was inconceivable that an analysis of a more or less chaotic system should find a percentage used for Grafton Street shops be it .5% or .6% of an 1988 or any other base could be found anywhere else in the system. The true analysis, he said, would need probably 500 plus units to be examined under statistical control. However, he said, that some approximation of an analysis was presented in his written submission with the above qualifications.

### **Oral Hearing:**

At the oral hearing which took place in Cork on 21st January, 1993 and was resumed on 22nd June, 1993, Mr. Desmond Killen, Director of Messrs. Donal O'Buachalla & Company Limited,

Valuers, appeared on behalf of the appellant. The respondent was represented by Mr. Patrick McCarthy, B.L., instructed by Mr. Brosnan, State Solicitor.

Mr. Killen submitted that the agreement reached on the 1988 Revision was based on the square metre method and that, on 1990 Revision, areas only were agreed but there was no agreement as to the correct fraction to be applied to the N.A.V..

Mr. Killen pointed out that, out of 19 Rating Districts in the Cork area, only 3 applied a fraction of .63%, with the remaining 16 adopting the .5% fraction, and that a single fraction operates in every other rating area in the country.

He submitted that there was no apparent logical reason for a fraction of .63% to be applied in Middleton, Cork Upper and Cork Lower.

In this connection, Mr. Killen stated that, since there has been no general revision of the country as envisaged in the 1852 Act, before one single fraction can be applied overall, a nation-wide investigation of N.A.V.'s and R.V.'s would have to be carried out.

He further stressed that on numerous previous occasions the respondent had argued that the same fraction should be applied throughout the same R.D..

On cross-examination of Mr. Killen by Mr. McCarthy, it emerged that the valuations of the former's comparisons referred to in his written precis were not made on a square metre basis whereas the Bank of Ireland, Ballincollig, proffered as a comparison in the respondent's written precis did appear to have been valued on a square metre basis.

Mr. Killen did concede that in certain cases in County Cork, agreement had been reached, resulting in the application of a fraction of .63%.

Mr. Killen further conceded in cross-examination, that while there might be uniformity within a R.D., a situation could arise where a shop on one side of a street might pay more in rates than a shop on the other side of the same street, simply because of the demarcation line between R.D.'s. Mr. Stapleton, in evidence, said that the introduction of the .63% fraction had resulted in varying consequences for different types of property, firstly in Dublin and similarly now in Cork.

He submitted that the R.V. of £185 which was arrived at by agreement in 1988 and again, pursuant to the 1990 Revision, equated to .63% of the agreed N.A.V. and was a clear indication of the correct applicability of said fraction.

Replying to questions from Mr. Killen, Mr. Stapleton agreed that a uniform fraction was applied in every other R.D. in the country and that the apparent anomaly in parts of Cork did not exist anywhere else in Ireland.

Mr. Stapleton stated that, despite the appellant's request for further information in relation to any analysis done in the Cork region, no such analysis had been carried out and further stated that, in his view, said analysis would be unlikely to achieve definitive evidence either way.

Mr. Stapleton's view was that the fraction of .63% emerged only from an analysis of properties in Henry Street and Grafton Street, Dublin and that the acceptance of this fraction was for pragmatic rather than theoretical reasons, as it resulted in the reduction of valuation of many properties in Dublin.

The case was adjourned, on application by Counsel for the respondent and both parties undertook to look into the possibility of an analysis on the terms hereinbefore referred to.

At the resumed hearing, Mr. Killen submitted a written analysis of R.V.'s and N.A.V.'s in the Cork area, which analysis seemed to show up an average ratio of .3% to .4%. Mr. Killen, however, accepted that a percentage of .5% would tend to give more uniformity. He further submitted that if, as seemed apparent, the respondent were now arguing that the application of .63% was arbitrary, this argument was entirely unacceptable, since the respondent had frequently and consistently submitted in previous cases, that the application of .63% was arrived at after a detailed analysis of N.A.V.'s and R.V.'s in certain areas of Dublin.

Mr. Killen again stressed that in every county except Cork, a uniform ratio applies and he pointed out that the respondent had shown no concrete example of a modern R.V. based on a modern N.A.V. to justify his argument for the fraction of .63%.

Mr. McCarthy submitted that while it was apparent that the rating system as a whole was somewhat anomalous, the best way to avoid anomalies in this instance was to make no distinction between Cork City and outlying but neighbouring areas like Ballincollig which was similar, in terms of N.A.V., to suburbs of Cork City.

Mr. McCarthy pointed out that the relevant legislation does not specifically refer to uniformity "within the same rating area" and does not make any distinction between city and county.

He further argued that the weight of evidence for the application of .5% was equally anomalous to that for the application of .63% and he suggested that the Tribunal should rather look to comparable premises in the immediate rural district.

### **Findings:**

The Tribunal is grateful to both parties for their efforts to respond, by way of research, to the obvious need for detailed analysis to determine the overall relationship, if any, between N.A.V.'s and R.V.'s in the Cork area.

Taking into account the imprecise and inexact nature of the system, the Tribunal is aware of the Herculean task involved. It notes, too, the respondent's reservations in relation to the worthwhile application of theory in this regard.

The Tribunal, however, has been asked to determine the net issue of the applicability of the correct fraction for the R.D. of Cork Lower and must take account of the evidence as adduced.

The .5% fraction is applied in 25 County Council areas. It has been shown that out of 19 rating districts in Cork, 16 apply the .5% fraction.

While the Tribunal agrees with Counsel for the respondent that the system is anomalous it would seem that the application of .63% in the instant case would serve only to add further anomaly.

Taking all of the evidence into account and having regard to the fractions emerging from the appellant's detailed analysis, the Tribunal is of the opinion that the fraction of .5% should be applied to the agreed N.A.V. of £29,650 and determines that the correct R.V. of the subject hereditament is £148.00.



