

Appeal No. VA92/4/003

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

L.D. Intercon Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory and land and grounds at Lot No. 52A, Clonagill Upper (pt of), U.D. Birr, E.D. Birr
Urban, Co. Offaly
Quantum

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Brian O'Farrell

Valuer

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF FEBRUARY, 1993

By notice of appeal dated the 15th day of June, 1992, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £675 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

"the valuation is excessive, inequitable and bad in law."

The Property:

The property is located approximately 5 miles from Birr on the Kinnity Road on the I.D.A. Syngfield Industrial Estate. Transport facilities are by road only, there is no rail link. The buildings comprise an original 1979 I.D.A. Advance Factory consisting of 24,344 sq.ft., and a 1988 extension of 31,306 sq.ft. which leaves a total gross floor area of 55,650 sq.ft.. The original factory was built of concrete block with steel trusses supporting insulated metal deck, low pitched roof in 3 bays and a 2-storey integral office section. The extension which was completed in 1988 consists of concrete block walls finished with brick outer leaf to the front elevation, full cladding to the side and rendered to the rear with profile metal deck eaves parapets. Floors throughout are of concrete with a tiled finish in the factory area. The integral offices on 2 floors are not self-contained with each opening to the factory floor and at first floor connected by means of an open catwalk.

The site area is approximately 2.5 acres. A separate access is provided to the front and rear. Car parking is available on site.

Valuation History:

The original I.D.A. Advance Factory was valued on 1980 Revision at £310. This was reduced by the Commissioner of Valuation at First Appeal by agreement to £265. In 1986, another property was purchased by L.D. Intercon Limited for £437,000, and in 1988 a major extension was carried out to it. The rateable valuation was revised in 1989 and increased from £265 to £675. This valuation was not appealed. The property was listed for revision again in 1990 with a request to value new factory. As a result a new factory was valued at R.V. £300 on part of the Intercon site. The original building having been valued the previous year was not inspected or revised and its valuation remained unchanged at £675. In December 1990 an appeal was lodged against this R.V.. It is against this determination that an appeal lies to the Tribunal. The valuation on the new factory was not appealed.

Written Submissions:

A written submission was received on the 23rd October, 1992 from Mr. Alan McMillan, A.R.I.C.S., a Director of Donal O'Buachalla & Company Limited. In the written submission Mr. McMillan set out details of the valuation history of the subject premises, a description of the property and its location, services and tenure and set out the grounds of appeal. The grounds of appeal, he stated, were:-

- (a) Quantum - that no agreement was possible as to the N.A.V. as at November 1988.
- (b) Lot Boundaries - that there has been an ongoing problem of establishing lot boundaries. Both the current and recently cancelled Valuation Office maps are unclear and indicated no boundaries for the subject Lot 52A. He stated for the purposes of this appeal, it was accepted that the entire premises fell within Lot 52A.

In the written submission Mr. McMillan stated that the provincial rural industrial market had been in the doldrums for a number of years and that the chances of letting over 55,000 sq.ft. of industrial space in Birr in November 1988 was slim. Currently, he stated there is over 700,000 sq.ft. of I.D.A. accommodation alone in units of over 40,000 sq.ft. available. This figure was higher in 1988. Mr. McMillan stated that he had borne this in mind in arriving at an estimate of N.A.V.. Moreover he had sought out direct rental evidence and adduced rental evidence from market sales. He had also considered the question of return on capital re: purchase price or expenditure. He stated that the net acquisition cost at £9.70 per sq.ft. after grants exceeded market value as was evidenced by the comparative evidence provided in his written submission. But that it was, nevertheless, of some assistance. At 7 year purchase this produced a rental of £1.39 overall.

Commenting on the existing rateable valuation of £675, Mr. McMillan stated that the R.V. denoted a N.A.V. of £135,000 or £2.42 per sq.ft. overall, a level of valuation which would not be exceeded even in premier Dublin City locations.

Mr. McMillan set out his estimate of N.A.V./R.V. as follows:-

Buildings:

	<u>Sq.Ft.</u>		<u>P.S.F.</u>		
Production	42,416	@	£1.25	=	£53,020
Workshop/ Plant Room	1,820	@	£1.25	=	£ 2,275
Canteen/Toilets/ Lobby	3,538	@	£1.75	=	£ 6,191
Offices	<u>7,876</u>	@	<u>£2.00</u>	=	<u>£15,752</u>

or, OVERALL **55,650 @ £1.39 = £386.19**

Plant:

Motive Power 143 H.P. @ 5p = £ 7.15
 = £393.34
 Say £395.00

Witness submitted that a fair assessment of rateable valuation would be in the sum of £395.

Mr. McMillan set out details of 14 comparisons in an appendix to his written submission. His summary schedule of these comparisons is attached at Appendix 1.

A written submission was also received from Mr. Christopher Hicks, a District Valuer with the Valuation Office on the 20th October, 1992 on behalf of the respondent. In the written submission Mr. Hicks described the property and the valuation history attaching to it, and set out details of 4 comparisons as follows:-

- 1) Finnill Fashions Limited - 89 1st Appeal - R.V. £65
 N.A.V. £12,690 @ .5% = £63.45. Say £65.
 Devalues overall at £2.45 per ft²
- 2) J. Cavanagh & Sons Limited - 89 1st Appeal - R.V. £275
 N.A.V. £55,500 @ .5% = £277.50.
- 3) SFAD Co. - Vacant factory directly opposite the subject - 82 1st Appeal - R.V. £115.
 Estimated N.A.V. £22,898 @ .5% = £114.49
 = £115.00
 Plain building currently asking £2.75 per sq.ft. overall.
- 4) L.D. Intercon (Original Building) - Part of the subject property - 1980 1st Appeal.
 Estimated N.A.V. £53,000 @ .5% = £265 (Agreed)

Mr. Hicks also set out 3 methods by which the R.V. on the subject premises had been calculated as follows:-

Method 1:

Additional offices and canteen	6671ft ² @ £2.75 =	£ 18,345
Additional production	26319ft ² @ £2.25 =	£ 59,218
H.P. 143 @ £10		<u>£ 1,430</u>
		£ 28,993
Estimated N.A.V. from comparison (4)		<u>£ 53,000</u>
	N.A.V.	£131,993
	@ .5%	= £660

OR

Method 2:

Old building overall	24,392ft ² @ £2.17 =	£ 53,000
New building overall	32,990ft ² @ £2.50 =	£ 82,475
(Overall £2.36ft ²) H.P.		= <u>£ 1,430</u>
		= £136,905
	@ .5%	= £685

OR

Method 3:

Purchase price 1986 =	£437,000}	
		} £1,257,000
Improvements 1986 =	£820,000}	
		@ 11% = N.A.V. £138,270
		@ .5% = £691
		R.V. £675

Oral Hearing:

The oral hearing took place in Dublin on the 2nd of November, 1992. Mr. Alan McMillan of Donal O'Buachalla & Company represented the appellant and Mr. Christopher Hicks represented the respondent. Mr. Keogh also appeared for the appellant.

Mr. McMillan relied on his written submission and said that it was a typical advanced unit in terms of quality and specifications. He said that the addition which was erected in 1988 more than doubled the size of the plant. He said that the area was not agreed between the parties with approximately 1,600 sq. ft. at variance. After some discussion Mr. Hicks said that he would accept the areas put forward by Mr. McMillan.

Mr. McMillan then referred to his schedule of comparisons (see Appendix 1) and said that comparisons 1 - 5, which are smaller than the subject premises, are provincially located and average at approximately £1.07 per sq. ft. Of these he said that comparisons 1 and 2 would be most comparable with the subject premises. He said that comparisons 6, 7 & 8 were included to show what the rents are in the larger urban areas, the remaining comparisons are sales.

Mr. McMillan commented on the comparisons put forward by Mr. Hicks. He submitted that they were not relevant. Finnill Fashions Limited and Cavanagh's (Comparison Nos. 1 & 2) were much smaller than the subject. SFAD Co. (Comparison No. 3) rateable valuation was fixed in 1982 and L.D. Intercon (original building) was valued in 1980. Mr. McMillan said that these properties could not be compared with the subject.

Mr. Hicks, in his evidence, referred to the schedule of comparisons put forward by Mr. McMillan and said that no reference had been made to rateable valuations. He said that in presenting his comparisons he stayed strictly within the Urban District of Birr. These comparisons are attached as Appendix 2.

A long discussion took place between the parties about the new factory which is adjacent to the subject and t/a Stieber Cables with a rateable valuation of £300. Mr. Hicks contended that the N.A.V. of Stieber Cables should be calculated at £2.50 p.s.f.. He said that he was not using it as a comparison as the valuation was mistakenly arrived at. He said that taking the R.V. of £300 into consideration the N.A.V. would work out at £2.00 p.s.f.. Mr. Hicks contended that this was too low. He also questioned whether property should be valued differently if a grant has been received.

Mr. McMillan, in reply, said that Steiber Cables being within that area is probably the most suitable comparison. Mr. McMillan also pointed out that the N.A.V. of £2 per sq. ft. was, in his opinion, too high.

The net issues to be decided emerged as (a) whether a grant received towards building costs should be deducted from the construction costs for the purposes of calculating the Rateable Valuation and (b) the difference between the valuation per square foot being proposed by the appellants (£1.39) and the respondents (£2.40) and

Findings

- (a) On the question of whether a grant received towards building costs should be deducted from construction the Tribunal has adopted the same approach as it did in the case of **VA/92/2/44 - Fitzpatrick's Silver Springs Hotel Limited** where it held that "the Tribunal is not bound, in every case, to mechanically discount capital cost by the amounts of such estimated tax relief or structural funding in testing N.A.V. but must always look to the terms of the Valuation Code which direct the Tribunal to make an assessment of the rental available in the actual market place". In the instant case the fact that the availability of grant aid may have been a factor in securing the construction of the premises does not bind the Tribunal to discount such aid in its calculation of an appropriate R.V..
- (b) Taking into consideration the evidence presented to it including comparisons offered by both parties and the foregoing finding, the Tribunal finds that a fair rental figure for the subject premises is equivalent to £2 per square foot. Applying the agreed ratio of .5% between N.A.V. & R.V. the Tribunal finds that an appropriate R.V. on the subject premises is £550 and so determines.