

Appeal No. VA92/5/017

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

Ballyphehane Credit Union Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office at Lot No. 22 Lower Friars Walk, E.D. Evergreen County Borough of Cork
Quantum - Special characteristics of credit union

B E F O R E

Henry Abbott

S.C. Chairman

Brian O'Farrell

Valuer

Paddy Farry

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF MARCH, 1993

By Notice of Appeal dated the 28th day of July, 1992 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £120 on the above described hereditament.

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

"the valuation is excessive due to the poor letting value of the property and the fact that there are no other commercial properties in the immediate area and would be difficult to dispose off. Also as we are not a profit orientated organisation we feel that we should not be treated as a commercial organisation".

The Property

The property is a two story concrete and brick building constructed in two stages, ground floor in 1967 and first floor in 1990/91. Accommodation comprises a ground floor - public office, manager's office, waiting room, office: strongroom and first floor - boardroom, 7 offices and kitchen.

Valuation History

The property was first valued in 1967 at £22.50. In 1991 the valuation was revised at the request of Cork Corporation to value improvements. Following this revision the valuation was increased to £140. An appeal was lodged against this increase in figure to the Commissioner of Valuation. The Commissioner of Valuation reduced the valuation to £120. This was on the basis of an agreement with Mr. Eamonn O'Kennedy acting as agent for the appellants. An appeal was lodged to the Valuation Tribunal and is now the subject of this appeal.

Written Submissions

A written submission was received on the 22nd February, 1993 from Mr. Peter Conroy, a District Valuer with 22 years experience in the Valuation Office on behalf of the respondent.

In his submission, Mr. Conroy, confirmed details in relation to the property and valuation history, as stated above. Mr. Conroy's submission also included four comparisons of which three relate to Credit Union premises in the Cork area and one bank. Also included are copy letters from O'Kennedy & Company to the Valuation Office confirming representation of appellant at first appeal stage. The other advising recommendation of R.V. of £120 at first appeal.

Oral Hearing

The oral hearing took place at City Hall, Cork on the 24th March, 1993.

The appellant was represented by Mr. George Cantwell Manager, Mr. Dan Mc Auliffe and Mr. Tony Drummond both Directors. Mr. Peter Conroy, a District Valuer with 22 years experience in the Valuation Office appeared for the respondent.

At the outset, while it appeared that the respondent had prepared a submission forwarded to the Tribunal, the appellant did not prepare such a submission to facilitate exchange between the parties. While the Tribunal adverted to the strong requirement of the Tribunal since its inception that parties would exchange a precis of evidence to facilitate the debate and highlighting of issues, the Tribunal in this case permitted the hearing to proceed without a precis

from the appellants as it was reluctant to enforce this highly essential requirement on an appellant which in many respects operated on the basis of the application of voluntary endeavour. However, the Tribunal does not wish this concession to be taken as a precedent entitling others to approach appeals on that basis. Mr. Conroy, courteously furnished his precis to the appellants and the appeal proceeded on that basis.

Mr. Conroy raised on behalf of the respondent a preliminary issue as to whether Messrs. O'Kennedy & Co., Valuation and Rating Consultants, who were once engaged to act on the appeal, had actually agreed on behalf of the appellant the valuation put forward by Mr. Conroy.

He relied on a letter dated the 1st of May, 1992 from O'Kennedy & Company in which they said 'we wish to advise that we are recommending a rateable valuation at £120 on the above premises to our clients'.

The Tribunal is of the view that the letter indicating that a valuer is recommending a certain figure to a client does not indicate a clear authority to accept that figure and accordingly, the Tribunal finds that the appeal should proceed on the basis that no settlement figure was agreed between the parties.

Mr. Cantwell advanced the following reasons for reducing the valuation:-

- (1) The location was not a prime one, and in fact the appellants missed purchasing a timber yard three times the size of their current site at a price of £30,000, much to their regret.
- (2) The premises were not on a high street location, with only one small corner shop opposite. Shopping tended to be done from the area in the City Centre, because of its proximity.
- (3) Other comparable premises put forward by Mr. Conroy and notably Bishopstown were on better letting locations.
- (4) Cork Savings Bank did not in fact keep the site and allowed the credit union to use same.

- (5) Because the subject property was 4,000 square feet approximately it should be entitled to a certain quantum reduction when set against the comparables of smaller area put forward by the respondent.
- (6) The Credit Union started from small beginnings as a new pilot venture in an area which itself was principally established in the early 1960's.
- (7) The organisation was essentially a non-profit organisation taking in deposits on the promise of a very modest dividend or interest payment and lending the funds only to the members in the area at equally modest charges.
- (8) The increase of the rate bill implied by the valuation of £120 was enormous and would be viewed by the members of the Credit Union as a penal imposition on their efforts.
- (9) The car parking around the area was not suitable and very restricted.
- (10) The premises did not reflect ordinary commercial opportunity but reflected an exceptional goodwill built-up by community spirit and constant voluntary work and organisation coupled with good management down the years.
- (11) The Credit Union works within a restrictive legislative setup unlike Banks.

Mr. Conroy, argued that he had to look at the valuation objectively and that he had allowed a generous discount for the quasi commercial nature of the activity carried on in the property. He did emphasise however, that he was bound to take into consideration the recently fixed

valuations of comparable properties and he put forward the valuations of Credit Unions in the area set out in his comparisons.

Mr. Conroy, argued that the quantum reduction sought by the appellants would not apply to the difference in quantum between the subject which was larger than average and the comparisons offered. He opined that for the quantum effect to come into operation much greater dimensions in area would be required.

During the course of the hearing the Tribunal suggested that a rates impact factor might be called into operation in aiding the valuation process as both Mr. Cantwell and his Directors indicated that the membership might have exercised some caution in relation to committing themselves to their project which now has a book value in their accounts at over £300,000, if they had realised that the implication thereof would mean a significant increase in rates up to about £5,000 or so per annum.

Mr. Conroy insisted that his approach to the valuation generally would have allowed for this and indicated that his valuation should stand. The appellant felt that a doubling of the existing valuation would be acceptable to them.

Findings

The Tribunal finds that the Credit Union as it has developed in this area is a credit to the community spirit and great voluntary and professional effort of the Directors, Managers and Membership of the appellant. The appellant provides an excellent service in the social and economic development of the area and the Tribunal is without doubt convinced of the value of the promotion of the Credit Union movement which represents a shining star in the development of the co-operative and community enterprise endeavours in this country.

The Tribunal finds that many of the eloquent arguments of the appellants team representing it in the Tribunal should be addressed to another forum in relation to the attainment of some legal preference or exemption to encourage Credit Unions through the rating code such as has been available to some charties. Inspection by the Tribunal revealed a cramped site and an over dependence on street parking in a residential area. Nevertheless, the building was very functional and in a pivotal area, where perhaps modern planners would have left more space for commercial and community facilities.

The Tribunal has much sympathy with the appellant and other Credit Unions. In this context the Tribunal could not but note part of the Credit Union prayer prefacing the report for the AGM 1991 which was presented asking the Almighty to, "grant that I may not so much seek to be consoled as to console, to be understood as to understand" and the Tribunal feels that in this particular case while it can respond to the prayer by giving their complete understanding they cannot offer much consolation in the commercial sphere and finds that they are constrained to accept Mr. Conroys general approach to the case.

Accordingly, the Tribunal finds that the valuation of the subject is and should be £120 as reduced on first appeal.