

Appeal No. VA92/6/011

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

Melb Industries Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse and Yard at Lot No: 72a., Townland: Ardagh, E.D. Ardagh, District of Listowel, Co. Kerry
Quantum - Passing rent

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Mary Devins

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF APRIL, 1993

By Notice of Appeal dated the 22nd day of October, 1992 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £700 on the above described hereditament.

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

the property is remote, that there is only one possible tenant, that there is high maintenance due to the coastal position and that sale at a reasonable value was not possible. There was always a possibility that the tenant would not occupy in the future and the property would be left with high borrowings.

The Property:

The property consists of several warehouses used for the storage of condensed food stuffs. The premises was built piecemeal since approximately 1980 and located in a rural area in North Kerry a few miles outside the village of Ballyduff. The buildings are of a reasonably good quality industrial type structure and are described in detail in the respondent's written submission.

Tenure:

The entire of the buildings are held on a 6-year lease from 1/1/1989 to 31/12/1994 at a gross rent of 4 pence per square foot per week on 106,000 square feet with no reviews.

Written Submissions:

A written submission was received on the 25th March, 1993 from Mr. Frank Gregg, a District Valuer in the Valuation Office, with over 24 years experience of rateable valuations. In the written submission Mr. Gregg described in detail the subject premises and set out his basis of valuation as follows:

a) Rent Gross	£216,000 (Devalues £1.95 p.s.f. on 111,000sq.ft.)	£216,000	
Maintenance		£23,084	
Average over 3½ years		£ 1,763	
Insurance	£1,763 1990/1991		
5% Allowance for no reviews for 6 years		£10,800	
Less Rates on £700	£22,491 @ £32.13	<u>£22,491</u>	<u>£ 58,138</u>
(1988 Rate in £)			£157,862

Allow 10% for unusual circumstances of lease

£142,075 @ .5% = £710

Say £700

b) 111,000sq.ft. @ £1.25	=	£138,750
Extra space offices <u>1,761</u> = 882sq.ft. @ £2	=	<u>£ 1,762</u>
		£140,512
.5% = £700 say £140,000 @		

These are unique premises in a rural location in North Kerry. The entire area is leased to North Kerry Milk Products and is used for the storage of condensed food products for human consumption. The general standard of these stores is good and the rental paid on 106,000 square feet per the lease @ 4p p.s.f. per week gross amounts to £2.08 p.a. gross.

Mr. Gregg stated that a reduction of 5% had been made to the rent passing to allow for the fact that the rent held for 6 years without review and may be inflated because of this.

He stated that a further deduction of 10% was made to allow for the appellants contention that the landlord is reliant on one tenant only and if that tenant goes the property would be redundant and that there is an unwritten agreement that the landlord will not compete with the tenant in other lines of business. The reliance on the tenant as being the only available one would be taken into account in the rent agreement in the lease so the 10% allowance was in relation to the gentleman's agreement above. There was no documentary evidence of this, so the allowance was made on a gratuitous basis.

The present lease has run for 4 years and if it runs the full course at 6 years the landlord will have received a net rent of £216,000 less £47,338 = £168,662,

£168,662 x 6 = £1,011,972 and this is the full cost of construction and this shows a 16% return on original investment of £1,000,000 on buildings.

This, Mr. Gregg stated, was a good return on investment and related only to the period 1989 to 1994 taking no account of the fact that North Kerry had been occupying part of the building since 1984 at least. Mr. Gregg submitted that this suggested that the return already received by the landlord justified the investment to date and that in the event of the buildings becoming vacant at a later date, the owner could make a claim for vacancy rate to the County Council.

The rate per square foot at £1.25 per annum net compared with a normal level throughout the countryside of approximately £2.00 per square foot for industrial buildings as at 1988. He stated that the rate of £1.25 per square foot comprehends all the circumstances of the case and represented a correct valuation for these buildings.

Oral Hearing:

The oral hearing took place in The Courthouse, Tralee, Co. Kerry on the 20th April, 1993. Mr. Frank Gregg, a District Valuer with over 24 years experience in the Valuation Office, appeared for the respondent. Mr. Eamonn Barron, Managing Director and Owner of the appellant company, appeared on behalf of the appellant.

No written submission was received from the appellant. Mr. Barron, however, argued that following revision of the premises the rateable valuation increased by 49% on a square footage basis. He was not in a position to offer any comparisons but he further argued that a greater allowance of 10% should be made for the "opt out" clause contained in the lease.

Mr. Gregg relied entirely upon his written submission. In particular, he emphasised that there was a passing rent of £216,000 which rent was agreed between the appellant and the appellant's

tenant. That rent devalued at £1.95 per square foot. Mr. Gregg, however, accepted figures for maintenance and insurance offered by the appellant and made allowances in respect thereof. He made a further 10% allowance in respect of the "opt out" clause referred to above. He agreed that there were no suitable comparable premises.

On the basis of the foregoing figures the rateable valuation would work out at £710 and he was prepared to allow £700.

In the absence of comparative evidence the Tribunal's hands are tied by the passing rent in this case and net annual value can only be reduced having regard to matters mentioned. The Tribunal is satisfied that Mr. Gregg took a reasonable approach in the matter and can find little room to manoeuvre save that a slightly greater allowance should be made in respect of the "opt out" clause above referred to. The Tribunal, therefore, determines that the rateable valuation be £690.