

Appeal No. VA92/6/106

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

Liam Conlon, SMISCO Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Workshop at Lot No: 3Ha, Townland: Mitchelstown, E.D. Mitchelstown, Co. Cork
New grounds of appeal at Tribunal stage

B E F O R E

Henry Abbott

S.C. Chairman

Joe Carey

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

Paddy Farry

Solicitor

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

By Notice of Appeal dated the 4th day of November, 1992 the appellants appealed against the decision of the Commissioner of Valuation in fixing a rateable valuation of £30 on the above described hereditament.

The grounds of appeal are that:-

- 1) There are only two buildings at present whereas there was three in the past with much lower rateable valuation.
- 2) The premises is located in a rural area.
- 3) The rateable value is exorbitant and in excess of a small company's ability to pay.
- 4) The rateable value in 1991 was £22 and in 1992 was £34 reduced to £30 which was a huge jump in valuation.

The Property:

The property consists of two main buildings, one of recent construction with an office and workshop and store. The second is a more basic steel frame with corrugated with iron sheeting.

The property is located north of Mitchelstown on the Limerick Road with access to the main Dublin-Cork Road.

Valuation History:

In 1980 the property was valued separately at R.V. £22. In 1988 it was relisted for revision "Change of use". On inspection one of the buildings had been demolished and an extension built to the other block and the valuation remained unchanged at £22. In 1991 it was listed for revision. As one building had been demolished and a new building constructed on the site, the valuation was increased from £22 to £34 and at First Appeal this was reduced to £30. It is against this valuation that an appeal lies to the Tribunal.

Written Submission:

A written submission was received on the 9th June, 1993 from Ms. Margaret Conlon on behalf of the appellants. In the written submission Ms. Conlon restated the grounds of appeal as set out in the Notice of Appeal and said that when the purchase of the premises was complete, Dublin County Council had applied to them for a payment of outstanding rates on the premises which had been accumulated by the previous tenant. She further stated that the entrance to the premises was very dangerous as there was a blind view of the main road. She said that they were providing employment for local people and had applied to the County Council for an entrance into the property direct from the main road but had been denied it. Lorries delivering goods to the premises find it extremely difficult, she said, to enter the premises and had to reverse in angled across the main road.

A written submission was received on the 11th June, 1993 from Mr. Kevin Allman, Staff Valuer with 20 years experience in the Valuation Office, on behalf of the respondent. In the written submission Mr. Allman set out a description of the premises and the valuation history as set out above.

Mr. Allman stated, at the outset, that no case had been made by the appellant to the Commissioner of Valuation to support his grounds of appeal nor had any case been advanced at the Tribunal stage. Mr. Allman maintained that this prejudiced the position of the respondent in this case and he referred the Tribunal to their decisions in the case of **VA/89/201 - Stafford**

Shipping Limited -V- The Commissioner of Valuation and **VA/88/168 - Ebeltoft Limited t/a Hunters -V The Commissioner of Valuation.** In the case of Ebeltoft Limited, it was stated by the Tribunal:

"The Tribunal would wish to point out however, that there is an obligation on the Appellants to set out clearly in their grounds of appeal what exactly the case is that they wish to make and it must be understood that they cannot make a case to the Tribunal other than what was urged before the Commissioner."

Mr. Allman stated that notwithstanding the above it was submitted that the valuation as determined by the Commissioner at First Appeal was fair and reasonable and he set out his calculation of the valuation as follows:

Workshops	3873sq.ft.	@ £1.10	= £4,260
Office	346sq.ft.	@ £1.80	= £ 623
Yard	6000sq.ft.	@ £0.20	= <u>£1,200</u>
			£6,083
		x 0.5%	= £30.42
		R.V.:	£30.00

Oral Hearing:

The oral hearing took place herein on the 15th June, 1993 in City Hall, Cork. Mr. Kevin Finn, Engineer of Finn Potter, Consulting Engineers appeared with Margaret Conlon, wife of Liam Conlon named as appellant appeared for the appellant. Mr. Kevin Allman, Staff Valuer with 20 years experience in the Valuation Office appeared for the respondent.

From the outset the Tribunal was concerned with Mr. Allman's submission that as the grounds of appeal advanced before the Tribunal were not canvassed before the Commissioner of Valuation as First Appeal Stage, that the appeal could not go on as at First Appeal all matters canvassed had been dealt with by the reduction of the valuation in respect of the demolished premises, from £34 to £30. At First Appeal stage the Notice of Appeal specified as follows:-

"Recent planning regarding storage/office involved the conversion of an existing store/shed. There are no additional buildings on the site and the rate should remain the same."

The Tribunal considered the argument that the appeal was nugatory and did not set up issues such as could be dealt with at Tribunal stage but found that in view of the fact that the appellant did not appear to be represented professionally, that a concessionary approach might be applied to interpret the last part of the statement in the first appeal, that the "rate should remain the same". This was taken by the Tribunal as meaning that the quantum was in dispute and the Tribunal, (mindful of the requirement stated by the Tribunal in other cases that issues should be properly canvassed at First Appeal stage so as to leave them open for consideration by the Tribunal), accepts that a quantum issue was raised.

The hearing was further complicated by a considerable change in the layout of the premises as from the 1980 valuation to the 1991 valuation but in the end of the day the basis of valuation and areas of workshop, office and yard were agreed in terms of physical space by the parties as set out in the precis of evidence of Mr. Allman. It was suggested in the course of the hearing that the original workshop and store (which was struck out of the valuation on the basis of £5.40 after the roof had blown off it, at 4p per square metre), ought to be restored at that level upon its being roofed, and, that this would bring up the valuation from £22, which was a base figure, to £27.40. Mr. Allman gave the view that the re-roofed premises was considerably better than the original. The Tribunal is inclined to think that there may be some force in this argument. However, the Tribunal is aware that the premises as now existing has lost an office and loft and a store together with prefabricated office and toilets, albeit of rudimentary nature. In addition, the premises has had its yard valued at a strong basis where perhaps, in relation to other industrial premises the yard portion is not valued at all, and is regarded as "sine qua non" for the going rent for the square footage of covered premises. While the premises is located a mile from Mitchelstown and does engage in the type of industry which a town like Mitchelstown involved in the food business would generate, the location is marred by inability to gain planning for an entrance on the Main Road around the corner and by the bad turn bend on the road outside the existing entrance. In addition Mrs. Conlon indicated that the high walls and gate put around the yard were as a consequence of security difficulties which unfortunately occurred, although one would not expect same to occur in a country location.

The rent advanced by Mr. Allman in relation to calculating the N.A.V. generally on the overall square footage is not one with which the Tribunal could disagree.

Having regard to the foregoing considerations and the submissions and precis of evidence offered and all the circumstances of the case the Tribunal finds that the valuation of the subject is £27.

