

Appeal No. VA93/3/046

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

Showerlux Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory at Map Reference: 1K, Townland: Wallingstown, E.D.: Caherlag, R.D.: Cork
Upper, Co. Cork
Ratio - Cork

B E F O R E
Henry Abbott

S.C. Chairman

Veronica Gates

Barrister

Paddy Farry

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF MAY, 1994

By Notice of Appeal dated the 10th day of August, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,350 on the above described hereditament.

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

"the Valuation is excessive, inequitable and bad in law. The fraction of Net Annual Value in the Cork Upper area for Industrial premises should be 0.5% rather than 0.63% assessed by the Commissioner of Valuation."

The Property:

The property comprises a large production facility in Little Island where plastic, glass and aluminium strips for shower units are manufactured.

Valuation History:

The property was first valued in 1981 at £185. It was doubled in size, and R.V. in 1988 Revision was increased to £370. It was doubled in size again and the R.V. increased in 1989 Revision to £700. This figure was appealed. The appeal was considered exclusively on an N.A.V. system, resulting in a decrease in the valuation to £580. The reducing factor used was 0.63%.

In 1991 the factory was again increased in size by about 50,000 square feet and the R.V. was increased to £1,380 from the £580 base. This was reduced on First Appeal by £30 to £1,350 with a reservation by the consultant regarding the reducing percentage.

Written Submissions:

A written submission was received on the 17th May, 1994 from Mr. Eoin O'Buachalla, F.R.I.C.S. ACI, Arb, a Principal of Eoin O'Buachalla & Company Limited, on behalf of the appellant. In the written submission Mr. O'Buachalla stated that the net issue in this case is the applicability of the correct fraction to be applied to the agreed N.A.V. of £214,300.

Mr. O'Buachalla set out his grounds for arguing that the appropriate fraction to be applied in Co. Cork, of which the rural district in which the subject premises is situate, is an integral part, should be 0.5% as opposed to 0.63% applied by the Commissioner. The written submission is attached to this judgment as Appendix A.

A written submission was received on the 18th May, 1994 from Mr. Terry Dineen, a District Valuer in the Valuation Office, on behalf of the respondent. In the written submission Mr. Dineen set out the Commissioner of Valuation's case as to why the appropriate fraction to be applied to net annual value in the subject appeal should be 0.63% and not 0.5%. The written submission is attached to this judgment as Appendix B.

Oral Hearing:

The oral hearing took place in Cork on the 25th May, 1994. Mr. Eoin O'Buachalla of Eoin O'Buachalla & Company appeared on behalf of the appellant accompanied by Mr. Des Killen of Donal O'Buachalla & Company Limited. Mr. Terence Dineen appeared on behalf of the

respondent. Mr. Peter O'Keeffe, Senior Executive Solicitor of Cork County Council, appeared for Cork County Council who were notice parties to the appeal.

From the outset the Valuation Tribunal drew to Mr. Dineen's attention the implications of the decisions of the Valuation Tribunal in relation to the ratio applicable to Cork R.D. and in particular the decision in *VA92/6/029 - M.F. Kent & Company -V- Commissioner of Valuation*. The Tribunal intimated that they took the view from the outset, subject to argument to the contrary, that the M.F. Kent & Company decision had put the matter of the ratio in Cork County beyond doubt.

Mr. Dineen argued that in decisions made by the Tribunal to date, the preponderance of valuation in terms of quantum existed in the South Cork area and that in determining a ratio the Tribunal ought to take a weighted average of valuations, having regard not to the number of hereditaments but to the actual quantum of each of the valuations in addition to their number.

He also indicated that it was incorrect to view Cork County as a uniform rating area and indicated that until 1986 a separate rate in the pound was struck for South Cork and the other sub regions of the county. No reference was made to the statutory basis upon which such separate rate could be struck but the Tribunal, for the sake of argument, accepts that this option was available and may still be available to the County Council.

Mr. O'Keeffe, on behalf of Cork County Council, made the same arguments and submitted the detailed analysis contained in the precis of evidence used in the M.F. Kent case to sustain his argument for a 0.63% ratio.

Mr. Dineen said that he was involved in some 15,000 cases in recent years and that he knew that the 0.63% ratio had been applied on the direction of Mr. O'Sullivan, the Senior Staff Valuer, in October 1989. Prior to the directive of 1989, Mr. Dineen took a rule of thumb ratio of 0.75%. He was emphatic that the Little Island Industrial Estate showed up an average 0.63% ratio.

Mr. Killen countered that this related to warehousing space only and was not a representative ratio. Mr. Killen argued that the Commissioner should have produced a detailed statistical analysis of all premises from which an objective ratio might be derived. Such analysis would

have to be universal and not merely selective of particular types of premises in particular locations.

Mr. Dineen and Mr. O'Keeffe indicated that disastrous results would ensue from adoption of a 0.5% ratio in the South Cork area. Revenue would reduce in an area which required major structural alterations.

Determination:

While the Tribunal has been impressed with Mr. Dineen's arguments in relation to the South Cork area, it is not moved to depart from the view as expressed by the Tribunal in the M.F Kent & Company appeal.

The Tribunal has as a matter of policy attempted to achieve the same ratio at least within a rating area. While it appears that the South Cork area has some capacity to strike a different or higher rate from that being struck for the rest of the county, the Tribunal is mindful of the fact that administratively the one rate was struck for all areas of the county since 1986. The fact that such one rate has been struck for the county since 1986 has strengthened the conviction of the Tribunal that a similarly uniform approach should be taken to the ratio.

The Tribunal considers that it must attempt to establish a ratio on an objective basis when pressed by parties and circumstances to do so, and cannot allow the revenue consequences of this approach to detract it from this endeavour. Taking the other approach would be to create more anomalies than would be avoided.

Accordingly, the Tribunal determines that the same fraction ought to be applied to the subject premises as applies in the rest of the County of Cork. The rateable valuation on the subject premises therefore is determined at a ratio of 0.5%, giving a rateable valuation of £1,071.

