

Appeal No. VA94/2/002

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

**Waterford Crystal Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory and land at Map Ref: 2AB, 3B, 4, 5ABC, 6AB.7, Townland: Pastimeknock, Ward:  
Larchville, County Borough of Waterford  
Quantum - Overcapacity, Obsolescence

**B E F O R E**  
**Veronica Gates**

**Barrister (Acting Chairman)**

**Brid Mimmagh**

**Solicitor**

**Fred Devlin**

**F.R.I.C.S. A.C.I. Arb.**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 26TH DAY OF MAY, 1995**

By Notice of Appeal dated the 7th day of July 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £7,145 buildings, on the above described hereditament.

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

"the valuation is excessive and inequitable having regard to the provisions of the Valuation Acts and on other grounds also."

**The Property:**

The subject hereditament is the main Waterford Crystal plant and includes the company's administrative offices and showroom. The complex has a total floor area of some 555,000 square feet and occupies a site area of just over 40 acres.

**Valuation History:**

The premises was first valued in 1968 and RV fixed at £975 on appeal. The following is the valuation history:

1970 First Appeal Agreed at £2,750  
 1973 First Appeal Agreed at £4,600  
 1978 First Appeal Agreed at £5,985  
 1979 First Appeal Agreed at £6,450  
 1981 First Appeal Agreed at £6,650  
 1985 First Appeal Agreed at £6,700  
 1986 First Appeal Agreed at £7,000  
 1988 First Appeal Agreed at £7,145

**Written Submissions:**

A written submission was received on the 8th February 1995 from Mr. Raymond Ward, F.R.I.C.S. of Lisney on behalf of the appellant. Forming part of Mr. Ward's submission were additional submissions prepared by Mr. Michael Flynn, Head of Corporate Affairs at Waterford Crystal Limited and Mr. Gordon Gill, F.R.I.C.S. of Sherry Fitzgerald.

Mr. Ward in his submission outlined the construction and nature of the main buildings in some detail and traced the development of the complex at Kilbarry over the past 25 years or so to its present state and circumstances.

In arriving at his estimate of NAV, Mr. Ward contended that the hypothetical tenant as presumed under Section 11 of the Valuation Act 1852 would (because of the fact that the facility was purpose built) be an international company manufacturing crystal ware and as such would be conscious of the fact that the world market had shrunk and that the complex provided gross over capacity and since the opportunity for turnover and profit had been severely curtailed could only afford to pay a substantially reduced rent as proposed by the section.

Mr. Ward set out his estimate of a fair rateable valuation on the subject premises as follows:

<b><i>Floor Area</i></b>	<b><i>Rent:</i></b>	<b><i>N.A.V.</i></b>
	<b><i>£ per sq.ft.</i></b>	<b><i>IR£</i></b>

Furnace Houses	96,190	2.50	240,500
Basements	21,550	1.00	21,600
Factory Stores, Workshops etc	269,660	1.50	404,500
K5, Warehouse, Stores, etc	102,340	1.50	153,500
Canteen Works, Offices	16,490	3.00	41,200
Prefabs	1,450	2.00	2,900
Main Offices	26,300	4.00	105,200
Showroom	<u>21,000</u>	5.00	<u>105,000</u>
	<b>554,980</b>		<b>1,074,400</b>

NAV 0.63% say	£6,750 (Agreed)
Allow 40% for obsolescence	<u>£2,700</u> (Not Agreed)
	£4,050
<b>Appendix 1</b> Items	<u>£ 500</u> (Agreed)
	£4,550

<b>Appendix 1</b>	<b>NAV</b>
Furnaces	200
Boilers	80
Tanks	20
Reservoirs (450,000 gallons)	90
H.P.	<u>110</u>
	500 Agreed

In support of this valuation Mr. Ward listed a number of properties where he contended the Commissioner of Valuation had granted substantial reductions because of technological/functional obsolescence.

Mr. Flynn in his written submission outlined the history and development of Waterford Crystal Limited from 1950 to the present day. He also outlined the production process and the technological changes that have evolved in the production process and the resultant increases in manufacturing efficiency.

Mr. Gordon Gill is a Chartered Surveyor and Director of Sherry Fitzgerald and in his written submission he confirmed that his company had carried out a valuation of the Kilbarry Complex for incorporation in Waterford Crystal Limited's financial statements. This valuation was carried out in December 1992 and prepared on a depreciated replacement cost basis. The valuation was reported at £9,933,000.

Mr. Gill pointed out that in the report to the company Sherry Fitzgerald indicated that the realisable value of the premises would not exceed £4,000,000.

A written submission was received on 2nd February from Mr. Edward Hickey, a District Valuer in the Valuation Office on behalf of the Commissioner of Valuation.

In his submission Mr. Hickey described the subject property and gave a detailed valuation history of the hereditament from 1970 to date.

Mr. Hickey set out his valuation as follows:

The following floor areas are agreed as between various usages:

Offices:	26,300 sq.ft.	@	£4.00	=	£105,200
Showroom:	21,000 sq.ft.	@	£5.00	=	£105,000
Factory:	372,000 sq.ft.	@	£1.50	=	£558,000
Canteen/Works Offices/Prefabs:	17,940 sq.ft.	@	£2.50	=	£ 44,850
Furnace Houses:	96,190 sq.ft.	@	£2.50	=	£240,475
Basements:	21,550 sq.ft.	@	£1.00	=	<u>£ 21,550</u>
<u>Total Area:</u>	554,980 sq.ft.				

Est NAV	£1,075,075
RV 0.63%	£ 6,770

Thus, RV £6,645 on buildings only is considered fair and reasonable.

In support of his valuation Mr. Hickey listed a number of large industrial premises in the Waterford area as follows:

**1 M.B. Ireland RV = £2,955**

Lot 65 Ballynaneasagh

Located in Waterford Industrial Estate

Revised 1989 and 1994

Areas: Offices	-	10,000 square feet @ £3.00 per square foot
Factory	-	225,700 square feet @ £1.90 per square foot

**2 Kromberg and Schubert RV = £2,400**

4A.5AB/27-32, pt 33 Ballynaneasagh

Located in Waterford Industrial Estate

Revised 1988 and 1992

Areas: Offices	-	17,600 square feet @ £3.00 per square foot
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Factory - 179,500 square feet @ £1.80 per square foot

**3 Bausch and Lomb RV = £1,850**

Lot 6T/424.425 Ballynaneasagh

Located in Waterford Industrial Estate

Revised 1986 and 1993

Areas: Offices - 20,100 square feet @ £3.50

Factory - 94,300 square feet @ £2.25

**4 Bausch and Lomb RV = £2,200**

Lot 8C Knockhouse Lower

Located in Waterford Industrial Estate

Revised 1991

Areas: Offices - 35,300 square feet @ £3.50 per square foot

Factory - 89,200 square feet @ £2.50 per square foot

**Oral Hearing:**

At the oral hearing which took place in Dublin on 20th February 1995, Donal O'Donnell, Barrister at Law instructed by William Fry & Co., Solicitors appeared on behalf of the appellant.

The respondent was represented by Aindrias O'Caoimh, Senior Counsel instructed by the Chief State Solicitor. Also present were Mr. Raymond Ward of Lisney, Mr. Michael Flynn, Waterford Crystal Limited, Mr. Gordon Gill, of Sherry Fitzgerald and Mr. Edward Hickey of the Valuation Office.

At the oral hearing Mr. Flynn spoke to his written submission and outlined the history and development of Waterford Crystal from 1950 to the present. He outlined in detail the production process, the technological changes that have evolved in the production process and the resultant increases in manufacturing efficiency.

In relation to the subject plant he pointed out that the melting technology is outdated and consists of traditional "multi pot" and "single pot" furnaces which cannot compare in terms of efficiency to modern electric tank furnaces which produce better quality glass, better yields and can operate on a three shift basis seven days per week.

Mr. Flynn indicated that there had been a reduction in nominal furnace capacity at the Kilbarry complex as set out hereunder:

1990 - mid 1992 30% reduction

1990 - present      41% reduction

Mr. Flynn stated that the Kilbarry plant was designed to produce some four to five million pieces per annum and that the present level of production is now in the order of two million units per annum. This reduction in production was due to a combination of circumstances including low cost competition, world recession and adverse currency impact. As a result the work force has dropped from 3,300 to 1,500 and the space required was much less than that available within the existing complex. The advice of his colleagues at Waterford was that the Kilbarry operation could be accommodated in a new purpose built production unit of 275,000 square feet.

Mr. Gordon Gill is a Chartered Surveyor and Director of Sherry Fitzgerald and in his written submission confirmed that his company had carried out a valuation of the Kilbarry complex for incorporation in the financial statements of Waterford Crystal Limited. Under examination Mr. Gill outlined the basis of this valuation which was prepared in accordance with the Statements of Asset Valuation Practice and Guidance Notes issued by the Society of Chartered Surveyors. He was aware that the premises had been valued on a similar basis in 1987 by Lisney and that the figure reported then was £17,550,000.

In arriving at his valuation, a copy of which was made available to the Tribunal, Mr. Gill said that he had applied the depreciated replacement cost method because of the "lack of demand or market for the buildings of the size and nature of the three Waterford Crystal manufacturing plants." He also stated in his report that the valuation on this basis assumed that the business was sufficiently profitable to carry the property in the Balance Sheet at the reported figure.

Mr. Gill agreed that utilisation varied within the complex and in his opinion this varied from 100% to as low as 50% in some places. In his opinion while the complex was custom designed the majority of the buildings are of "conventional construction style and capable of other uses."

Mr. Ward spoke to his submission in some detail and outlined the construction and nature of the main buildings and traced the development of the complex at Kilbarry over the past 25 years or so to its present state and circumstance. Mr. Ward pointed out that the facility was constructed and designed to produce up to five million pieces of hand cut crystal ware and up to the mid-80's the annual level of production was in the order of 4.0 to 4.5 million pieces. In

the second half of the decade the market for hand cut crystal ware for a variety of reasons reduced significantly to the extent that production at the Kilbarry factory is now approximately two million pieces per year. The drop in the level of production had led to a reduction in the workforce in Kilbarry from 2,500 to 1,350 by 1992/1993.

As a consequence of the reduction in the level of production and workforce, the facility according to Mr. Ward is now used only to a fraction of its former capacity. Because of the layout it is not possible to let off any surplus accommodation and this applied even to the two detached warehouses on the site due to the cost involved in isolating them from the main plant which would be necessary for product integrity purposes.

In support of his allowance of 40% for obsolescence Mr. Ward stated that Lisney had prepared a valuation of the Kilbarry complex in December 1987 on a DRC basis. The value reported at that time was £17,550,000 as against the valuation prepared in 1992 by Sherry Fitzgerald in the sum of £9,933,000. The Sherry Fitzgerald figure represented a drop of 44% on the 1987 figure and in his opinion this represented the degree of obsolescence to be applied in arriving at the appropriate rental value of the hereditament.

On behalf of the Commissioner of Valuation Mr. Hickey in his submission outlined the valuation history of the hereditament and his valuation approach. In arriving at his opinion of NAV he relied upon the NAV's of other large industrial premises in the Waterford area and based upon these had applied appropriate rates per square foot to the various buildings in the Kilbarry complex. The square foot rates were identical to those used by Mr. Ward except that Mr. Ward had made an end allowance of 40% to reflect obsolescence.

Under cross examination Mr. Hickey stated that in his opinion the entire complex could not be considered specialised but did agree that the furnace house buildings were specialised. In relation to the other comparisons mentioned by Mr. Ward, Mr. Hickey stated that the circumstances surrounding these comparisons were substantially different to those pertaining at Kilbarry. With regard to the Guinness and Heineken premises particularly the buildings are no longer used as they are specialised in nature and no longer function as part of the production process. In his opinion while obsolescence may be a valid ground for a reduction in NAV under-utilisation is not.

### **Findings:**

Based on the evidence adduced at the hearing, it is clear that Waterford Crystal Limited is a market leader in the manufacture of hand cut crystal ware and developed the complex at Kilbarry for this purpose. However this is not to say that the premises are purpose built in the accepted sense of that expression. The only buildings within the complex which are purpose built are the four furnace houses (K1, K2, K3, K4) located at one end of the production buildings.

Having regard to the evidence it seems to the Tribunal that the Kilbarry complex is not a specialised plant and that the buildings apart from the furnace houses are conventional in construction and are capable of other uses. The premises suffer therefore not from functional obsolescence but from under-utilisation. This under-utilisation is caused by a variety of factors some of which are under the control of Waterford Glass and others which are not.

In determining the appropriate NAV in this instance the Tribunal must view the hereditament in its entirety on the basis of what a hypothetical tenant would pay in rent. In normal circumstances the actual user of the hereditament is not to be considered unless the property has a special suitability for a particular use. In this instance the hereditament is capable of being used for other manufacturing purposes but nonetheless by virtue of the furnaces may have a special suitability for a crystal manufacturer. However, such a hypothetical tenant would, in formulating an opinion of rental value, have regard to the fact that the furnaces are obsolescent and would also be aware that the limitations on production levels imposed by the outdated furnaces would give rise to some over capacity in the manufacturing area.

The Tribunal considered the cases cited by Mr. Ward in his written submission where a reduction was granted to reflect obsolescence and find that the facts relating to these cases distinguish them from the subject of this appeal. Similarly the decisions of the Lands Tribunal 1980 (RA297) and 1985 (RA35) put forward for consideration by Mr. O'Donnell do not afford the Tribunal any assistance in this appeal.

The valuers in arriving at their respective estimates of NAV applied identical rates per square foot to the constituent buildings within the complex. Mr. Ward's contention that a reduction of 40% should be applied to reflect obsolescence does not stand up to scrutiny nor is it supported by the facts relating to other cases where such allowances have been made. However, the Tribunal accepts that a substantial proportion of the furnace houses are permanently out of commission and as a consequence there is over capacity in the manufacturing area which should be reflected in determining the appropriate NAV of the property.



Having regard to all the evidence and legal arguments adduced the Tribunal determines that the correct rateable valuation of the hereditament is £5,660 and sets out hereunder its calculation of net annual value:

<b>Building</b>	<b>Floor Area</b>	<b>Rent £ per sq.ft.</b>	<b>NAV £</b>	
<b>a)</b>				
Furnace House	96,190	£2.50	£240,500	
Basements	21,550	£1.00	<u>£ 21,600</u>	
		Total	£262,100	
		Less 40% for obsolescence	<u>£104,840</u>	
			£157,260	£157,260
<b>b)</b>				
Factory Stores	269,660	£1.50	£404,500	
Workshops etc				
K5, Warehouse	102,340	£1.50	£153,500	
Stores etc				
Canteen Works, Offices	16,490	£3.00	£ 41,200	
Prefabs	1,450	£2.00	<u>£ 2,900</u>	
			£602,100	
		Less 25% for over capacity	<u>£150,525</u>	
			£451,575	£451,575
<b>c)</b>				
Main Offices	26,300	£4.00	£105,200	
Showroom	21,000	£5.00	<u>£105,000</u>	
			£210,200	£210,200
		Total		£819,035
		But say		£819,000
		@ 0.63%		<u>£ 5,160</u>
	Items as agreed			£ 500
				<u>£ 5,660</u>

