

Appeal No. VA94/2/004

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

A.I.B. Bank, Howth

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank at Map Reference: 365A, Howth Road, Ward: Clontarf East A, County Borough of Dublin

Quantum - Passing rent, comparisons

B E F O R E

Henry Abbott

S.C. Chairman

Mary Devins

Solicitor

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF NOVEMBER, 1994

By Notice of Appeal dated the 12th day of July, 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £330 on the above described hereditament.

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

- "(1) The valuation is excessive and inequitable.
- (2) The valuation is bad in law."

The Property:

The subject hereditament is a modern detached bank, purpose built in 1989. It has a red-brick exterior. There is ample car parking available. The accommodation is as follows:

Entrance lobby, banking hall, offices, stores, safe and toilets.

Location:

The subject premises is situated within the Super Valu Raheny Shopping Centre complex and close to the centre of Raheny Village which itself is situated about midway between Fairview and Sutton Cross.

Tenure:

Allied Irish Banks Limited hold the premises under a 35 year lease from 6th November, 1989 on F.R.I. terms with 5 year rent reviews. The current rent passing is £25,000 per annum.

Written Submissions:

The appellant submitted a precis of evidence herein on the 14th October, 1994 and the respondent did likewise on the 18th October, 1994.

The valuation basis of the appellant is set out in the precis as follows showing two approaches:-

(a) <u>Passing/Lease Rent</u>			
Rent @ November 1989			£25,000
Less: Allowance to November 1988 @ 20%		£ 4,167	
Balance			£20,833
Plus: Allowance for tenant's fit-out			£ 5,000
Net Annual Value			£25,883
R.V. @ 0.63% = £163			
(b) <u>Comparisons</u>			
Ground Floor	1,921 sq.ft. @ £11.50	=	£22,092
First Floor	1,416 sq.ft. @ £ 5.00	=	£ 7,080
Basement	161 sq.ft. @ £ 8.00	=	£ 1,288
	199 sq.ft. @ £ 3.00	=	£ 597
N.A.V.			£31,057

R.V. @ 0.63% = £205, Say £200

In conclusion the appellant's Valuer opined that £185 would be a fair valuation to represent the mean of the range of £163 and £200.

The valuation approach of the respondent is set out as follows:-

Ground Floor	2,035 sq.ft. @ £18.00	=	£36,630
First Floor	1,416 sq.ft. @ £ 9.00	=	£12,744
Basement	360 sq.ft. @ £ 6.00	=	<u>£ 3,240</u>
			£52,614
	£52,614 @ 0.63% = £331.46		
	Say = £330.00		

Oral Hearing:

The oral hearing took place on the 24th October, 1994 in Dublin. Appearing for the appellant was Mr. Alan McMillan of Donal O'Buachalla & Company Limited, Valuers, Rating & Property Consultants and Mr. Thomas O'Flynn, Valuer represented the respondent.

From the outset the parties highlighted the difference in the floor area noted in the estimate of valuations and it emerged that the difference was accounted for by the glazed entrance lobby which the respondent claimed had a rental value and which the appellant claimed ought to be ignored. The fact that the subject premises was a purpose built bank and attracted the appellant to vacate the premises formally occupied by them and now occupied by the Irish Permanent Building Society was highlighted.

Photographs were available in respect of most of the comparisons and the subject. From the description, photographs and availability of car parking it appears that the subject is the most imposing and well laid out building among the comparisons.

During the hearing the Comparison No: 1 of the respondent, Bank of Ireland premises, Marino Mart was ruled out on the basis that it was under appeal. The respondent, Mr. O'Flynn, argued that on a similar basis Comparison No: 6, of the appellant, Bank of Ireland, 197 Clontarf Road, ought to be similarly ruled out but the appellant argued that same was left as a comparison only for the purpose of showing passing rent. Inevitably, the respondent urged upon the Tribunal to strongly take into consideration the Bank of Ireland premises at 3

Howth Road, Sutton, Comparison No: 2, as the determinant of the valuation of the subject notwithstanding the apparently lower passing rent.

In addition to arguing that the passing rent should be the determinant of the valuation, Mr. McMillan argued that the Sutton Shopping Centre with Superquinn close at hand was a better location than that of the subject.

Mr. O'Flynn responded by saying that Sutton was more isolated and had less of a population hinterland than Raheny, the location of the subject.

The respondent also argued that the passing rent did not constitute an arms length rent or alternatively that the developer of the subject considered that a concessionary rent ought to be offered to the bank to get a good secondary anchor tenant into his development.

The devaluation of the premises vacated by the occupier of the subject across the road and now occupied by Irish Permanent Building Society and shown as Comparison No: 4 in the respondent's precis, indicates that the bank must have found considerable improvement on having moved across the road and spent a substantial fitting-out sum of £194,000 on the property.

Findings:

The Tribunal has been mindful of the foregoing considerations and has considered all of the comparisons and finds that the Sutton bank comparison must inevitably have considerable weight in the consideration of the Tribunal. It has also taken into account the fact that while the rent of the subject was probably arms length, the bank nevertheless got quite a good bargain in the light of their willingness to vacate an already fitted-out premises and commit to new and substantial fit-out costs. Accordingly, having regard to the foregoing and all the circumstances of the case, the Tribunal finds that the rateable valuation of the subject ought to be and is £250 and so determines.

