

Appeal No. VA94/3/003

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

Dairygold Co-operative Society Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Cheese Factory at Lot No: 14C.15CDE, Townland of Rathduff, E.D. Blackpool, R.D. Cork
Upper, Co. Cork
Quantum - Production ceased

B E F O R E
Veronica Gates

Barrister (Acting Chairman)

Joe Carey

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

Brid Mimmagh

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF JUNE, 1995

By Notice of Appeal dated the 13th day of October 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,063 on the above described hereditament.

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

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

The Property:

The property comprises a milk products factory with cold storage facilities at Rathduff which is mid-way between Cork and Mallow and close to the main road link.

Written Submissions:

A written submission was received on the 7th day of June 1995 from Mr. Desmond Killen, FRICS IRRV, a Fellow of the Chartered Surveyors in the Republic of Ireland and a Director of Donal O'Buachalla & Company on behalf of the appellant.

In his written submission, Mr. Killen set out the background to the present appeal. He said that on foot of the amalgamation of Mitchelstown and Ballyclough Co-op to form Dairygold Co-operative Society Limited, the subject premises Rathduff Cheese Factory closed. The subject premises ceased production and became a warehouse/storage facility. Machinery was removed and tanks became redundant. The appellant applied in March 1993 for a revision in the context of these developments. An RV of £1,390 was determined. No change was made when the revision issued in November 1993 and an appeal was made. Mr. Killen said that discussion between parties were inconclusive and the respondent determined the valuation at:

Buildings	£ 950.00
Miscellaneous	<u>£ 113.00</u>
Total	£1,063.00

Mr. Killen said that the areas were agreed with the respondent, the details of which he set out in Appendix A to his written submission. Mr. Killen said that in his opinion the only areas in beneficial occupation are:

Description	Size	Ft.	Height	Old RV
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		m2	m2	(m)	
1.	Store	480	5,167	5.0	48.00
2.	Grading Room	64	689	6.0	7.70
2a.	Store	24	258	3.0	2.40
3.	Cold Store	254	2,734	6.0	38.10
4.	Cold Store	1,111	11,959	6.0	166.60
5.	Cold Store	1,833	19,730	6.0	274.90
7.	Packaging and Powder	600	6,458	5.0	67.80
pt. 8	Packaging and Powder	540	5,813	5.0	48.00
pt.18	Former Boiler House	330	3,552	6.0	33.00
30.	Weighhouse	33.6	362	2.5	5.04
33.	Weighpit	52	560	-	5.20
					<u>696.74</u>
			Say		£700

Mr. Killen assessed valuation on the subject premises using two methods as follows:

- (a) Apportionment of old RV in the light of previously agreed RV ruled on at Valuation Tribunal, which indicates RV £700 as an equitable assessment.
- (b) Estimate of NAV

Mr. Killen said to make this estimate he had considered comparable warehouse rentals in Little Island, Cork as follows:

- (a) **Simon Eurolift, Courstown Industrial Estate.**
Let on 18 month lease from October 1989 at rent of £20,000, viz. 12,460 square feet at £1.60 overall.
- (b) **Connacht and Court Group, Courstown Industrial Estate.**
Let for 2 years 9 months at £7,500 p.a.
3,000 square feet at £2.50 per square foot.
- (c) **Unit 1, Wilton Industrial Estate.**
IDA rent from Irish Life £68,688 p.a. 35/5 lease from 1/5/83. No change at 1988 - 25,630 square feet @ £2.68.

Mr. Killen said that using this basis an estimate of NAV is calculated as follows:

Blocks 1-5	Stores	40,537 @ £2.50	£101,342
Blocks 7 and 8	Stores	12,271 @ £2.00	£ 24,542
Block 30	Stores	362 @ £2.00	£ 724
Block 33	Weighpit	560 @ £1.00	<u>£ 560</u>
			£127,168
		RV	£635

A written submission was received on the 29th day of May 1995 from Mr. Terry Dineen, B. Agr. Sc., a District Valuer with twenty years rating experience in the Valuation Office on behalf of the respondent.

Mr. Dineen described the property and set out details relating to its valuation history. He said that at first appeal the rateable valuation had been reduced from £1,390 to £1,063 without agreement. However, he said the figure of £1,063 was in error and that the figure should have been £950 total and not £950 buildings with £113 absolute. He said that in other words the rateable valuation defended by the Commissioner in this appeal is £950. He said at a previous Tribunal appeal in 1987 agreement had been reached before hearing VA88/387 at a rateable valuation of £1,276 from £1,390. For some reason he said this agreement did not carry through to the 1993/4 revision.

Incorporating that reduction the opening rateable valuation for 1993 should have been £1,276 and not £1,390.

In relation to the current appeal Mr. Dineen argued that the old valuation agreed in 1988 was based on the standard rating hypothesis i.e. that the property was vacant and to let. Mr. Dineen said that being vacant has no direct affect on valuation for rating as all hereditaments are deemed to be in this state. He accepted that idle factories deteriorated depending on the degree of maintenance but argued that this factory was only closed because of milk quota restrictions.

In relation to the valuation Mr. Dineen argued that a stepped decrease in valuation if and as the property falls into disrepair is appropriate to this case. He said that the company has the option of demolishing the buildings if considered of no value.

Mr. Dineen said that in arriving at a rateable valuation he had divided the buildings into three categories:

- (1) Those in full use. No allowance.
- (2) Those in use on an ad hoc basis for storage of material on pallets (without adaptations). 20% allowance.
- (3) Those disused which may be stable in condition or deteriorating. 50% allowance.

Full details of the reductions which he had applied were set out in a table included in his written submission which had been used in 1987 and had the reductions applied at 1993 added to it. This table is attached as Appendix 1.

The total RV based on the reductions applied as per table at Appendix 1 comes to £942. To this he added an amount of £26.00 for tanks as follows:

T22 & T23	-	2 No. 50,000 gal whey tanks	RV	£10.00
T24 & T25	-	30,000 galls condensate	RV	£ 3.00
T15, 16 & 17	-	3 No. oil tanks	<u>RV</u>	<u>£12.00</u>
			RV	£26.00

This gave a total RV of £968.00.

It was agreed before hearing between the parties that the correct rateable valuation against which this appeal lies is £950 and not £1,063 as stated on the appeal form.

Oral Hearing:

The oral hearing took place in Cork on the 20th day of June 1995. Mr. Des Killen appeared on behalf of the appellant and Mr. Terence Dineen represented the respondent. Mr. O'Grady, Chief Engineer Dairygold Limited gave evidence on behalf of the appellant.

Both parties relied on their written submissions. There was no dispute between the parties that the subject premises ceased production following the end of the 24/26 week production season in 1991. It was also agreed that the relevant valuation date is November 1993. The valuation of certain areas of the hereditament was agreed as follows:-

Units 1-5	£537.70
Unit 7	£ 57.60
Unit 8 - 1/3 thereof	£ 68.00
Unit 19	£ 27.00
Unit 25	£ 24.00
Unit 30	£ 5.04
Unit 33	<u>£ 5.20</u>
	£724.54

Mr. Killen said that the weighhouse and weighpit are used for their original purposes as are units 1 to 5. Remainder of the units set out above are used for the storage of pallets. The rest of the building is unused.

Mr. Killen agreed, in order to simplify matters to withdraw his method of valuation based on an estimate of NAV. He explained that the appellant is not entitled to claim vacancy relief on the subject premises as it is a requirement that the hereditament be vacant in its entirety.

Mr. Dineen said that it is the actual premises which is valued and that the fact that equipment has been disconnected is not relevant. He agreed that vacant properties do deteriorate but he argued that this is a gradual process which occurs over a number of years. Mr. Dineen suggested that the appellant should endeavour to sub-let the vacant areas of the subject. Mr. Killen contended that there was no tenant available for such a property. Mr. O'Grady explained that Dairygold Co-operative Society Limited has discussed the possibility of expanding cheddar cheese production but at no stage was the re-opening of the Rathduff facility mooted. He said that no active consideration has been given to the possibility of letting or sub-letting the subject mainly because Dairygold is content to continue to use the subject for warehousing.

Determination:

The Tribunal has considered the written and oral submissions of both parties. The Tribunal agrees with the appellant that many of the parts of the original complex are now obsolete for the purposes for which they were originally intended. However, the Tribunal accepts that same are capable of being let with some modifications thereto. Therefore taking all relevant considerations into account the Tribunal is of the opinion that the correct RV is £850 and so determines.