

Appeal No. VA94/3/007

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

**Irish Oak Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory and land at Map Ref: 5B Gortnamucklagh, E.D. Glenties, R.D. Glenties, Co. Donegal

Quantum - Structural defects

**B E F O R E**

**Veronica Gates**

**Barrister (Acting Chairman)**

**Patrick Riney**

**F.R.I.C.S. M.I.A.V.I.**

**Fred Devlin**

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

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 4TH DAY OF APRIL, 1995**

By Notice of Appeal dated the 6th day of October 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £200 on the above described hereditament.

The grounds of appeal which were attached to the Notice of Appeal are inter alia:

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

**The Property:**

The property comprises a factory premises situated outside the town of Glenties on a site of 4<sup>3</sup>/<sub>4</sub> acres approximately. The factory was built in the 1970's, it consists of a double span 16 bay steel framed structure with concrete block walls to 14 ft 7 inches eaves. It has a double skinned corrugated asbestos roof with glass roof lights.

The factory comprises 36,395 square feet of which 2,302 square feet are used for reception, boardroom, offices, canteen, toilets, showroom etc.

There is also a pump house, a store, a corrugated iron structure and a cladding structure with a combined area of 1,455 square feet.

There is an open water tank with a capacity of 80,000 gallons for the sprinkler system. It is agreed that 170 horse power be valued.

**Valuation History:**

The property was first valued in 1976, when the buildings valuation was first fixed at £400. This was subsequently reduced to £290 at first appeal. No change was made in 1978, 1981 or 1988 revisions.

The buildings valuation was reduced to £280 at 1988 first appeal. In 1992 the hereditament was again the subject of an annual revision. The revision request was "valuation considered excessive." In November 1992 the valuation lists were issued with the building valuation reduced to £200. An appeal was lodged to the Commissioner of Valuation and no change was made at first appeal. It is against this determination of the Commissioner of Valuation that an appeal lies to the Tribunal.

**Written Submissions:**

A written submission was received on the 21st day of March 1995 from Mr. Patrick McCarroll, Chartered Surveyor, Auctioneer and Rating Consultant on behalf of the appellant. In his written submission, Mr. McCarroll described the property, its location and accommodation.

He summarised the floor area as follows:

Office area	900 square feet
Canteen, toilets, surplus area	1,420 square feet
Production area	17,038 square feet
Storage area	17,037 square feet
Miscellaneous buildings	1,455 square feet
Horse power	170 square feet

Mr. McCarroll outlined the points he had considered in arriving at a rateable valuation assessment. He said that among other things the property was low lying with a poor access off a secondary road, about 20 ft wide. He said that there was poor quality construction with evidence of water seepage at roof lights and settlement cracks in the external walls and concrete floor. Mr. McCarroll said that a large area of the office buildings were surplus to requirement and that only 50% of the factory floor was used extensively for production with 50% being used for storage. Mr. McCarroll said that it was very difficult to heat the building because of poor insulation and the type of construction. He quoted from an engineer's report included in his written submission which highlighted some of the difficulties.

On the basis of these considerations, Mr. McCarroll assessed the rateable valuation as follows:

### Valuation No. 1

Deriving the N.A.V. from the purchase price

Purchase Price £45,000  
Years Purchase 7.14 (14%)

$\frac{£45,000}{7.14} = \text{Rent Reserved of } £6,302$

$£6,302 \times 0.5\% = £31.51$

Add for H.P.     £ 8.50  
                          £40.01

Say                     £40.00

### Valuation No. 2

Office area	900 square feet @ £1.00 per square foot	=	£ 900
Surplus area	1,420 square feet @ £0.40 per square foot	=	£ 568
Production area	17,038 square feet @ £0.50 per square foot	=	£ 8,519
Storage area	17,037 square feet @ £0.25 per square foot	=	£ 4,259
Other buildings	1,455 square feet @ £0.10 per square foot	=	<u>£ 145</u>
			£14,392

$£14,392 @ 0.5\% = £71.96$

Add for H.P.	= <u>£ 8.50</u>
	<u>£80.46</u>
Say	£80.00

Mr. McCarroll offered three comparisons which he summarised in his written submission and which are attached to this judgment as Appendix I.

A written submission was received on the 15th day of March 1995 from Mr. Patrick Conboy, Chartered Surveyor, a Valuer with 14 years experience in the Valuation Office on behalf of the respondent.

Mr. Conboy described the property and its valuation history as set out above. Mr. Conboy said that when he had inspected the property no major defects were noted in the floor of the front span half of the building. He said that there was a small hole in the floor of the rear span and three bays of this span showed very clear evidence of subsidence. Mr. Conboy also detailed some other defects which he had noted in the building, including defective rear guttering and missing tiles which he said ought to be dealt with by routine maintenance. Mr. Conboy set out his calculation of the rateable valuation on the subject premises as follows:

**Valuation:**

The rateable valuation was assessed at 0.5% of Nett Annual Value (N.A.V) which is in line with the basis adopted for the determination of recently revised properties in County Donegal.

**Basis:**

Factory	34,075 square feet	@	£1.00 =	£34,075
Offices	2,320 square feet	@	£1.50 =	£ 3,480
Miscellaneous Buildings	1,455 square feet	@	£0.50 =	<u>£ 728</u>
				£38,283

Say £38,200

R.V. =	0.5% of N.A.V.	£191.50
Add for horsepower (Note)		<u>£ 8.50</u>
		£200.00

**Note:** Agreed with agent for appellant.

He also gave five comparisons in the Donegal area which are summarised below:

**1 Lot 3/1 Ballymoon. Occupier: Fastnet MacAoidh Teo**  
R.V. £165. 1992 First Appeal.

Basis: Factory	21,994 square feet	@	£1.35
Offices	1,732 square feet	@	£1.85

**2 Lot 3/2 Ballymoon. Occupier: Ba Na Din nGall**  
R.V. £145. 1992 First Appeal.

Basis: Factory	21,030 square feet	@	£1.35
Offices	2,313 square feet	@	£1.85

**3 Lot 3/3 Ballymoon. Occupier: Mr. Hubert Plum**  
R.V. £300. 1992 First Appeal

Basis: Factory	31,617 square feet	@	£1.35
Offices	1,114 square feet	@	£1.85
Cold Room	3,959 square feet	@	£2.25
Offices as stores	4,090 square feet	@	£1.50

**4 Factory premises at Grahamsland, Castlefinn. Occupier: Nena Models  
Castlefinn Limited**

R.V. £80. 1992 First Appeal

An old school extended in a piecemeal fashion.

N.A.V. devalues:	Offices	1,698 square feet	@	£1.50
	balance	13,819 square feet	@	£0.97

**5 Sawmill occupied by Raudon Teo at Shallogan More which is  
three miles from Glenties**

R.V. £155. Fixed 1989 revision.

N.A.V. estimate calculated as follows:

12,924 square feet @ £2.40

**Oral Hearing:**

The oral hearing took place in the Courthouse, Letterkenny on the 4th day of April 1995. Mrs. Maureen Heslin of Patrick J. Sweeney & Company, Solicitors, appeared on behalf of the appellant and Mr. Paschal Conboy appeared on behalf of the respondent. Mr. Patrick McCarroll and Mr. Gerry Mooney gave evidence on behalf of the appellant.

Both parties adduced evidence in accordance with their written submissions. Mr. McCarroll described the property as being located on the outskirts of Glenties and situated on low lying ground with poor access off a secondary county road. He described the very poor condition of the subject property and referred to the list of defects which is set out on page 5 of his written submission. Mr. Gerry Mooney gave detailed evidence in relation to these defects and Mr. Conboy said that he would agree that the building suffered from serious problems in relation to structural defects.

In answer to a question from Mr. Conboy in relation to whether the 1988 purchase price of £45,000 represented the market value of the subject premises, Mr. McCarroll said that he would consider this figure to be the market value as this was the purchase price. However, he said that his valuation of £80 was arrived at by taking into account the rate applied to comparable properties.

There followed a discussion in relation to the comparisons put forward by both parties. Mr. Conboy said that in considering comparisons the provisions of Section 5(2) of the 1986 Act must be borne in mind. He felt that his comparisons were more pertinent than Mr. McCarroll's insofar as they were industrial buildings.

Mr. Conboy stressed that although the subject property suffered from a variety of structural defects and was generally in very poor condition, his valuation takes into account all these disadvantages. He was of the opinion that in view of the comparisons the valuation of £200 is not excessive.

**Determination:**

The Tribunal has had regard to the evidence adduced by the parties in both their written and oral submissions. The Tribunal finds as a fact that this property suffers from very serious structural problems and is in such a condition that to carry out production and business generally therein is difficult.

The Tribunal has had regard to all the comparisons put forward, in particular the factory premises as Grahamsland, Castlefinn, agreed at first appeal in 1992 and those of Carrigans and St. Johnston. Taking the above matters into consideration and all other relevant factors the Tribunal is of the opinion that the correct rateable valuation is £125 and so determines.

There is no provision in the Valuation Acts for a determination of this Tribunal to be made retrospectively, therefore the determination will take effect in the normal way.