

Appeal No. VA95/1/016

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

John A. Sinnott & Company

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices (1st, 2nd and 3rd floors) at Map Ref: 14, Rafter Street, Ward: Enniscorthy Urban,
Urban District of Enniscorthy, Co. Wexford
Quantum - Passing rent

B E F O R E
Fred Devlin

FRICS.ACI Arb. (Acting Chairman)

Joe Carey

PC.DDSc.DBAdm. MIAVI.

Brid Mimmagh

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF MARCH, 1996

By Notice of Appeal dated the 7th day of April 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £56 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 property is a four storey corner building on the junction of two streets. The entire building has been completely reconstructed by the landlord. The First National Building Society occupy the ground floor. It is now virtually a new building and divided into two tenancies. The location is in the principal shopping area in Enniscorthy and is also the centre of the town overlooking the square to the front and Wafer Street to the side.

Valuation History:

The premises comprises the upper floors of what was at the 1969 First Appeal a licensed premises. The building underwent an extensive refurbishment programme and these upper floors are now leased to its present occupier, a solicitor. This lease commenced July 1992 at a rent of £12,500 per annum. In 1993/4 First Appeal the rateable valuation £56 was fixed by the Commissioner of Valuation.

Written Submissions:

A written submission was received on the 3rd November, 1995 from Ms. Sheelagh O'Buachalla, B.A, and an Associate of the Society of Chartered Surveyors of Donal O'Buachalla & Company Limited on behalf of the appellant.

Ms. O'Buachalla described the property, its valuation history and tenure. She said that in arriving at a valuation she had had regard to Section 11 of the 1852 Act and Section 5 of the 1986 Act. She said that at present there was little demand for upper floor office accommodation in Enniscorthy. Premises remain vacant and available for letting she said, for considerable periods of time. They usually let on a weekly basis rather than price per square foot. Taking into account the above, Ms. O'Buachalla estimated rateable valuation on the subject premises as follows:-

1st floor	1,217 sq.ft. @ £4.00	= £4,868
	848 sq.ft. @ £3.00	= £2,634
	168 sq.ft. @ £1.50	= £ 252
	Total NAV	= £7,754 @ 0.5% = £38.77
		Say £39.

Ms. O'Buachalla offered two comparisons which are summarised below.

1) Irish Permanent Offices, Market Square, Enniscorthy

Refurbished offices on three floors

Devalues:-

1st floor	494 sq.ft. @ £4.00
2nd floor	494 sq.ft. @ £3.00
3rd floor/attic	384 sq.ft. @ £1.40

2) Offices over Paris Cafe, Rafter Street, Enniscorthy

477 sq.ft.

Completely refurbished offices. Rent £60 per week.

A written submission was received on the 1st November, 1995 from Mr. Phil Colgan, District Valuer with 27 years experience in the Valuation Office on behalf of the respondent.

In his written submission, Mr. Colgan described the premises and its valuation history as set out above. Commenting in the appellant's grounds of appeal, Mr. Colgan stated that contrary to statements made by the appellant he had had regard to the passing rent in calculating rateable valuation on the subject premises and taking into account comparisons in Enniscorthy considered £56 rateable valuation to be fair and reasonable. Mr. Colgan set out his calculation of rateable valuation as follows:-

1st floor	Offices	1,217 sq.ft. @ £6	= £7,302
2nd floor	Offices	848 sq.ft. @ £4	= £3,392
3rd floor	Offices	168 sq.ft. @ £3	= <u>£ 504</u>
			£11,198

NAV Say £11,200 x 0.5% = RV £56.

Commenting on the valuation, Mr. Colgan said that the most obvious comparison for net annual value was the actual rent of £12,500 passing. He said that there had been no increase in rents in Enniscorthy over the three years between November 1988 and when this lease commenced in July 1992. Therefore, establishing a net annual value of £11,200 was very reasonable. Mr. Colgan offered five comparisons which are summarised below.

1) Xtravision Plc

9a Rafter Street, Enniscorthy Urban

90/4 First Appeal

Zone A	330 sq.ft. @ £20 = £ 6,600
Zone B	380 sq.ft. @ £10 = £ 3,800
Zone C	270 sq.ft. @ £ 5 = <u>£ 1,350</u>

$$£11,250 \times 0.5\% = \text{RV } £55.$$

2) **James Byrne**

22a Rafter Street, Enniscorthy Urban

90/4 First Appeal

Net annual value:

Zone A 408 sq.ft. @ £20 = £ 8,160

Zone B 408 sq.ft. @ £10 = £ 4,080

Zone C 149 sq.ft. @ £ 5 = £ 795

$$£13,095 @ 0.5\% = \text{RV } £65.$$

3) **James Byrne**

22c Offices 1st, 2nd floors, Enniscorthy Urban

90/4 First Appeal

1st floor 635 sq.ft. @ £6 = £3,810

2nd floor 590 sq.ft. @ £3 = £1,770

$$£5,580 @ 0.5\% = \text{RV } £28.$$

4) **Allied Irish Bank**

15a.16 Slaney Place, Enniscorthy Urban

90/4 First Appeal

Ground floor Bank Hall etc. 2,750 sq.ft. @ £13 = £35,750

1st floor Offices 1,038 sq.ft. @ £ 6 = £ 6,228

2nd floor Offices 535 sq.ft. @ £2.50 = £ 1,337

$$£43,315 @ 0.5\% = \text{RV } £215.$$

5) **Bank of Ireland Limited**

3 Abbey Square, Enniscorthy Urban

90/4 First Appeal

Ground floor Banking Hall, Offices, Canteen etc. 3,260 sq.ft. @ £13 = £42,380

1st floor Offices 1,000 sq.ft. @ £ 6 = £ 6,000

2nd floor Offices, Store, Kitchen, WC 756 sq.ft. @ £ 2 = £ 1,512

£49,892

$$@ 0.5\% = \text{RV } £250.$$

Oral Hearing:

The oral hearing took place in Wexford on the 10th day of November 1995. Ms. Sheelagh O'Buachalla of Donal O'Buachalla & Company Limited appeared for the appellant and Mr. Philip Colgan appeared on behalf of the respondent.

At the commencement of the oral hearing, Ms. O'Buachalla submitted photographs of the subject property and other properties referred to in the respondent's written submission. In her oral submission to the Tribunal Ms. O'Buachalla drew its attention to a number of factors

which had to be taken into account in arriving at the appropriate net annual value and in particular she commented on the rather narrow and steep stairway from the pavement. In order to overcome the problem that this presented to some of its older clients the appellant had at its own cost provided a chair lift. She also said that there was a low level of demand for office accommodation in Enniscorthy generally and this was reflected in the rents as set out in her comparisons and upon which she had relied in arriving at her opinion of net annual value.

In relation to Mr. Colgan's comparisons, Ms. O'Buachalla considered these to be of little assistance in that only one was in respect of upper floor office space whilst the other comprised two shops and two banks. In addition Mr. Colgan had, she said provided no supporting rental evidence.

Mr. Colgan said that in arriving at his opinion of net annual value he considered the rent being paid as being the best evidence available to him. In his opinion rental levels for office accommodation in Enniscorthy had been static for several years past but nonetheless he had made a downward adjustment and had based his assessment on a net annual value of £11,200.

Ms. O'Buachalla in her concluding remarks expressed the view that the passing rent of £12,500 was "slightly high" and that this had been borne out by her comparisons.

Determination:

In this appeal neither valuer attempted to argue that the rent payable for the subject hereditament was not a rack rent in the true sense of the word, although, Ms. O'Buachalla did express the view that in her opinion "the rent was slightly high".

Mr. Colgan in arriving at his assessment relied principally upon the passing rent and listed five other assessments as supporting evidence. Ms. O'Buachalla on the other hand relied upon two lettings and arrived at the conclusion that the appropriate net annual value was £7,754 compared to the passing rent of £12,500 per annum.

In her submission to the Tribunal, Ms. O'Buachalla expressed the view that only one of the comparisons quoted by Mr. Colgan i.e. comparison no. 3 was truly comparable and in this regard the Tribunal does not fully concur with her opinion in that the analysis of comparisons 4 and 5 include office accommodation at first and second floor level. In addition each of

these three assessments were determined as a result of appeals arising out of the 1990 revision.

It is common case that the subject hereditament in conjunction with the ground floor was completely refurbished and modernised by the owner and affords good office accommodation. No evidence was given to indicate that the rent was not freely negotiated between the parties or that the appellant had a compelling reason to occupy these particular offices by dint of previous occupancy or any other special consideration. In the circumstances therefore the Tribunal finds that the evidence and argument adduced by the appellant is not of sufficient weight to convince the Tribunal that Mr. Colgan's assessment of net annual value is not fair and reasonable and determined in accordance with the Valuation Acts. Accordingly, therefore the Tribunal confirms the rateable valuation of the hereditament at £56.