

Appeal No. VA95/1/046

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

Ulster Bank Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank at Map Ref: 130, Lower Baggot Street, Ward: Mansion House, County Borough of Dublin

Quantum - Method of Valuation, zoning not appropriate

B E F O R E

Fred Devlin

FRICS.ACI Arb. (Acting Chairman)

Marie Connellan

Solicitor

Patrick Riney

FRICS.MIAVI

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF MARCH, 1996

By Notice of Appeal dated the 11th day of April, 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £455 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 modernised bank premises comprising four storey over basement to the front with three storey block to the rear. Walls are of cut stone with a flat roof.

The property is situated on the southern side of Lower Baggot Street and occupies a prominent corner site at the junction of Pembroke Street and Lower Baggot Street which has a good volume of passing trade as it is located on a route linking the offices of Baggot Street and Fitzwilliam Square with the shopping centre of Stephen's Green and Grafton Street.

The accommodation of the property is as follows:-

| | | |
|-------------------|---|--------------------------|
| Ground Floor | - | Banking Hall |
| 1st to 3rd Floors | - | Offices |
| Basement | - | Safe, Stores and Toilets |

All main services are connected to the property.

Tenure:

The property is held on a long lease from the Earl of Pembroke Estate.

Valuation History:

Following an appeal in 1924, the valuation was fixed by the Commissioner of Valuation at £425. The premises was next listed for revision in 1993 and the valuation was increased to £475. The appellant was aggrieved by this revision and appealed to the Commissioner of Valuation. The Commissioner of Valuation reduced the rateable valuation to £455 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 3rd January, 1996 from Mr. Des Killen, FRICS, FSCS, IRRV, a Fellow of the Society of Chartered Surveyors in the Republic of Ireland and a

Director of Donal O'Buachalla & Company Limited with 32 years experience as a valuer on behalf of the appellant.

In his written submission, Mr. Killen described the property, its location and valuation history. Mr. Killen said that the floor areas of the subject had been agreed between parties as follows:-

| | | | | |
|--------------|---|-----------------------------------|---------------------|----------------------|
| Ground Floor | - | Banking Hall | 196.7m ² | 2,117ft ² |
| Basement | - | Safe and Book Store | 55.6m ² | 599ft ² |
| First Floor | - | Offices (6) | 85.8m ² | 924ft ² |
| Second Floor | - | Offices, Kitchen & Locker Room | 80.5m ² | 872ft ² |
| Attic | - | Stores | 59.4m ² | 619ft ² |

Mr. Killen set out his calculation of the rateable valuation on the subject property as follows:-

| | | | | | | |
|------|--------------|-------------------------------------|-------------|---|-------------|----------------|
| "(a) | Ground Floor | Banking Hall (196.7m ²) | 2,117 sq.ft | @ | £20 | £42,340 |
| | Basement | Safe (55.6m ²) | 599 sq.ft | @ | £8 | £ 4,792 |
| | 1st Floor | Offices (85.8m ²) | 924 sq.ft | @ | £6 | £ 5,544 |
| | 2nd Floor | Offices (80.9m ²) | 872 sq.ft | @ | £6 | £ 5,332 |
| | Attic | Stores (59.4m ²) | 619 sq.ft | @ | £3 | <u>£ 1,857</u> |
| | | | | | N.A.V. | £59,765 |
| | | | | | @ 0.63% | |
| | | | | | R.V. | £376 |

(b) or if Ground Floor is Zoned:-

| | | | | |
|--------|------------|---|-----|---------|
| Zone A | 601 sq.ft. | @ | £40 | £24,040 |
|--------|------------|---|-----|---------|

| | | | |
|-----------|------------|-------|----------------|
| Zone B | 596 sq.ft. | @ £20 | £11,920 |
| Zone C | 316 sq.ft. | @ £10 | £ 3,160 |
| Remainder | 604 sq.ft. | @ £5 | <u>£ 3,020</u> |
| | | | £42,120 |

| | | | |
|-----------|---|----------|----------------|
| Basement |) | | £ 4,792 |
| 1st Floor |) | | £ 5,544 |
| 2nd Floor |) | As above | £ 5,332 |
| Attic |) | | <u>£ 1,857</u> |

N.A.V. £59,665

R.V. £376"

Mr. Killen, in conclusion, said that, in his opinion, the most obvious comparison to be used in relation to this appeal was that of the National Irish Bank. He said that this premises was an all ground floor premises which had been valued on a zone basis and agreed on 1990 First Appeal at £495. Mr. Killen said that the banking area of the National Irish Bank was some 2,886 square feet (268m²) which devalued at £17.96 per square foot overall.

A written submission was received on the 21st December, 1996 from Mr. Tom Cuddihy, B.Agr.Sc., a District Valuer with 28 years experience in the Valuation Office on behalf of the respondent.

In his written submission, Mr. Cuddihy gave details of the property, its location and valuation history as summarised above. Commenting on the property, Mr. Cuddihy said that it was an attractive cut stone building in a high profile corner location, which benefited from a very good volume of pedestrian traffic.

Mr. Cuddihy set out details of his calculation of the rateable valuation on the subject property as follows:-

"Valuation:-

Ground Floor - 2117ftsq @ £25 = £52,925

| | | | | | | |
|-----------|---|---------|---|-----|---|----------------|
| Basement | - | 599ftsq | @ | £10 | = | £ 5,990 |
| 1st Floor | - | 934ftsq | @ | £8 | = | £ 7,472 |
| 2nd Floor | - | 872ftsq | @ | £5 | = | £ 4,360 |
| 3rd Floor | - | 619ftsq | @ | £3 | = | <u>£ 1,857</u> |
| | | | | | | £72,604 |

Est. N.A.V. = £72,604 x .63% = £457.40

R.V. £455.00"

Mr. Cuddihy set out details of three comparisons which are summarised below:-

(1) **Bank Of Ireland, St. Stephen's Green, Dublin 2.**

| | | | | | | | |
|--------------|--------------|---|-----------|---|-----|---|----------------|
| Ground Floor | Banking Hall | - | 2,344ftsq | @ | £30 | = | £ 70,320 |
| | Offices | - | 560ftsq | @ | £12 | = | £ 6,720 |
| 1st Floor | Offices | - | 2,182ftsq | @ | £9 | = | £ 19,638 |
| 2nd Floor | Offices | - | 1,767ftsq | @ | £7 | = | £ 12,369 |
| Basement | Stores | - | 665ftsq | @ | £6 | = | £ 3,990 |
| Stores | (Disused) | - | 606ftsq | @ | £3 | = | <u>£ 1,818</u> |
| | | | | | | | £114,855 |

Est. N.A.V. = £114,855 x .63% = £723

R.V. £720.00

(2) ***National Irish Bank, 138 Lower Baggot Street, Dublin 2.**

| | | | | | | |
|----------------------|---|----------|---|-----|---|----------------|
| Banking Hall | - | 1434ftsq | @ | £29 | = | £41,586 |
| Offices/Kitchen | - | 1106ftsq | @ | £12 | = | £13,272 |
| Computer Room/Stores | - | 4840ftsq | @ | £5 | = | <u>£24,200</u> |
| | | | | | | £79,058 |

Est. N.A.V. = £79,058 x .63% = £497.70

R.V. £495.00

* Floor areas and valuation amended at hearing.

(3) **Budget Travel, 134/135 Lower Baggot Street, Dublin 2.**

| | | | | | | |
|----------------------|---|-------------|---|-----|---|----------------|
| Ground Floor Offices | - | 890ftsq | @ | £31 | = | £27,590 |
| 1st Floor Offices | - | 1898ftsq | @ | £9 | = | £17,082 |
| 2nd Floor Offices | - | 1898ftsq | @ | £6 | = | £11,388 |
| Basement | - | 1042ftsq | @ | £5 | = | £ 5,210 |
| 5 Car Spaces | - | @ £600/each | | | = | <u>£ 3,000</u> |
| | | | | | | £64,270 |

Est. N.A.V. = £64,270 x .63% = £403.20

R.V. £400.00.

Oral Hearing:

At the oral hearing held in Dublin on the 17th day of January, 1996 the appellant was represented by Mr. Desmond M. Killen, FRICS, FSCS, IRRV and the respondent by Mr. Tom Cuddihy, District Valuer with the Valuation Office. Mr. Eoin O'Buachalla, FRICS, FSCS was in attendance at Mr. Killen's request.

Prior to the oral hearing Mr. Killen's written submission was received by the Tribunal and at the hearing Mr. Killen adopted this as his evidence in chief given under oath.

Mr. Killen in supplementary oral evidence to the Tribunal said that the subject building was a listed building under the provisions of the Dublin City Development Plan and had a stepped entrance from the pavement. The entire building was now in bank use but originally the upper floors were designed for residential purposes. The main banking hall was at ground floor level and the remainder of the building was given over to administrative offices, stores and staff accommodation.

Mr. Killen said that when he prepared his submission he had relied upon the assessment placed on the nearby premises occupied by the National Irish Bank at 138 Lower Baggot Street. It was his understanding that this assessment was agreed at First Appeal stage on the basis of a Zone A rate of £40.00 per square foot. When he received a copy of Mr. Cuddihy's

submission he wrote to him immediately pointing out that the information in regard to the National Irish Bank premises differed substantially from the information given to him by the bank's appeal valuer Mr. Eoin O'Buachalla. It was for this reason that Mr. O'Buachalla had accompanied him to the oral hearing. In an effort to resolve these differences the Tribunal granted a short adjournment and requested the valuers to agree all matters of fact in relation to this property and if possible any other matters of fact that were in dispute.

After the adjournment Mr. Killen told the Tribunal that the parties had now agreed that the areas in relation to the National Irish Bank premises be adjusted as follows and that Mr. Cuddihy had re-cast his valuation as below:-

| | | | | |
|---------------|-------------|-------------|---|----------------|
| Banking Hall | 1434 sq.ft. | @ £29 | = | £41,586 |
| Offices, etc. | 1452 sq.ft. | @ £9 | = | £13,428 |
| Stores, etc. | 4840 sq.ft. | @ £5 | = | <u>£24,200</u> |
| | | NAV | = | £79,214 |
| | | But Say: | = | £79,000 |
| | | R.V. x .63% | = | £497 |

Mr. Killen added that on a zoning basis the above valuation equated to a Zone A rate of £45.

Mr. Killen said that he had relied upon the assessment of this property solely and had made adjustments to reflect the physical differences between the two properties. National Irish Bank had the benefit of an extensive frontage onto Lower Baggot Street on a section of the street which was mainly in retail use. The accommodation was all at ground floor level whilst the subject was a four storey building at the end of a terrace of Georgian houses with a return frontage to Pembroke Street Lower. Taking all of these disadvantages into account he had applied an overall rate of £20 per square foot to the ground floor accommodation. If a zoning approach was appropriate then a Zone A rate of £40 should be applied.

Mr. Cuddihy in cross examination drew Mr. Killen's attention to the fact that in his written submission he had valued the subject property and devalued the National Irish Bank premises

each at a Zone A rate of £40 per square foot and if he were to be consistent he should now value the subject at a Zone A rate of £45 per square foot. Mr. Killen said that when he had prepared his valuation he had not inspected the National Irish Bank premises but now having done so he considered there ought to be a differential. Accordingly, he considered a £5.00 differential was appropriate in order to reflect the different characteristics of the two properties.

Mr. Cuddihy asked Mr. Killen if he had made any allowances for the return frontage of the property onto Pembroke Street Lower. Mr. Killen said that he did not consider any allowance ought to be made in this instance as the occupier drew no advantage from it and in any event Pembroke Street Lower at this section did not have a retail presence.

Mr. Cuddihy's written submission was adopted by him as being his evidence in chief given under oath. In oral submission he said that he had valued the subject property on an overall rate per square foot basis as in his experience banks were not valued by the Valuation Office using the zoning method. He expressed the view that the subject property occupied a prime corner location which was a characteristic much favoured by financial institutions. The National Irish Bank premises on the other hand had little prominence on the street, did not look like a bank and was indistinguishable from other adjacent properties.

Mr. Cuddihy said that in arriving at his opinion of net annual value of the subject bank he had relied principally on the assessments placed on the National Irish Bank premises and the Budget Travel premises close by. The latter property had a net annual value of £64,000 which was supported by an actual rent of £65,000 per annum. Under the circumstances he felt that his figure of £25 on the ground floor of the Ulster Bank premises was fair and reasonable and reflected its prominent corner location. This opinion of value he said was also amply supported by rental evidence in the area and by other assessments carried out in recent times.

Mr. Killen asked Mr. Cuddihy if the Bank of Ireland premises at St. Stephen's Green referred to in his list of comparisons occupied a corner location. Mr. Cuddihy agreed and also agreed

a small area of offices at ground floor level had been valued at £12 per square foot whereas the main banking hall was valued at £30 per square foot.

Mr. Killen also asked Mr. Cuddihy why he had valued the ground floor of the subject property at an overall rate of £25 per square foot, whereas he had valued the National Irish Bank premises at two different rates, that is, £29 and £9 per square foot. Mr. Cuddihy responded by saying that the area he valued at the lower rate was at the back and could not be considered as valuable as the front section. Mr. Cuddihy did not dispute Mr. Killen's statement that if a single overall rate was applied then this would give a figure of about £20 per square foot.

In his closing submission Mr. Cuddihy contended that his assessment was fair and reasonable by comparison to other premises in the vicinity. Mr. Killen in his final remarks said that he and Mr. Cuddihy were in agreement that the valuation placed on the National Irish Bank was very relevant. However, in his opinion Mr. Cuddihy was not consistent. In one case he had applied different rates per square foot to the banking hall and the offices whilst in valuing the subject he had applied a single overall rate. To that extent therefore he had played with figures in order to justify his opinion of the net annual value of the subject property.

Determination:

The Tribunal notes that the valuers in this appeal presented the Tribunal with an agreed survey and commends them for their professional approach in this regard.

Both valuers also agreed that the most relevant comparison and indeed the only comparison put forward by Mr. Killen was the National Irish Bank premises nearby at 138 Lower Baggot Street. Having carefully examined all the evidence and submissions adduced by the parties the Tribunal makes the following preliminary findings:-

- (1) That the zoning method of valuation is not appropriate in this instance and that an overall rate per square foot should be applied to the banking hall area at ground floor level.
- (2) The most relevant comparison is that in relation to the nearby National Irish Bank premises at 138 Lower Baggot Street. The Tribunal also considers the evidence in

relation to Bank of Ireland premises at St. Stephen's Green to be of assistance in that it too occupies a prominent corner location.

- (3) The National Irish Bank premises are located in a section of Lower Baggot Street where ground floor accommodation is mainly given over to retail use. The Ulster Bank premises on the other hand is situated just outside the retail section of Lower Baggot Street which effectively ends at the opposite corner of Lower Pembroke Street.
- (4) The subject premises occupies a prominent corner location whilst the National Irish Bank premises has little prominence on the street and as Mr. Cuddihy says is virtually indistinguishable from other adjoining premises in retail use.
- (5) The main banking hall of the Ulster Bank premises is regular in configuration whilst the National Irish Bank is not.

In response to a question from Mr. Killen regarding the National Irish Bank premises Mr. Cuddihy said that he had applied a considerably higher rate per square foot to the front section than to the rear (that is, £29 and £9 per square foot respectively) as he considered the front area to be more valuable. The Tribunal finds merit in Mr. Killen's contention that in so doing Mr. Cuddihy's approach was somewhat inconsistent. However having regard to the fact that Mr. Cuddihy re-cast his valuation during a short adjournment it is perhaps possible that he may have arrived at a different analysis under less pressing circumstances.

Taking into account the valuation of the National Irish Bank premises at 138 Lower Baggot Street and the Bank of Ireland premises at St. Stephen's Green and having regard to the physical and locational characteristics of the subject hereditament the Tribunal finds that the appropriate rate per square foot attributable to the ground floor banking hall is £20 per square foot as put forward by Mr. Killen.

At the oral hearing all the argument and submissions concentrated on the valuation attributable to the ground floor banking hall. An examination of the valuations submitted by

the valuers for the remainder of the subject hereditament indicates that a valuation of £19,000 for this space is fair and reasonable.

Accordingly, therefore the Tribunal finds that the proper rateable valuation of the subject hereditament is £386 based on a net annual value of £61,340 calculated as set out below:-

| | | | |
|----------------------------|-------------------|---|----------------|
| Banking Hall | 2117 sq.ft. @ £20 | = | £42,340 |
| Remainder | Say | = | <u>£19,000</u> |
| | Total | = | £61,340 |
| Rateable Valuation at .63% | | = | £386.00. |