

Appeal No. VA95/4/007

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

Lehane & Company

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices at Map Ref: 1, Sackville Street, Town of Dunmanway, E.D. Dunmanway North,
R.D. Dunmanway, Co. Cork

Quantum - Urged that grounds of appeal be specific

B E F O R E

Liam McKechnie

S.C. Chairman

Con Guiney

Barrister

Joe Carey

PC.DDSc.DBAdm.MIAVI

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF JULY, 1996

Kerry, Lehane & Company is the rated occupier of the hereditaments and premises hereinafter described and which are situate in the town of Dunmanway in the County of Cork. In November, 1994 following inspection and revision the Valuation List issued showing a new rateable valuation of £35 as against an historical valuation of £15 which was put in place in 1965. An appeal to the Commissioner of Valuation was unsuccessful. Hence, this appeal before the Valuation Tribunal, which on oral evidence was held on the 4th day of June 1996.

The Grounds of Appeal:

The grounds of appeal relied upon, as indicated in the Notice of Appeal, are that "the rateable valuation is excessive, inequitable and bad in law".

This expression, as indicating the appeal grounds, is time honoured in its use and is one which many, if not all practitioners in this area, invariably adopt. However, it is a phrase which can be quite uninformative as to the true nature of the specific grounds upon which the appellant intends to rely. Two examples will illustrate the point. Firstly, under cover of this phrase an appellant in a previous case before the Tribunal alleged non-compliance by the Rating Authority with its obligations under *Section 3(4)(a) of the Valuation Act, 1988*, in that the occupier in question had not been served with the appropriate Notice of the intending revision. Such a point as is obvious, directly involves the Rating Authority which, in accordance with fair procedures had to be given an opportunity of responding to it. A second example was where the ratepayer alleged that both a description and a lot number in the Valuation List was inserted incorrectly and accordingly the valuation was bad. Again an adjournment was required. Accordingly, whilst making no criticism whatsoever of the appellants use of this phrase in this appeal, the Tribunal would urge that perhaps in future, where appropriate, more specific details would be given of the particular grounds of appeal which an appellant truly intends to rely upon at the hearing of his appeal.

Description of Property:

The property in question in this appeal is a purpose built two storey semi-detached residence approximately 100 years old. It was formerly a rectory, is constructed of masonry walls under a pitched slated roof together with a return of similar construction. Its accommodation, on the ground floor comprises of an entrance hall/stairs, a reception office, back office, conference room, return office and kitchen. On the first floor there are five rooms presently in offices together with a bathroom and WC. It was purchased in 1989 by the appellant for £35,000 and since then a sum of approximately £15,000 has been spent on carrying out repairs. Such remedial work has been described by the Commissioner of Valuation as "improvements", a term objected to on behalf of the ratepayer. If this was a Landlord and Tenant case and if under *Section 45 of the Landlord & Tenant (Amendment) Act 1980*, an issue arose as to whether or not the remedial works were "an improvement", then there might be something in this objection. However, it isn't such a case and accordingly nothing turns on whether these works should be more accurately described as "improvements" or simply as "repairs". In any event it is agreed that PVC windows were inserted only in the front elevation of the building, that whilst the existing wiring was left intact some new wiring was

put in place principally for the purposes of power-points etc., that a new roof was constructed to the front of the building and that the central heating system was upgraded and modified.

Notwithstanding these improvements the Tribunal accepts that the overall condition of the subject premises can best be described as moderate rather than good or excellent with the ground floor being in a better condition than the first floor. For a building of its age and with the expenditure of £15,000 the property is now reasonably capable of accommodating the occupation and use presently made of it. Finally, in this context the areas have been agreed with the ground floor comprising 967 square feet and the first floor 790 square feet making a total of 1,766 square feet.

Location of Property:

The property is located on Sackville Street approximately 30 metres from its junction with Main Street. It is 300 metres from the square where Main Street and Bridge Street converge. This area known as Market Place is the principal centre of the commercial activity in the town with that part of Main Street east of Tanyard Lane receding in importance from both a retail and commercial point of view. Indeed it is accepted that Sackville Street, though not exclusively is, principally a residential street with little or no retail activity thereon.

Of some importance also is the general level of activity pertaining in the overall town of Dunmanway. There was evidence which this Tribunal accepts that it now has a limited industrial base and is no longer truly a market town. Whilst undoubtedly it is still a tourist centre of some importance it is not what it formerly was. Support for this view is obtained from a consideration of the centre known as "The Young Centre", which immediately adjoins the first comparison on Main Street which is hereinafter more particularly referred to. This centre has had a chequered history and is still a good deal short of fulfilling the potential which its developers had originally hoped for. Overall the Tribunal has not had any evidence placed before it which would justify a reversal or even a modification of its view as expressed in a valuation appeal (*VA92/2/062 & VA92/2/064 - D. Crowley & Company Limited v. Commissioner of Valuation*) namely that Dunmanway was in a "generally depressed state".

Net Annual Value:

The Commissioner of Valuation suggests that a figure of £5.50 psf should be placed on the ground floor of the subject property and £2 psf on the first floor. Mr. McMillan from Donal

O'Buachalla & Company Limited suggests on behalf of the rated occupier £2.50 psf as against £5.50 and £1.50 psf on the first floor. These figures first mentioned reduce the existing rateable valuation of £35 as against a suggested valuation of £18.

Comparable Evidence:

Mr. O'Connor on behalf of the Commissioner refers the Tribunal to three properties which he says are useful for comparable purposes. The first is Dr. Herlihy's surgery on Sackville Street, the second is the E.S.B. offices at Brookpark and the third is the Molnycke Factory at Underhill. Apart from the premises first mentioned it appears to the Tribunal that the other properties referred to are not, of such comparable value, as could be relied upon to support the existing valuation. In the case of the E.S.B. offices it was suggested that these were built in the 1970's but according to Mr. McMillan their construction took place between 1988 and 1989. As between one or the other it is quite impossible for the Tribunal to decide. If the date of construction is relevant, as presumably it is, then surely the accurate timing thereof could have been ascertained. Be that as it may the premises were purpose built, were finished to a higher standard than the subject premises and have a better location. The Molnycke Factory is a modern factory located on the edge of the town in a location with considerably more activity than Sackville Street. The areas are also significantly greater with the offices being over 8,000 square feet and the factory over 38,000 square feet. Accordingly, the most appropriate comparison from the Commissioner's point of view must undoubtedly be Dr. Herlihy's surgery.

In paragraphs three and four of his comparisons, Mr. McMillan refers to the Abbey Shopping Centre in Drogheda and also to accommodation above a number of banks in Claremorris, Baltinglass and Dunlaven, respectively. Very little if any useful information can be deduced from these comparisons. In paragraphs one and two however he refers to the property of D. Crowley & Company Limited which is situated at Main Street, Dunmanway. This property is in two lots, number 175b and 176a. Both were revised in 1992. With regard to 175b there is 958 square feet of retail accommodation on the ground floor with showrooms and stores on the first and second floors respectively. In the other reference there is 763 square feet of retail space on the ground floor. This devalues at £4.45 psf with the 958 square feet devaluing at £4 psf. Both of these properties are located on Main Street very close to Market Place. Given the respective locations therefore of these properties on the one hand and the subject property on the other hand a question must be asked as to how office property could command a value of £5.50 psf in Sackville Street when prime retail property can be obtained at £4 psf at or near Market Place?

The only real answer to this question as suggested by Mr. O'Connor was to call in aid Dr. Herlihy's property. This property is located further down Sackville Street than the subject property. It was revised in 1989 and the following is the breakdown by way of devaluation given by Mr. O'Connor in evidence.

M. Herlihy

Doctors surgery/office

Lot No: 14.15 Sackville Street,

ED: Dunmanway North.

1989 Revision

Ground floor - surgery	593 (net) sq.ft. @ £5.75 psf	£3,409
House	3,228 (gross) sq.ft. @ £1.25 psf	£4,000
	NAV	£7,409 @ 0.5%
	RV	£34.00
		Domestic £20.00

As can therefore be seen it would appear that for 593 square feet of ground floor surgery a figure of £5.75 psf was appropriate to it. Hence, the apparent support for the suggested net annual value of the subject property.

On closer analysis of this comparison however some distinguishing features emerged and some questions remained unanswered. Firstly, the property is part surgery part domestic with over 3,000 square feet of living accommodation. Secondly, relief of course has been obtained on the domestic portion of this property. Thirdly, on the details given it is stated that the rateable valuation was £34 with the domestic portion being £20 thereof. But this figure is inconsistent with the suggested net annual value of the surgery. As previously stated that area by the price psf equals £3,409. That gives a rateable valuation of £17 and not £14 if one assumes the domestic element of £20. As the correct rateable valuation is £17 then the rate psf is not £5.75 but £4.72. Unfortunately it was not possible to resolve these discrepancies and accordingly this comparison must be treated with some circumspection.

Given therefore the Tribunal's view of the comparison last mentioned and given its acceptance that retail space in Market Square must be more valuable than office space in Sackville Street it has concluded that the appropriate net annual value for the subject property

should be, as to ground floor £3.50 psf and as to first floor £2 psf. That results in a rateable valuation of £24.82, say £25 and the Tribunal so determines.