

Appeal No. VA95/6/006

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

A.I.B. Bank, Tullamore

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank, offices and yard at Map Ref: 3b.4, Columcille Street, Townland: Tullamore, Urban District of Tullamore, Co. Offaly

Quantum - Weight to be attached to previous Tribunal determination

B E F O R E

Fred Devlin

FRICS.ACI Arb. (Acting Chairman)

Brid Mimmagh

Solicitor

Con Guiney

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3RD DAY OF FEBRUARY, 1997

By Notice of Appeal dated the 18th day of November 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £390 on the above described hereditament.

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

"The valuation is excessive, inequitable and bad in law."

This appeal was heard by way of an oral hearing which took place in Dublin on the 24th day of June 1996. Mr. Andrais O'Caomh, S.C. instructed by AIB Law Department appeared on behalf of the appellant. He was accompanied by Mr. Alan McMillan ARICS MIAVI ASCS, a Director of Donal O'Buachalla & Company Limited. Ms. Margaret Nerney, Barrister-at-Law instructed by the Chief State Solicitor appeared on behalf of the respondent with Mr. Malachy Oakes of the Valuation Office. Both Valuers adopted as their evidence in chief their respective written submissions which previously had been exchanged between them and received by this Tribunal. From the evidence so tendered the following relevant facts emerged as being material to this appeal.

Valuation History:

Following reconstruction and extension at the 1989 Revision the valuation of the subject property was increased from £215 to £390. This assessment was appealed and when the Commissioner of Valuation made no change a further appeal was made to the Valuation Tribunal which affirmed the valuation of £390 (**VA90/2/072 - A.I.B. Plc v. Commissioner of Valuation**).

In 1994 the property was again listed for revision and no change was made on revision or at First Appeal stage. It is against this decision of the Commissioner of Valuation that this appeal to the Tribunal now lies.

The Property:

The property comprises the original three storey building together with a recent rear extension located on the east side of Columcille Street in that section between Church Street and Harbour Street. It is common cause that the building is substantially in the same physical state and circumstances as pertaining at the time of the 1990 appeal to this Tribunal and the area and uses of the various sections of the building are also not in dispute.

The Appellant's Contentions:

1. When revised at the 1989 Revision the rateable valuation was originally determined by applying a factor of 0.63% to the net annual value. However, when the matter came to the Tribunal a factor of 0.5% was applied to a higher net annual value in order to arrive at the rateable valuation of £390.
2. The information regarding the Bank of Ireland premises at 8, 9 and 10 Bridge Street, Tullamore given in evidence at the previous Tribunal hearing was incorrect and since the Tribunal relied upon this evidence it follows that the determination of the Tribunal is not well founded. If the Tribunal had been seized with the knowledge now available it would have arrived at a different conclusion.
3. The Bank of Ireland is better located than the subject and this must be reflected in the valuation attributable to the subject property.
4. The layout of the subject property is unsatisfactory and inefficient in use and no advantage is derived from the secondary means of access from Gleeson's Mall at the rear.
5. Since the 1989 Revision a new enclosed shopping centre (The Bridge Centre) containing a Dunnes Stores, 20 retail shops and parking for 300 cars has opened and the effect of this development is to accentuate the primacy of Bridge Street as a retailing area. The focal point for financial activities in Tullamore is O'Connor Square where a number of other banks and financial institutions are located. In effect the location of the subject property from a banking point of view has deteriorated.
6. In the absence of reliable comparisons in Tullamore it is reasonable to look at assessments of banks in other provincial towns of a somewhat similar size. An analysis of the valuations of a number of banks throughout the country carried out by Mr. McMillan indicates that the valuation of the subject property is excessive.

7. An analysis of assessments of other properties in Tullamore also indicates that the valuation of the subject is excessive.
8. The Bank of Ireland premises previously referred to is now itself subject to an appeal to the Tribunal and hence is "sub judice".

The Respondent's Contentions:

1. The existing valuation of the subject property was determined by the Valuation Tribunal as a result of an appeal following the 1989 Revision. Since no material change in circumstances has occurred since that determination there is no compelling reason to revise the valuation.
2. The determination of the Tribunal in respect of the subject property was one of the first given by the Tribunal in regard to a bank premises and has been relied upon by the Commissioner in valuing other bank premises elsewhere.
3. The Bridge Centre development has not adversely affected the location of the subject property and indeed the opposite may well be the case.
4. There is no discernible difference in the location of the subject and the Bank of Ireland premises.
5. Evidence of other bank premises outside the rating area as adduced by the appellant is not relevant. Similarly, evidence in relation to retail premises in Tullamore must be disregarded also as they are not of a like nature to the subject property.
6. The difference in the area of the Bank of Ireland premises now brought to light was less than 10% and in any event was not referred to at the last Tribunal hearing in relation to the subject property.

7. Whilst the valuation of the subject was originally determined using a 0.63% factor the valuer at 1989 First Appeal stage applied a 0.5% factor to a net annual value of £78,000 and this is the figure that was upheld by the Tribunal.
8. As there is no material change in circumstance since 1989 there is no compelling reason for the valuation to be revised and the appellant has not been able to show good cause.

The Valuation Evidence:

Mr. McMillan in his written submission outlined the valuation history of the property and gave details of its location, construction, accommodation, agreed areas and other relevant factors. He then proceeded to provide his opinion of net annual value and rateable valuation as follows.

Ground Floor

Bank Hall etc.	4,323 sq.ft. @ £10 = £43,230
Store	47 sq.ft. @ £ 5 = £ 235

First Floor

Offices	1,152 sq.ft. @ £ 4 = £ 4,608
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Second Floor

Stores	948 sq.ft. @ £3 = £ 2,844
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Attic

Stores	685 sq.ft. @ £1 = <u>£ 685</u>
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Total	NAV = <u>£51,602</u>
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RV @ 0.5% = **£258.**

In support of his valuation, Mr. McMillan submitted details of 14 other properties which he considered relevant as set out in the Appendix attached to this decision. Under examination, Mr. McMillan said that his main comparison was the Irish Nationwide Building Society premises at O'Connor Square. The other comparisons in Tullamore were introduced he said

to show evidence of rents in the town for shops and offices. Information regarding banks in other towns was presented for information purposes but he had not relied upon this evidence in arriving at his opinion of net annual value.

Mr. Oakes in his written submission set down similar factual information in relation to the property and his opinion of net annual value and rateable valuation i.e. £78,000 and £390 as confirmed by the Valuation Tribunal in its decision dated 14th March 1991 in **VA90/2/072 - A.I.B. Plc v. Commissioner of Valuation**. Mr. Oakes offered no comparisons to support his valuation.

Under examination Mr. Oakes said that as there had been no material change in circumstances since the Tribunal decision he formed the opinion that no change was justified and that indeed his "hands were tied". In response to a question from the Tribunal as to what he would have done had his hands not "been tied", Mr. Oakes said that he would have tried to negotiate with Mr. McMillan. He declined however to say what his valuation might have been for negotiation purposes.

Mr. Oakes under examination further agreed that there was a discrepancy in the area stated for the Bank of Ireland premises at the previous appeal before the Valuation Tribunal and that this information had only recently come to light. He also agreed with Mr. McMillan's evidence that at the 1989 Revision the rateable valuation of the subject property was originally calculated by applying a factor of 0.63% to the net annual value and that this was amended to 0.5% at first appeal stage and by using a higher figure for net annual value the rateable valuation remained at £390.

Findings and Determinations:

The Tribunal having carefully considered all the evidence including that in relation to comparisons and arguments adduced in both written and oral form makes the following preliminary findings.

1. The subject property is substantially in the same state and circumstances as prevailed at the last appeal arising out of the 1989 Revision.
2. Following the 1989 Revision the Valuation Tribunal in its determination relied upon the evidence adduced by the Valuation Office in respect of the Bank of Ireland premises at Bridge Street, Tullamore. The Tribunal accepts the evidence of Mr. McMillan that this evidence was flawed to the extent that the area was understated by about 10% and indeed Mr. Oakes did not dispute this fact.
3. Having regard to the findings at no. 2 above little weight can now be attached to this evidence and this is reinforced by the fact that the valuation of the Bank of Ireland premises itself is now the subject of an appeal to this Tribunal.
4. In terms of location the Tribunal finds that there is little to choose between the two major bank premises in the town but if anything, the location of the Bank of Ireland is better. The Bridge Centre development has improved the town centre to the benefit of all traders including those engaged in financial services activities. On balance the subject benefits from the secondary means of access from Gleeson's Mall and the car parking in the vicinity.
5. Generally speaking evidence of assessments drawn from outside the rating area is of little assistance particularly when evidence of rental value is available. If however, the hereditament falls into a special class either by virtue of its size, use or nature and for which there is a paucity of rental evidence, then evidence drawn from outside the rating area may be useful to some degree. In the past banks have tended to be valued on a somewhat different basis to other commercial properties but increasingly, it is becoming evident that the justification for this distinction may not be warranted.

Nonetheless, the fact that banks usually occupy good locations and that the buildings are fitted out to a high standard are considerations which must per force be taken into account when arriving at the appropriate net annual value in accordance with the Valuation Acts.

6. Under the Valuation Acts the rateable valuation of a hereditament may be revised at any time and when requested to carry out such a revision the Commissioner of Valuation must prepare his valuation in accordance with the law and must not necessarily feel bound by any previous determination. Arising out of the repeal of *Section 23 of the Valuation (Ireland) Act, 1852* there is no presumption that the valuation appearing in the Valuation List is correct.
7. The fact that the valuation of a property referred to as a comparison is itself subject to revision, first appeal or appeal to the Valuation Tribunal does not render it "sub judice". It is up to the Tribunal to decide what weight is to be attached to evidence of this nature in the particular circumstances prevailing at the time of the hearing.

Having regard to the above findings the Tribunal has come to the conclusion that the valuation of £390 must be set aside as it is founded on information which both parties now agree was incorrect. Under the circumstances and having regard to the evidence and the legal submissions the Tribunal determines the rateable valuation to be £270 based on a net annual value of £54,000 as set out below.

Ground floor banking hall	4,323 sq.ft. @ £10.00 psf = £43,230
Store	47 sq.ft. @ £ 5.00 psf = £ 235
First floor offices	1,152 sq.ft. @ £ 5.00 psf = £ 5,760
Second floor offices	948 sq.ft. @ £ 4.00 psf = £ 3,792
Attic stores	685 sq.ft. @ £ 1.00 psf = £ 685
	<u>£53,702</u>

Say £54,000. NAV = £54,000 @ 0.5% = **£270 RV.**

