

Appeal No. VA96/2/028 &
VA96/2/029

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

Irish Cement Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Yards at Map Ref: 88a and 88b Pigeon House Road, Ward: Pembroke East, County
Borough of Dublin

Quantum - Rental value of sites, lot boundaries

B E F O R E
Con Guiney

Barrister (Acting Chairman)

Rita Tynan

Solicitor

Patrick Riney

FSCS.FRICS.MIAVI

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF FEBRUARY, 1997

By Notices of Appeal dated the 22nd April, 1996 the appellant appealed against the determinations of the Commissioner of Valuation in fixing rateable valuations of £434 and £441 on the above described hereditaments.

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

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

Oral Hearing:

The oral hearing took place at the Valuation Tribunal offices on the 16th October, 1996. The appellant was represented by Mr. Desmond 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 Ms. Breda O'Rourke on behalf of the appellant company, Irish Cement Limited. Mr. Frank O'Connor, Valuer with Mr. Patrick Quinn from the Mapping Section (Valuation Office), represented the respondent.

In opening his case, Mr. Killen adopted his précis of evidence as his evidence in chief given under oath. He pointed out that his involvement in this case commenced with instructions received from Irish Cement Limited in January, 1995. At that time there were three entries in the Valuation List as follows:-

1. Lot 88a - Had a rateable valuation of £240 on buildings, £560 on miscellaneous, giving a total of £800.
2. Lot 88b - The rateable valuation here was £240 miscellaneous.
3. Lot 88c - The rateable valuation here was £290.

Mr. Killen also referred to an original appeal which had been agreed by Mr. Pat Gannon of Mason Owen & Lyons agent for C.D.L.

In May, 1995 a revision of valuation had been carried out by Mr. Liam Cahill, the revising valuer from the Valuation Office who left the rateable valuations of £560 and £240 for Lot No. 88a and Lot No. 88b respectively unchanged.

As a result of the transposition of map numbers on documents supplied by Mr Gannon, the witness appealed Lot 88a and Lot 88c, which by agreement with Mr. Frank O'Connor were subsequently referred to as Lot 88a and Lot 88b respectively.

A new map referred to in Appendix B of Mr. Killen's written submission was made available to the respondent. This clearly identified the areas in the occupation of:-

1. Irish Cement Limited, that is, Site A
2. Hammond Lane, Site B
3. C.D.L.
4. Also the common access.

The appeal valuers opinion resulted in the total rateable valuation of £800 (lots 88a & 88b) being increased by £75, that is, Lot 88a at £441 and Lot 88b at £434, a total of £875. Mr. Killen emphasised that Appendix B, referring to Sites A & B, that is, Lot 88a and Lot 88b, were totally different to the original lot numbers for Lot 88a and 88b which are referred to in Appendix A. In general terms, he pointed out that the respondent had moved from the previously agreed Valuation Tribunal settlement by the subsequent actions of valuers.

Mr. Killen also referred to *VA93/2/030 - Bord Gais Eireann v. Commissioner of Valuation*. The property was in the Hanover Quay/Sir John Rogersons Quay area and had been assessed at a rate of 20p psf. He also referred to page 4 of this judgement which gave a rental valuation of around £8,000 per acre.

Mr. Frank O'Connor, Valuer from the Valuation Office, represented the Commissioner of Valuation and adopted his précis under oath, as his evidence in chief. He accepted the information from Mason Owen & Lyons on a 'without prejudice' bases. However, he referred in some detail to a previous agreement which had been reached, prior to a Valuation Tribunal hearing, with Mr. Patrick Nerney, Valuer for Coal Distributors Limited, a copy of the said letter dated the 27th February, 1990 was attached to his submission.

Mr. O'Connor also pointed out that certain information which was in Mr. Killen's submission, in particular on page 1, was not given to the Valuation Office. He also stated that information regarding leases, had not been released either. He referred in particular to the Valuation Tribunal decision *VA95/4/007 - Lehane & Company v. Commissioner of*

Valuation. In this judgement the Tribunal had urged that specific details on particular grounds of appeal, which the appellant intended to rely upon, should always be given to the Commissioner of Valuation prior to a hearing.

During his inspection of the property, Mr. O'Connor found that the boundary of the yards had changed. He accepted that the areas had changed to some extent and in his opinion the difference was approximately 0.7 of an acre.

Mr. Killen referred to other recently revised similar hereditaments. He stated that in his opinion the rental valuations of sites was between £7,000 to £10,000 per acre and that this was generally accepted. He stated that the figure of £9,000 approximately per acre was taken from the original valuation in 1988.

Mr. O'Connor accepted that the buildings had been demolished. Mr. Quinn confirmed that there were differences between (a) and (c) and that the maps referred to now and those referred to in the previous valuation, were totally different.

Determination:-

The Tribunal have considered all of the submissions and evidence adduced during the oral hearing.

We would reiterate our opinion in regard to the exchange of necessary information on maps, leases and other information in order to enable site, building and floor areas to be agreed prior to an appeal to this Tribunal. We would also refer to **VA95/4/007 - *Lehane & Company v. Commissioner of Valuation*** wherein it was stated "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", and encourage both appellant and respondent valuers to adopt these procedures from now on, in order to facilitate the Valuation Tribunal in assessing the correct rateable valuation on any hereditament. The following are a number of the most important points:-

1. The rateable valuations were previously agreed in February, 1990, prior to a Valuation Tribunal hearing with Mr. Patrick Nerney, Valuer for C.D.L.
2. There were substantial buildings on both lots then, which are now either demolished or changed.
3. It is accepted by both sides that lots 88a and 88b are now quite different to those which were originally valued by the Valuation Office.
4. In 1995, the appeal valuer Mr. O'Connor became aware for the first time, that the original boundary between 88a and 88b had altered, leading to different yard areas in both cases.
5. The appeal valuer then amended the maps and reassessed the valuations, to take account of these changes. This procedure took place, despite the fact that the revising valuer, Mr. Liam Cahill, had not valued the same hereditament from the outset. This led to a reduction in the rateable valuation of 88a from £560 to £434 and an increase in the rateable valuation of 88b from £240 to £441.
6. An error occurred when the rateable valuations were published incorrectly as follows:-

Lot 88a	-	RV £441
Lot 88b	-	RV £434

Whereas they should have read Lot 88a - £434 and Lot 88b - £441.

7. Prior to the appeal, as of February, 1995, both lots comprised a total c. 7.45 acres of yard space. The area is now c. 8.153 acres in total.
8. The increase appears to be because the ground, under which some of the buildings were, is now included in the yard space.
9. It is noted that in a letter dated the 18th January, 1996, Mr. Killen states "in the circumstances you may take it that we are not proceeding with either of these appeals". This letter is not marked without prejudice.

In the circumstances, and having taken all the evidence into consideration, the Tribunal determine the correct rateable valuation to be as follows:-

Lot 88a

c. 4.043 acres (tarmacadam yard) - 176,113 sq.ft. @ 0.3573p psf = £62,925.17

NAV @ 0.63%

RV = £396.42, Say £397.

Lot 88b

c. 4.11 acre (tarmacadam yard) - 179,032 sq.ft. @ 0.3573p psf = £63,968.13

NAV @ 0.63%

RV = £402.99, Say £403.

In summary, the Tribunal determines the rateable valuation for Lot 88a to be £397 and the rateable valuation for Lot 88b to be £403.