

Appeal No. VA96/3/027

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

Ulster Bank Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices (first floor) at Lot No. 1b2b, Townland: Roosky (Diamond), UD: Monaghan, Co. Monaghan
Quantum

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Rita Tynan - Solicitor

Member

Finian Brannigan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF MAY, 1998

By Notice of Appeal dated the 23rd day of July 1996, the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £47 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 hereditament consists of an open plan office with a small section partitioned, as an interview room, which is a self contained first floor office over the Ulster Bank at the Diamond, Monaghan Town, County Monaghan and extending to an agreed area of 1,175 sq.ft. (109.2 sq.m.).

Valuation History

In the 1970 revision the subject premises was a newly constructed building and was first valued as "offices (first floor)" with a rateable valuation of £45. In 1994/2 following a request from the Ulster Bank a further revision took place. The description remained unchanged and the rateable valuation was increased to £55. This was appealed. At the 1994/2 first appeal the rateable valuation was reduced to £47: hence the present appeal to this Tribunal.

Written Submissions

A written submission dated 15th April 1997 was received by the Tribunal from Mr. Desmond Killen FRICS, FSCS, IRRV, Valuation Consultant on behalf of the Appellant. In this submission, Mr. Killen stated that the premises was situate on the Diamond which was within the traditional centre of Monaghan Town and opposite the Allied Irish Bank, Irish National Building Society and First National Building Society. He said that Monaghan is one of the smaller County Towns in Ireland with a population of 5,950 which includes its environs. He said the premises were first floor offices and comprised essentially one large open area which had been partitioned by a separate kitchen and office and further that there was good head room and natural lighting. He said that the walls are smooth plaster and an old style soft board ceiling and mounted fluorescent lighting is fitted and that the windows are timber framed and single glazed. Access is via a 2½ flight concrete stairs from a doorway at the side of the premises adjacent to the church railings. He further stated the premises was serviced by electricity, water and drainage, that heating was by electric storage units and that there were, separate male and female toilets. Mr. Killen said the property is zoned "Town Centre" in the 1993 Monaghan UDC Development Plan but that the access to the property is less than prominent and photographs were produced in support of this last contention.

Mr. Killen said that the Hibernian Insurance had occupied these premises under the terms of a lease dated 21st May 1970 from the 1st May 1970 for a term of 21 years and a copy of the

lease was furnished. The rent was reviewed in 1977 and 1984 with the rent in 1970 being £925 pa and in 1977 at £1700 pa with the rent being reviewed upwards in 1984 to £4500 pa. In January 1993 the offices were vacated by the Hibernian Insurance.

Mr. Killen outlined the valuation history and stated that in making an estimate of net annual value he had regard to:

- (i) *Section 11, Valuation (Ireland) Act 1852,*
- (ii) *Section 5, Valuation Act, 1986,* and
- (iii) The agreed reducing factor of 0.5% of NAV = RV, NAV at November 1988.

He said that in general terms the best evidence of NAV is actual rents, which are open market rents. In the absence of rental evidence, comparable net annual values/rateable valuations is the next best guide. Mr. Killen said the actual rent on the subject at November 1988 is £4,500 pa on an agreed area of 1,175 sq.ft. He said the actual rent on what he regarded as a comparable property, i.e. the first floor offices over the National Irish Bank, Lot No. 10 Church Square, held under a 7 year lease from the 23rd December 1986 was £6,500 pa with an area of 1,430 sq.ft. He said the RV on this property was fixed at £35 in May 1994 the same time as the subject. He said that his analysis of this comparison showed that the NAV for a rateable valuation of £35 was £7,000 which gave an NAV of £4.90 psf for an area of 1,430 sq.ft. He stated that no 1988 rental evidence had been offered by the Respondent. He submitted that, having regard to the actual rent which was reviewed in 1984 to £4,500 and making an upward adjustment similar to the 1986 to 1988 increase in respect of the National Irish Bank, i.e. lot No. 10 Church Square above referred to, that the correct valuation is:

1,175 sq.ft. @ £5.00 psf
£5,875 NAV @ 5% = RV £29

In a written submission received from the Commissioner of Valuation on the 11th June 1997, Mr. Patrick McMorro, B.Ag.Sc. (Econ) a Valuer with 17 years experience in the Valuation Office confirmed that the newly constructed building had been first valued in 1970 at RV £45. In the 1994/2 revision, following a request from the Ulster Bank, a further revision took place and the RV was increased to £55. This was appealed and following his report to the Commissioner of Valuation the RV was reduced to £47 with no other change. He stated the premises comprised the first floor of a two storey bank/office building and the subject

hereditament referred only to the first floor offices over the ground floor banking hall. He said the agreed floor area as between himself and the Appellant was 1,175 sq.ft. and the premises were largely unused and they appeared to be in sound structural condition. He stated the subject was located in The Diamond, at a focal position on one of the most prominent commercial sites in Monaghan Town and it had particularly good profile to both vehicular and pedestrian traffic flows. He stated that the tenure was freehold.

He said his basis of valuation was the comparative approach which he considered most appropriate. He stated there was virtually no direct market rental evidence for 1988 and therefore comparison with other NAV assessments, with suitable adjustments for location, is used as the basis of RV. He submitted a summary table of comparisons as appendix A giving full details of comparisons and appendix B showing location map of comparisons. The summary table of comparisons which he included in this written submission is as follows:-

	Year	R V	Floor Area	NAV /ft²	Comment
A. Data Care The Diamond Monaghan	'91 First Appeal	£ 42	1206 ft ²	£7.75	Poor access via archway off the Diamond. Good modern offices. Inferior location to subject.
B. Northern Sound Glasslough St.	Tribunal Appeal VA92/6/0 49	£ 54	1397 ft ²	£7.00	Located in poor secondary Street. Good refurbished offices. Usage has changed since this valuation was set.
C. Legal Aid Board The Diamond Monaghan	'96 Revision	£ 48 Pt .O f	686 ft ²	£9.00	Good corner location but less prominent than subject. Does not have direct access to the Diamond.
D. AIB Letterkenny Main St.	'90/4 First Appeal	£2 65 Pt	721 ft ²	£8.00	Centrally located bank on Main Street. Good First Floor offices.
SUBJECT	'94/2	£4 7	1175 ft ²	£8.00	Prime location, better than comparisons A,B,C.

He said his primary comparisons were Data Care, Northern Sound and the Legal Aid Board which were all in Monaghan Town but that he considered them inferior in varying degrees in terms of location and prominence to the subject.

He said that a level of NAV applied to the subject of £8 psf was only marginally higher than that applied to Data Care which is comparison A which although newer does not have separate access and does not have an entrance directly onto the Diamond. He also said that comparison A with a first floor value of £7.75 psf also lacks the prominence which the subject site commands. He contended that comparison B, the Northern Sound premises is removed from the main commercial and trading area of the town and the location is far inferior to the subject with a first floor value of £7 psf.

He said the Legal Aid Board, comparison C, premises does not have direct access to the Diamond but is accessed from Glasslough St. and here the first floor value was £9 psf. He maintained that the subject premises with a net floor area of 1175 sq.ft. should be valued at £8 psf giving an NAV of £9,400.

Oral Hearing

At the oral hearing which took place on the 18th day of June 1997 the Appellant was represented by Mr. Desmond M. Killen and the Respondent by Mr. Patrick McMorrow. Mr. Killen adopted his précis and said that his main argument was that he had produced the only rental evidence in relation to the subject premises which was that the rent increased to £4,500 pa in 1984. When questioned by the Chairman as to whether there was a rent review in 1991 he stated that there had not been such a review by virtue of the fact that the Hibernian Insurance who were the tenants had held over and then left the premises in 1993. Having regard to the actual rent reviewed in 1984 at £4,500 and making an upward adjustment similar to the 1986 to 1988 increase in respect of the National Irish Bank premises known as Lot No. 10 Church Square, Monaghan that the correct valuation would be £5 psf for the subject premises giving an NAV of £5,875 and an RV of £29.

Mr. Patrick McMorrow on behalf of the Respondents stated that he adopted his précis and said that he did not accept that £4,500 rent paid by the Hibernian Insurance to the Landlords for the subject premises was a market rent because in his experience it was not unknown for a bank to let to an Insurance Company or similar type of organisation for a rent which was not at the market value by reason of the fact that they would be involved in complimentary businesses. This was disputed by Mr. Killen on behalf of the Appellant who asked if there

was any concrete evidence. Mr. McMorrow for the Respondent said that he assumed that this was the case and he believed it to be so from his experience. Mr. McMorrow said that comparison A, B and C which are Data Care, Northern Sound and the Legal Aid Board are his prime comparisons and that the Ulster Bank is in a pivotal position with access to carparking. Mr. McMorrow's main comparison with regard to location is the Data Care premises which is also in the Diamond in Monaghan at £7.75 psf with an area of 1,206 sq.ft. giving an RV of £42. He said he would put a premium in relation to the Ulster Bank premises of £0.25 psf bringing the valuation of the subject premises up to £8 psf because of the better location of the subject premises.

Mr. Killen gave as a comparison the first floor of the National Irish Bank premises which is rented by FAS and which has a NAV of £7,000 and gave a suggested NAV of £5,875 for the subject premises. He stated that the best evidence is the actual rent payable.

Determination

The Tribunal considered the comparisons submitted by the Respondent and the National Irish Bank premises comparison submitted by the Appellant and the submissions made by both parties in relation to rental evidence and the quality of same. The Tribunal find that the National Irish Bank first floor offices in Church Square are in an inferior location. The Tribunal finds that the Tribunal decision in relation to Northern Sound, which is comparison B, in Mr. McMorrow's comparisons, is not a valid comparison in the circumstances and does not bind the Tribunal in so far as it related only to a finding that an agreement having been made at appeal stage between the respective Valuers, the Appellants were estopped from appealing the matter further. The Tribunal regard the Legal Aid Board, comparison C, as being somewhat anomalous as the NAV was £9,600 in 1988 and the rent passing in 1995 was £10,000. The Tribunal find that the Appellant's case was not supported by rental evidence and that the subject property is in a prime location in the centre of Monaghan Town and that the premises is near to a pedestrian crossing. In all the circumstances the Tribunal hold that the rateable valuation should be affirmed at £47.