

Appeal No. VA96/3/038

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

New Era Packaging Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory and Land at Map Ref: 9c, Towland: Rathmullen, Ward: The Transferred Area 1977
I, Urban District of Drogheda, Co. Louth

Quantum - Difference small - negotiation should have resolved it

B E F O R E

Liam McKechnie - S.C.

Chairman

Fred Devlin - FRICS.ACI Arb.

Deputy Chairman

Brid Mimmagh - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF APRIL, 1997

By Notice of Appeal dated the 26th July, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £755 on the above described hereditament.

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

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

The Property:

The property comprises an original modern factory and an extension built to the same standard. The accommodation comprises:-

Original Factory:

Offices/Canteen	765.3 sq.m. (8,238 sq.ft.)
Factory/Warehouse	2,522.3 sq.m. (27,150 sq.ft.)
Mezzanine/Stores	72 sq.m. (775 sq.ft.)
Plant Room	52 sq.m. (560 sq.ft.)

New Extension:

Factory/Warehouse	1,556.1 sq.m. (16,750 sq.ft.)
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Services:

Main services are connected. Lighting is by means of standard florescent fittings. Central heating is installed in the production area via space heater units. No sprinkler system.

The property is held freehold.

Valuation History:

The original factory was first valued on 1992/1 revision at £610 reduced to £536 at First Appeal. At 1995 revision following the erection of a new extension the rateable valuation was increased to £755. No change was made at First Appeal.

Written Submissions:

A written submission was received on the 10th February, 1997 from Mr. Alan McMillan, Director of Donal O'Buachalla & Company Limited, an Associate of the Society of Chartered Surveyors and a Member of the Irish Auctioneers and Valuers Institute on behalf of the Appellant. In the written submission he described the premises in the terms set out above and added that the factory extension was essentially similar to the original with a portal frame construction with walls externally fully metal clad and including internally a low concrete block section of walling. He said that the head room was 5.5 metres.

Mr. McMillan assessed the rateable valuation on the subject premises as follows:-

"Original Factory:

Agreed RV £536 equivalent to	£85,000 NAV
Deduct for Quantum:	
Take factory area 27,150 sq.ft.	
Allow 10% or say, 20p psf	(£5,430)

Extension:

Add new factory extension:		
16,750 @ £1.90		£31,825
	Total NAV	<u>£111,395</u>
	RV @ 0.63%	£701
	Say, £700"	

A written submission was received on the 10th February, 1997 from Mr. Malachy Oakes, a District Valuer with over 20 years experience in the Valuation Office on behalf of the Respondent. In his written submission Mr. Oakes described the premises and gave its valuation history as set out above. He assessed rateable valuation on the subject premises as follows:-

"	Offices	6,168 ft ²	@	£3.00 =	£18,504.00
	Canteen	2,070 ft ²	@	£2.50 =	£ 5,175.00
	Factory	27,150 ft ²	@	£2.10 =	£57,015.00
	(First Floor)	775 ft ²	@	£0.50 =	£ 387.50
	Plant Room	568 ft ²	@	£1.50 =	<u>£ 840.00</u>
					£81,921
				RV @ 0.63% =	£516
				to include h.p and 2 oil tanks	£536

The new extension comprises an area of 16,750 ft² and is of similar construction to the main factory of 27,150 ft²:

Extension	16,750 ft ²	@	£2.10 =	£35,175
	RV @ 0.63%	=	£221	
	Add O.V.	=	<u>£536</u>	
				£757
		Say	£755"	

Mr. Oakes gave in addition to the subject premises three additional comparisons in the Rathmullen Industrial Estate:

- (1) **Brother Industrial (Ireland) Limited**, 9D Rathmullen (pt. of). 1993/4 First Appeal.
RV £375.
Factory: 21,927 ft² at £2.10
Offices: 4,470 ft² at £3.00
- (2) **ABDINE**, 9B, Rathmullen. 1994/4 First Appeal. RV £385.
Offices: 3,230 ft² at £3.00
Factory: 22,870 ft² at £2.20
- (3) **Irish Flavours & Fragrances**, 6Ja, Rathmullen (pt. of). RV £1,350.
Factory: 63,010 ft² at £2.20
Offices: 13,823 ft² at £3.00
Cold Room: 1,614 ft² at £3.00
Boiler House, Loading Bay, Pump House: 7,540 ft² at £1.50
Mezzanine Floor: 4,973 ft² at £0.50

Oral Hearing:

The oral hearing herein took place in Dublin on the 17th day of February, 1997. Mr. Alan McMillan, a Director of Donal O'Buachalla & Company Limited appeared on behalf of the Appellant. He adopted his précis of evidence as his evidence in chief given under oath. He accepted that an established valuation was in place and he had no problem with the original valuation. Mr. McMillan indicated that the issue was the fact that the premises, the subject of this appeal, had been extended and the same rate applied to the extension without allowing any deduction for quantum. In his view, if a valuation of the full premises (including the extension) was being carried out "*de novo*", it would not have been applied in this manner.

In the light of the existing valuation of £2.10 on the property, he considered that an overall valuation of £1.90 psf would be a fair valuation. No comparisons were produced by Mr. McMillan herein.

Asked for his view on comparison number four, produced by Mr. Oakes on behalf of the Commissioner of Valuation, Mr. McMillan considered that this property could justify a higher valuation per square foot, because it was a superior premises in that it was of a

different structure, that is, a steel structure, with greater dimensions. He also indicated that on his examination of same, he noted that it had a sprinkler system, washrooms, air handling, down heating vent, translucent lighting, an air change system, cold rooms and other advantages which distinguished it considerably from the subject.

Mr. Oakes also adopted his précis as his evidence in chief after taking the oath. He indicated that his brief from Drogheda Corporation was "to value the new extension". He stated that the new extension was just added on and was similar to the existing structure. He pointed out that this was a large industrial estate, with levels of valuation which had been established over the years and that an allowance for quantum had never been given in this particular estate, where there were units varying from 2,000 sq.ft. to 200,000 sq.ft..

Commenting on his comparison number four, he indicated that he had not actually inspected the property but noted from the file available to him, that the only extra was a sprinkler system and cold rooms.

On cross examination by Mr. McMillan, he confirmed that never to his knowledge had there been a quantum allowance on this estate and that he was the revising Valuer. He further stated that he accepted the principle of a quantum reduction but not in this circumstance. He accepted that there had been an allowance for quantum in *VA95/6/011 - Chilton Electric v. Commissioner of Valuation*, but indicated that same was 88,000 sq.ft. and the allowance was 4%.

In summing up, Mr. McMillan indicated that the 10% reduction which he proposed was a "value judgement" on his part and referred to the reduction for quantum in the appeal of AIB (VA96/2/065) recently heard in Limerick. In his view, quantum was not location bound and he felt that in considering Mr. Oakes's comparisons, that numbers one, two and three could assist the Tribunal as they were similar in size and structure. However, he distinguished comparison four because of its superior quality and physical features.

Mr. Oakes in his summing up indicated that this was not a large factory comparable to others, in the estate and that an inverse quantum can also apply in certain circumstances. He confirmed that comparison four was not appealed and that there was no agent involved.

Determination:

Having considered the oral evidence and the précis of evidence presented by both parties, the Tribunal is disappointed that the parties could not resolve this matter by negotiation. They are very much aware of the cost factor involved and affecting all parties. The Tribunal would also be anxious that relevant comparisons quoted should be inspected or at least distinguishing features identified clearly and that all relevant facts should be exchanged between the parties prior to hearing. While the Tribunal is not, in general, disposed to "splitting the difference", an exception is made in this case after due consideration of the written and oral evidence provided. As a consequence, a rate of £2 psf is determined on the extension. The Tribunal therefore determines the rateable valuation on the premises as follows:-

Extension	16,750 sq.ft. @ £2 psf =	£33,500
RV @ 0.63%	£ 211	
Add for O.V.	<u>£ 536</u>	
Total RV	<u>£ 747.</u>	