

Appeal No. VA97/1/001

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

Irish Shell Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Oil Storage Depot and Land at Map Ref: 8, Townland: Courtbrack, Ward: Ballinacurra A,
County Borough of Limerick
Quantum

B E F O R E

Mary Devins - Solicitor

Deputy Chairman

Brid Mimmagh - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF JULY, 1997

By Notice of Appeal dated the 3rd January, 1997 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,453 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 property comprises a bulk storage oil depot with a number of large tanks and associated pipelines. The property also comprises:-

Offices	3,778 sq.ft.
Lubrication store and truck repair garage	4,472 sq.ft.
Switch room	322 sq.ft.
Boiler house	381 sq.ft.
Open sided gantries for truck loading	3,069 sq.ft. & 1,260 sq.ft.
Concrete yards (excl. circulation area)	59,256 sq.ft.
Tarmac car parking area	11,024 sq.ft.

Valuation History:

The recent valuation history is as follows:-

1977	Revision - rateable valuation fixed at £1,300
1977	First Appeal - no change
1984	Revision - rateable valuation fixed at £1,320
1984	First Appeal - no change
1985	Revision - rateable valuation fixed at £1,360
1985	First Appeal - rateable valuation fixed at £190 (buildings), £1,170 (Abs.) (Total = £1,360)
1994	Following a request from the Appellant's agent to Limerick Corporation the property was revised and the valuation remained unchanged at £190 (buildings), £1,170 (Abs.).

This was appealed against and Mr. Brian O'Flynn, a District Valuer with 23 years experience in the Valuation Office was appointed by the Commissioner of Valuation to inspect and report. Having considered his report the Commissioner fixed the valuation at £153 (buildings) and £1,300 (Abs.).

Written Submissions:

A written submission was received on the 3rd day of April 1997 from Mr. Des 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.

In his written submission, he described the subject premises and gave its background and valuation history. He said that in discussions the tankage was agreed as follows:-

Tanks No. 4, 5, 9, 14 (Disused, poor repair, No. 9 gone)	1,165,994 gallons
Tanks No. 10, 11, 12, 15, 18, 17 (Disconnected)	1,963,529 gallons
<i>Remainder</i>	
Tanks No. 1, 2, 3, 6, 7, 8, 13, 16, 19	4,280,018 gallons
Small Tanks	
5 x 'H' Tanks	37,500 gallons
+ 1 x 'H'	<u>3,300 gallons</u>
	<u>40,800 gallons</u>

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

		NAV	RV
Main tanks	6,231,905 g @ 1.33p per g =	£82,884	£522
Small horizontal tanks	7,200 g @ 7.9p per g =	£ 569	£ 4
Road diesel tanks	3,000 g @ 7.9p per g =	£ 237	£ 2
Concrete yards	5,507 m ² @ 2.5p =	£13,768	£ 87
Tarmac car parking	1,024 m ² @ 1.00p =	£ 1,024	£ 6

Pipeline 6"	1,410 m @ £1.50 per m =	£ 2,115	
8"	1,025 m @ £2.30 per m =	£ 2,358	£ 33
10"	250 m @ £3.25 per m =	£ 812	
	Misc.	£654	

A written submission was received on the 3rd April 1997 from Mr. Brian O'Flynn, a District Valuer with 23 years experience in the Valuation Office.

In his written submission, he described the subject premises and set out his valuation history. He supplied the Tribunal with a schedule of tanks. These are appended to this judgment as Appendix 1. Mr. O'Flynn set out his valuation of the subject premises as follows:-

Valuation

1. Tanks

- | | | |
|--------------|------------------------|---|
| (i) | Large tanks | 6,231,905 gals. @ 18p/1,000 = £1,121.74 |
| (ii) | Small horizontal tanks | 72,000 gals. @ 35p/1,000 = £ 25.20 |
| (iii) | Road diesel tank | 3,000 gals. @ 35p/1,000 = £ 1.00 |

2. Pipelines

6" Diameter	1,410 m @ 2.5 p/m = £35.25
8" Diameter	1,025 m @ 3.0 p/m = £30.75
10" Diameter	250 m @ 4.0 p/m = £10.00

3. Yards

- | | | |
|-------------|---|--|
| (i) | Concrete yards (allowing for circulation) | 59,256 sq.ft. @ 20p psf = £11,850 @ 0.63% = £75.00 |
| (ii) | Tarmac car parking (outside compound) | 11,024 sq.ft. @ 10p psf = £ 1,102 @ 0.63% = £ 7.00 |

4. Buildings

- | | | |
|--------------|---------------------------|-----------------------------|
| (i) | Two storey office block | 3,778 sq.ft. @ £3.50 psf |
| (ii) | 'Lube' store/truck garage | 4,472 sq.ft. @ £1.80 psf |
| (iii) | Boiler house | 381 sq.ft. } @ £1.50 psf |
| (iv) | Switch room | 322 sq.ft. } |
| (v) | Gantry shelter | 3,069 sq.ft. } @ £0.50p psf |
| (vi) | Gantry shelter | 1,260 sq.ft. } |

Total £24,491 @ 0.63% = £154.29 Say (agreed) = £153.

Total 1, 2, 3 Absolute = £1,305.94

Say = £1,300

4 Buildings (agreed) @ £153.

Mr. O'Flynn adduced seven comparisons of similar premises in support of his valuation assessment as set out above. He also adduced four comparisons in support of the valuation placed on the yard above.

Oral Hearing:

At the oral hearing which took place in Limerick on the 16th day of April, 1997 the Appellant was represented by Mr. Desmond Killen. Mr. Brian O'Flynn of the Valuation Office appeared on behalf of the Respondent. Also present was Mr. Michael Kavanagh, Chief Engineer with the Appellant company.

Mr. Kavanagh gave evidence in relation to the down-grading of the subject hereditament in or around 1987 when the company made the decision to concentrate on and develop its terminals in Cork, Dublin and Galway. He described how many of the tanks in Limerick were what he described as "moth balled" after Irish National Petroleum Company had stopped using the excess storage capacity and he went on to explain how Irish Shell had in fact proposed to demolish these excess tanks but for a request from the Department of Transport, Energy and Communications in 1993 that they be retained.

Mr. Kavanagh contrasted the tanks and pipelines in Limerick with those in the Cork terminal which had been upgraded and redeveloped to meet all exacting EU regulations.

Mr. Killen adopted as his sworn evidence his written précis of 2nd April, 1997.

He said that rental evidence was available and referred to a tank for distillates adjoining the Cork terminal which the Appellant company rented from ESB at £4 per tonne per annum in 1993, which, he said, equated in rental terms to 1.33p per gallon per annum.

Mr. Killen explained that when other companies used the Limerick terminal the charges made were for both storage and handling viz. £12 per tonne in 1991.

Mr. Killen stated that the best comparative evidence was to be found in the Appellant company's Cork terminal which he described as a "state of the art" development. He said that the company accepted that the Cork valuation should be increased because of the extensive upgrading but, by the same token, it felt that the valuation of the subject hereditament should now reflect its actual condition which was poor and down-graded and which condition would certainly be taken into account by a hypothetical tenant.

Basing his analysis on rental and comparative evidence therefore Mr. Killen's estimate of rateable valuation for the disputed parts of the subject hereditament was £654. The valuation of £153 on the buildings was agreed between the parties.

Mr. O'Flynn also adopted his written précis of 26th March, 1997 as his sworn evidence.

He explained that the increase in rateable valuation on First Appeal was due to the inclusion of pipelines and yard space not previously included in the valuation.

Mr. O'Flynn said that the downgrading of the Limerick terminal was a conscious policy decision of the Appellant company and did not materially affect the valuation of the disputed tanks. He said that to a hypothetical tenant one tank was pretty much the same as another.

He referred to his comparisons and said that the valuation of the subject was in line with these comparisons. In particular, he confirmed that in his opinion the difference in quality between the Cork terminal and the subject was reflected in their respective valuations.

Mr. O'Flynn said that the location of the subject hereditament was good, being adjacent to Limerick Docks and with the benefit of the new bridge over the Shannon.

Determination:

The Tribunal accepts Mr. Kavanagh's evidence in relation to the actual condition of the subject and that of the Cork terminal. It would seem apparent that a hypothetical tenant would consider the actual state and specifications of the tanks particularly in light of EU regulations and requirements. Any tank not meeting the required criteria would accordingly have limited appeal. Vacancy, or disuse, in itself need not result in a reduced valuation. The evidence given however has shown that these tanks have been allowed to become run-down and have certainly not been developed or modernised to meet today's high standards.

The Tribunal notes Mr. O'Flynn's assertion that the condition of the tanks was taken into account by him when assessing the valuation of the subject hereditament. It is difficult however in light of the evidence in relation to the Cork terminal which the Tribunal considers

the most appropriate comparison, to accept as justifiable the respondent's assessment of the subject property.

It is noteworthy too that the capacity of the tanks in the subject is considerably greater than that of the tanks in the Cork terminal.

In the circumstances therefore the Tribunal determines that the correct rateable valuation of the subject hereditament is £1,039 which figure breaks down as follows:-

Buildings (Agreed)	£ 153
Main Tanks	£ 722
Small Horizontal Tanks	£ 4
Road Diesel Tank	£ 2
Concrete Yards	£ 75
Tarmac Car Parking	£ 7
Pipelines	<u>£ 76</u>
Total	<u>£1,039</u>