

Appeal No. VA97/5/013

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

**Mr. Michael Quirke t/a Cork Bottled Gas**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Stores & Yard at **Map** Reference 8 Carhoo, E.D. Whitechurch, R.D. Cork Upper Co. Cork  
Quantum - Affect of one way system

**B E F O R E**

**Liam McKechnie - Senior Counsel**

**Chairman**

**Anita Geraghty - Solicitor**

**Member**

**George McDonnell - F.C.A.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 3RD DAY OF FEBRUARY, 1998**

1. By Notice of Appeal dated 6th August 1997 the appellant appealed against the Determination of the Commissioner of Valuation in fixing a rateable valuation of £40 on the above described hereditament. The grounds of appeal as set out in the Notice of Appeal are as follows;

"No works were carried out to this premises over the past four years despite increase in Rateable Valuation. The shed is only used for own truck repairs and storage of parts and has no letting potential. As road is on one way since October 1994 - Cork County Council have devastated our sales potential from this yard which now has no cash sales from it".

2. This appeal proceeded by way of an oral hearing which took place in City Hall, Cork on the 15th day of January, 1998. Mr. Quirke, ably and with no little skill, represented himself with Mr. Terry Dineen, District Valuer, B.Agr.Sc. appearing on behalf of the Commissioner of Valuation. Mr. Quirke, by way of Letter dated the 16th December 1997, had set forth in writing the evidence which he intended to give and the submissions which he intended to make at this oral hearing. Mr. Dineen's Submission is dated the 21st day of December 1997. In accordance with practice, both Submissions had been exchanged between the parties and submitted to this Tribunal. Having taken the Oath, both witnesses adopted, as their evidence in chief, their respective submissions with the same being elaborated upon and added to by way of further verbal evidence.
3. Arising from this evidence the following facts, either agreed or so found, emerged as being the relevant facts for the purposes of determining of this Appeal. These were as follows:-
  - (a) This property, which is an industrial unit, on a three acre site, is located at Kilnap, which is approximately two miles from Cork City and just outside the City boundary. It is situated between the old and new Mallow road with access to the property itself being obtained via a slip road. Since October 1994, this road servicing the property, is one way only so that traffic coming from the Mallow direction has to digress to a roundabout before access can be obtained. Equally so, traffic emerging from this property can no longer turn left onto the Commons Road (and thus into the City Centre) or into the

Blarney direction. It must turn right onto the old Mallow Road and access the new dual carriageway at a designated roundabout. Overall this adds between 1 1/2 and 2 miles to every vehicular movement going to or coming from the prohibited direction. For Mr. Quirke this had obvious cost implications not only in terms of the inconvenience caused to would be customers but also in terms of the operating costs of his vehicles which are necessary to service his business,

- (b) This one way system and inconvenience will abate when the proposed new Blackpool By-Pass is in operation. Such a material changed in circumstances is however a matter not of concern to this Appeal, but may be relevant in any further relisting of this property.
- (c) The building itself comprises an area of 5,140 sq.ft. with a steel portal frame structure having eaves height of about 14 feet. It has a single skin corrugated steel roof with perspex panes. Walls are concrete block to 2 metres and then corrugated steel. Access is by one large roller shutter door which is 16 foot in width and 15 foot in height;
- (d) This building was erected sometime late in 1991. It is however, both inside and outside, quite unfinished. Not more than 20% of the floor is a concrete base with the rest being laid in rubble. This concrete section is a necessary approach route to the single pit which exists in the centre of the floor and

which is necessary for the mechanical repairs of Mr. Quirke's vehicles. On the inside the ring beam is unfinished whilst, from the photographs submitted, the

outside brick skin is clearly visible. The window on the west side is still not

fitted. Again on the inside the floor space is generally taken up with one or two vehicles and with a large variety of miscellaneous items. In the

Appellant's view, it would take approximately £10,000 worth of expenditure to bring the building portion of the property up to some reasonable standard;

- (e) In and from this property, Mr. Quirke carries on the business of a bottled gas distributor. There has been in his view a downturn in an already declining market. He points to a new depot which Flogas has constructed in Mallow.

He must therefore now draw, from this depot, full cylinders for distribution as

he is no longer permitted to fill cylinders on the subject property. He feels and we accept, that this has had and continues to have an adverse impact on his

business;

- (f) In the immediate area there is "an Enterprise Centre" which is referred to as "Bolands". The incentives and qualifying conditions, in relation to industrial buildings, in "designated areas" are identical to those which exist with regard to an Enterprise Centre. These include double rent allowance for ten years and a rates remission, over the same period, on a sliding scale. The landlord also has advantages. On account of these Mr. Quirke feels that his property, being outside this area, suffers significantly by way of comparison

and accordingly should have a rateable valuation significantly less than of the units within the Centre.

(g) On principle, there may well indeed be some justification for this view. However we have been informed by Mr. Dineen and we accept that in the recent past, at least two units in the Boland Industrial Estate have been let to tenants who do not qualify for any incentives and accordingly the subject property, has not to that extent, suffered in the same way as it might otherwise have done.

(h) This property was first valued in 1989 as an office/yard with £12.50 being placed thereon. In 1992 the description was changed to "warehouse/yard" and the R.V. increased to £65.00. An Appeal was taken therefrom. Pending completion of the building and reserving the right to re-list at a future date. The Appeal Valuer agreed a reduction from £65.00 to £15.00 with £10.00 thereof being placed on the yard and £5.00 on the buildings. In 1986 re-listing took place and the existing R.V. of £40 was placed thereon. It is against that figure that this Appeal has now been taken to this Tribunal.

4. Mr. Dineen, in explaining his rateable valuation of £40.00 gave a breakdown as to 10p on £18,522 sq.ft. of hardcore yard and as to £1.25 on the workshop/store which has an area of 5,138 sq.ft. In support thereof he has referred us to four comparisons which are set out in a Schedule hereto. We are satisfied however that whilst these comparisons were informative and helpful, they cannot as such be relied upon: this because of the individual and peculiar nature of the subject property. This property, or more accurately its condition, is by common consent "a once off" property and accordingly, must be valued as it presently stands in and within the compass of its present use. These said

comparisons for example include a number of units constructed and/or let from 1997, 1996 and 1994. Accordingly this Tribunal is of the opinion that there is not in fact any property comparable to the subject matter and therefore, as we have said it must be valued independently from such comparative evidence.

5. Mr. Quirke, in evidence, makes it clear that he has no objection in principle to paying rates. He would not, but for a number of factors have appealed the R.V. of £40.00 and would have been satisfied to pay it. These factors or at least the principal ones, have been identified above and include the unfinished condition of the building, the one way system operating on the road immediately fronting his property and the static if not declining nature of his business. Taking these factors into account however he felt that a rate of £1 p.s.f. was the most that should be placed on the workshop, which rate should also include the yard.
6. Having considered the submissions, the evidence and the photographs we feel that whilst the Valuer has been indeed sympathetic to Mr. Quirke's problems or more accurately to the problems which in his opinion effect rateable valuation, he has not we think made sufficient allowance for the state and condition of the entirety of the property as it presently exists. There is no doubt in our opinion but that the same is in quite an unfinished condition and indeed, would, in a practical sense be incapable of being let. However no issue turns on beneficial occupation and accordingly we are obliged to apply the appropriate statutory provisions and determine what a hypothetical tenant would pay for this property. Though the market would be limited in the extreme we believe that the workshop/store and the hardcore yard do have a

value. We believe that the pertinent requirements of both the 1852 and 1986 Valuation Acts would be met by, and that equity and valuation equality would be achieved by placing a rate of 5 pence p.s.f. on the yards and a rate of £1 p.s.f. on the stores. Accordingly, we determine that the appropriate N.A.V. should be £6,064.01 which when converted gives an R.V. of £30.32 say £30.00. We so decide.