

Appeal No. VA97/6/005

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

Boxmore Plastics Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory and land at Map Reference 1F.2T, Townland: Annagh, E.D. Ballyconnell, R.D. Bawnboy, Co. Cavan

Quantum - Whether water tank should be separately valued

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Barry Smyth - FRICS.FSCS

Member

Finian Brannigan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF OCTOBER, 1999

By Notice of Appeal dated the 30th September 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,250 on the above described hereditament.

The Grounds of Appeal as set forth in the Notice thereof are as follows;

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

1. This appeal, heard in the Court House in Cavan, proceeded by way of an oral hearing at which Mr. Alan McMillan ASCS ARICS MIAVI of Donal O’Buachalla & Company Limited appeared on behalf of Boxmore Plastics Ltd. with Mr. Raymond Sweeney, a Valuer in the Valuation Office appearing on behalf of the Commissioner. Having exchanged their written précis and having submitted the same to this Tribunal, both valuers, having taken the oath adopted their said précis as being and as constituting their evidence in chief. This evidence was supplemented by additional evidence obtained either directly or via cross-examination. Submissions then followed. From the above, the following essential facts emerged as being both material and relevant to the issues, the subject matter of this appeal;

2.
 - (a) The hereditament above identified comprises a modern detached purpose built factory with integral two storey offices and with ancillary contiguous stores, plant rooms, loading bays etc. It was constructed in or about 1994/1995 at a capital cost of approximately £2.5 million. It is sited on an area of approximately 11 acres which were acquired for £45,000.

 - (b) The main factory is constructed of typical steel portal frame (headroom 21 feet) with insulated metal cladding to the walls and roof. The floors are of concrete and the roof incorporates translucent sheeting and smoke vents.

 - (c) The integral offices are on two floors behind a glazed front wall and are finished to a good standard. This office section includes, ground floor level, male and female toilets, locker rooms, canteen etc.

 - (d) The flanking stores are of similar proportions and construction to the production area while the loading bays are of similar construction but with reduced headroom.

 - (e) Overall there is a high standard of construction and finish throughout.

- (f) There is ample car parking available at the front of the factory and on the surfaced area there is sufficient circulation space for all heavy goods vehicles. Adequate access exists to and from the public roads.
- (g) The subject property is located in the townland of Annagh, on the edge of Ballyconnell and on the main Ballyconnell to Cavan Road. The site is attractively landscaped and it about 20 miles north-west of Cavan.
- (h) The agreed floor areas of the buildings are as follows;
- | | | | |
|-------|--|---------------|--------------|
| (i) | Offices | 7,500 sq.ft. | 698.8 sq.m. |
| (ii) | Production & Stores
(Factory/warehouse) | 75,400 sq.ft. | 7004.8 sq.m. |
| (iii) | Loading bays | 10,000 sq.ft. | 929.0 sq.m. |

Therefore, with office space of 7,500 sq.ft. the total floor area including loading bays is almost 93,000 sq.ft.

- (i) In addition to the accommodation, as set forth above, there are seven pellet silos comprising a total quantity of 462 tonnes, a sprinkler water tank with a capacity of 75,000 gallons and 2,000 horsepower.
- (j) Mains, water, drainage and electricity are connected. Heating is provided throughout the office area as well as the production and stores. There are modern electrical and lighting systems throughout.
- (k) In 1995, as a new hereditament, this property was listed for revision and had placed thereon a rateable valuation of £1,250. Messrs Donal O’Buachalla and Company appealed on behalf of the appellant company, to the Commissioner of Valuation. However at first appeal stage there was no change in this figure. Hence the appeal is now before the Tribunal.

3. On behalf of the Commissioner of Valuation Mr. Sweeney suggests that the following N.A.V. and thus R.V. should be placed on and is appropriate to the various elements constituting the rateable hereditament in question. His figures are as follows;-

(a)	Offices	7,500 sq.ft.	@ £3.50
(b)	Factory/warehouse	75,400 sq.ft.	@ £2.40
(c)	Loading bays	10,000 sq.ft.	@ £1.50
(d)	Silos	462 tonnes	@ £0.05
(e)	Water tanks	75,000 gallons	@ £0.20
(f)	Horse-power	2,000 hp	@ £0.05

There is no issue in this appeal on the correct N.A.V. which should apply to the silos and horse-power. In addition, it was agreed between the parties that no separate valuation ought to be placed on the water tank. Hence, the issue in dispute rested solely on the N.A.V. which should attach to the components of the hereditament, listed numbers 1, 2 and 3 above.

4. In support of his suggested rateable valuation of £1,250 he referred us to seven comparisons. These, and a summary of his comments thereon are set forth and contained in Appendix I to this judgment. He makes two points. Firstly he is of the view that comparable evidence of hereditaments which are common in use, frequently seen and readily capable of valuation, should be confined to the same rateable area as the hereditament, the subject matter of any given appeal. It is only after due and diligent searches and enquiries have been unsuccessfully made that one, in principle, is permitted to look outside this area. Secondly his essential focus is directed towards comparisons numbers 3, 5 and 6 all of which have, in the past number of years, had new sections added to existing buildings. These new areas, which range between 10,000 sq.ft. to 661 sq.ft. to 21,585 sq.ft. have a rate of £1.75/£2.00 p.s.f. placed thereon. His view is that this is ample support for the figures placed on the office, factory/warehouse and the loading bays elements of this hereditament.

5. Mr. Millan has also furnished us with a list of comparisons, details of which, with his comments thereon, are set forth in Appendix II to this judgment. These comparisons cover several counties including Louth, Meath, Dublin and Cork. He feels that whatever the geographical separation might be, nonetheless if hereditaments are similar they are or can be comparable. His main and principal focus is on location. Though he relied on all comparisons he directed our attention essentially to comparison number one and comparison number two but with an acknowledgement that the buildings were inferior to the subject property, and to the comparisons which formed the subject matter of decisions of this Tribunal. His concluded view was that a rate of £2.50 p.s.f. should be placed on the office accommodation. A rate of £1.50 p.s.f. on the production/stores section of the hereditament and a rate of £1.00 p.s.f. on the loading bays.
6. In the decision of this Tribunal, in VA97/6/004 - *Cavan MacLellan –v- Commissioner of Valuation*, issued on the 12th day of August 1999, at paragraph 13 thereof we refer to the concept known as the rating area and having commented thereon make the following observation;-

“therefore, for comparable purposes one must firstly seek such evidence within the same area as the property and only travel beyond if due and diligent enquires are unsuccessful. There is no doubt but that for certain hereditaments it will be absolutely necessary to go outside this rating area. Examples might be in the cases of pharmaceutical plants or sport arenas, which are perhaps few in number in this jurisdiction and are located in quite distinct and separate places. There are many other similar examples. With the case of a hereditament which is common in number and frequently seen it would be rarely necessary to travel beyond the immediate rating area to find comparable evidence of true value in support or indeed in rejection of a suggested R.V”.

This view is one which we wish to adhere to. Such a view is not to be considered as expressing an opinion that under no circumstances can hereditaments, geographically separate and distinct from the location of a subject hereditament, be referred to as

affording an evidential base by way of comparative evidence. More accurately it is intended to convey a belief that only in exceptional cases will such hereditaments have any real or worthwhile evidential value to this Tribunal in considering what the appropriate N.A.V. might be and thus what the R.V. should be of any given unit under appeal. This is a question of judgment which in each case this Tribunal must and indeed must willingly undertake.

7. The seven comparisons, as given in evidence on behalf of the Commissioner, are exactly the same as those relied upon in *Cavan MacLellan Ltd.* above mentioned and in *Aircell Ltd. –v- Commissioner of Valuation VA97/6/003*. In the former this Tribunal has determined that a rate of £1.30 p.s.f. should be placed on an overall area of 76,340 sq.ft. whilst in the latter case, for the distinguishing reasons set forth in the judgment thereof, a similar rate p.s.f. was placed on an area of 35,905 sq.ft. An examination of these seven comparisons do not, on any reading thereof, provide supporting evidence for the rate as suggested by the Commissioner in this case. Comparison No. 1, being the property of *Flair International Ltd.*, is much inferior to the subject property and accordingly even with adjustments it is not possible to, in any way meaningfully convert the N.A.V. which applied in that case to the subject property. Comparisons No. 2 & 3 are infinitely smaller with the quality, condition, layout and location thereof being quite different than the subject property. The premises of *Wellman International Ltd.* has a basic production area of almost 300,000 sq.ft. whilst the other comparisons are individual and peculiar to themselves.
8. The schedule of comparisons, produced in evidence on behalf of the ratepayer, was indeed quite different to those comparisons produced in the two other cases above mentioned. However, it is again quite difficult to relate any of these comparisons to the subject property. Perhaps *Chilton Electric*, at *Dunleer*, is the most appropriate. In our opinion, the N.A.V. which should apply to the different components in dispute, of the subject hereditament are as follows;

(a)	Offices	7,500 @ £3.00	=	£ 22,500
(b)	Factory/Warehouse	75,400 @ £1.80	=	£135,720
(c)	Loading Bays	10,000 @ £1.25	=	£ 12,500
		Total	=	£170,720
		R.V. @ 0.5%	=	£853.60

Add agreed R.V. on the silos of £23.00 and on the horsepower component of £100 = £123

	Total resulting R.V.	=	£976.60
	Say	=	£980

This Tribunal so determines.

