

Appeal No. VA97/6/022

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

**Bank of Ireland, Lower O'Connell Street**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Bank at Lot No. 28 Lower O'Connell Street, County Borough of Dublin  
Quantum - Appropriate comparisons-affect on rent of being a listed building

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Anita Geraghty - Solicitor**

**Member**

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

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 6TH DAY OF AUGUST, 1999**

By Notice of Appeal dated the 14th day of October 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £690 on the above described hereditament.

The grounds of appeal as set out in the Notice are that "the valuation is excessive and inequitable in accordance with the provisions of the Valuation Acts".

The relevant valuation history is that in the revision lists issued in May 1994 the subject property was valued at £690. On 1<sup>st</sup> June 1994 the appellant appealed against the revised valuation. On 19<sup>th</sup> September 1997 the Commissioner of Valuation issued his decision leaving the valuation unchanged.

A written submission prepared by Mr. Thomas Davenport, ARICS, ASCS, Chartered Surveyor, Lisney Estate Agents, Auctioneers and Surveyors, 24. St. Stephen's Green, Dublin 2, on behalf of the appellant was received by the Tribunal on 19<sup>th</sup> March 1998.

The written submission set out Mr. Davenports calculation of a fair rateable valuation as follows:

		Sq.Ft.	£ per Sq.Ft.	
<i>Ground Floor</i>	Banking Hall/Offices	1,663	34	£56,542
<i>Mezzanine</i>	Front Store	82	4	£ 328
	Rear Computer room	115	5	£ 575
<i>First Floor</i>	Offices	568	5	£ 2,840
Second Floor	Offices	734	4	£ 2,936
Third Floor	Offices	591	4	£ 2,364
Basement		572	5	£ 2,860
		202	3	£ 606
<b>Total Net Annual Value</b>				<b>£69,000</b>

Alternatively on a zoning basis:-

<b>Zone</b>	<b>Sq.Ft.</b>	<b>£ per sq.ft.</b>	<b>Total</b>
Zone A	420	55.00	23,100
Zone B	517	27.50	14,218
Zone C	517	13.75	7,109
Remainder	209	7.00	1,463
Balance (upper flrs./basement)			12,500
<b>Total Net Annual Value</b>			<b>58,000</b>

**Reducing factor to translate N.A.V. into R.V. = 0.63%**

**Estimate of R.V. : £69,000 @ 0.63% = R.V. £435**

Mr. Davenport's written submission set out a schedule of two sets of comparisons which was identical to the schedule contained in Mr. Davenport's written submission received by the Tribunal in the immediately preceding appeal, *Bank of Ireland –v- Commissioner of Valuation – VA97/6/019*.

A written submission prepared by Mr. Bernard Stewart on behalf of the respondent was received by the Tribunal on 20<sup>th</sup> March 1998. Mr. Stewart is a District Valuer in the Valuation Office with 27 years experience there.

Mr. Stewart's written submission set out the basis of the subject's valuation as follows:

	<i>Sq.ft.</i>		<i>£</i>	<i>£</i>
Grd. Flr. (incl. Banking hall but excl. rear office)	1,565	@	55	86,075
Grd. Flr. rear office	98	@	30	2,940
Mezzanine rear office	115	@	6	690
Mezzanine front store room	82	@	5	410

1 <sup>st</sup> Flr. Offices	568	@	9	5,112
2 <sup>nd</sup> Flr. Offices	734	@	8	5,872
3 <sup>rd</sup> Flr. Offices (no lift)	591	@	6	3,546
Basement strong room (vault) & book room	572	@	8	4,576
Basement storage area	202	@	5	<u>1,010</u>
				<b>£110,231</b>

**R.V. @ 0.63% £693.00**

**Say £690.00**

Mr. Stewart's written submission stated that the respondent's comparisons in this case were identical to the comparisons contained in his written submission received by the Tribunal in the immediately preceding appeal *Bank Of Ireland –v- Commissioner of Valuation – VA97/6/019*.

The oral hearing took place at the Tribunal's offices in Dublin on 25<sup>th</sup> March 1998. Mr. Owen Hickey B.L. represented the appellant and Mr. Mark Sanfey B.L. represented the respondent.

In his sworn testimony Mr. Davenport adopted his written submission as his evidence to the Tribunal. He said he would address his evidence to the features of the subject which were distinguishable from the subject of the immediately preceding appeal.

The property here had a smaller frontage and a deeper configuration than Bank of Ireland, 6/7 Lower O'Connell Street. The net internal frontage was 26 feet and the overall depth was 80 feet. This gave a frontage to depth ratio of 1 to 3. The subject had a smaller floor area than number 6/7 Lower O'Connell Street and a more solid frontage than that property.

Mr. Davenport said that internally this bank had an open plan lay out except for the presence of security screens. In further evidence Mr. Davenport said the subject was more old fashioned than 6/7 O'Connell Street. Also the basement was poorer in standard.

Mr. Davenport said he had valued the subject in line with his shop comparisons in O'Connell Street. Although the property was smaller in area than 6/7 O'Connell Street he had not put a higher value p.s.f. on it as a consequence. He had put a value of £34 p.s.f. on ground floor space on the subject because of its poor frontage relative to depth and its poor internal layout.

Mr. Davenport said the property could be used for retailing but he admitted that its frontage was inappropriate for retail use.

Under cross-examination by Mr. Sanfey, Mr. Davenport agreed that the subject was a listed building with average headroom of 18 feet. Again Mr. Davenport agreed that the basement of the subject contained a strong room and a book room and there were security screens in the ground floor banking hall.

Under further cross-examination Mr. Davenport said that while agreeing the subject was less desirable for retailing than 6/7 Lower O'Connell Street he nevertheless considered the subject could be converted to retail use. This opinion was based on the consideration that the property was located in a retail pitch. It could be used, for example as a restaurant.

Mr. Stewart in his sworn testimony adopted his written submission as his evidence to the Tribunal. Mr. Stewart said the subject had a classic façade. It would command a rent far higher than adjoining shops. He referred to number 29 O'Connell Street Lower adjoining the subject. This was one of Mr. Davenport's comparisons and one of Mr. Stewart's shop references.

Mr. Stewart said that number 29 had a frontage with little merit and half the ground floor headroom of the subject. Again Mr. Stewart said the subject could not be easily converted to retail use citing the four pillars on its façade.

In further testimony Mr. Stewart said there was a lift to all floors of the subject except the top floor. The presence of offices for bank staff added to the attractiveness of the bank in Mr. Stewart's opinion.

Finally Mr. Stewart said he had valued the subject property on the basis of his banking comparisons which he had adduced in the immediately preceding appeal.

Under cross-examination by Mr. Hickey Mr. Stewart agreed that there was no evidence of actual market rents in his written submission.

In further replies Mr. Stewart said values of 20% higher p.s.f. for banks relative to shops on O'Connell Street were based on agreed N.A.V.'s. These agreements were between the respondent and professional valuers for appellants. Again Mr. Stewart said the Tribunal decision in *Ulster Bank Limited –v- Commissioner of Valuation – VA96/5/003* supported the 20% differential. Other reasons for the 20% difference were fine frontage of the subject and 20 feet headroom in the banking hall.

In his closing submissions Mr. Hickey said that Mr. Davenport had produced the best evidence, namely market rents to arrive at the N.A.V.'s for the subject in each appeal. Determinations of the Valuation Tribunal based on the evidence of particular cases and agreed N.A.V.'s were inferior in evidential value for assessing N.A.V. at November 1988.

Mr. Hickey said that a valuer looking at O'Connell Street would say that all properties available for letting would require some sort of alteration. Both subject banks could be converted with facility to retail use. Therefore a valuer in fixing an N.A.V. for the subject banks could look at the rental levels for adjoining retail premises as an aid in such an exercise.

Mr. Hickey referred to *Irish Management Institute –v- Commissioner of Valuation 1990 2.I.R. 409* and its interpretation of Section 5 (2) of the Valuation Act 1986. Mr. Hickey said the evidence produced by the appellant satisfied this statutory requirement in as much as retail premises were comparable and similar to the subject.

In his submissions Mr. Sanfey said the general principles applying to these two appeals were set out at page five of *Ulster Bank Limited –v- Commissioner of Valuation – VA96/5/003*. This was to the effect that the hereditaments were to be valued as being vacant and to let in their existing

state. It follows from this that the hereditaments are to be valued in their actual physical state for their actual use or some other use of a similar nature.

Mr. Sanfey referred to the I.M.I. case and its enunciation of “..... what must be considered are valuations which (a) are comparable, (b) relate to tenements or hereditaments of similar function and (c) have been made or revised within a recent period .....”.

Mr. Sanfey then quoted the Tribunal’s application of those criteria in the Ulster Bank case as follows “it is clear that evidence in relation to other bank premises where valuations have recently been revised must be considered highly relevant and greater weight must be attached to those in close proximity to the subject property”.

Mr. Sanfey further referred to the Ulster Bank case at page 7 of the judgment where it stated that a “tone has been established for bank premises and those of a similar mode or category on O’Connell Street”.

Mr. Sanfey said the evidence presented by the respondent showed substantial reconstruction would be required to convert the subject properties to retail use. Therefore the retailing comparisons offered by the appellant were inappropriate in arriving at valuations of the subject properties because they were not comparable to them.

Finally Mr. Sanfey said the *Irish Permanent case – VA96/2/010* was distinguishable on its facts from the two appeals before the Tribunal. There the Irish Permanent occupied a property which was similar to the adjoining properties and it did not have a better location than them.

The Tribunal has considered the written submissions and the evidence offered by the appellant and the respondent. The Tribunal has also considered the submissions of the appellant and the respondent.

The Tribunal finds that the banking comparisons offered by the respondent are the most appropriate in arriving at a rateable valuation of the subject property. This finding is based on

the evidence that the subject would require substantial reconstruction before it could be used as retail space, including reconstruction of the basement storage and the removal of security screening on the ground floor banking hall. Additionally the admission by the appellant that the front façade of the subject was inappropriate for retailing use contributes further weight to the Tribunal's finding as to the most appropriate comparisons.

The Tribunal finds that the ground floor banking hall of the subject is of a lesser standard than its financial competitors on O'Connell Street. This finding is based on the evidence as to the relationship of the net internal façade of the banking hall to its depth. This being in a ratio of 1 to 3.

The Tribunal therefore considers that a value of £50 p.s.f. should be put on the ground floor banking hall. The valuation is therefore determined as follows:

<b>Ground floor</b> (including banking hall but excluding rear office)	1,565 sq.ft. @ £50	£ 78,250
<b>Ground floor rear office</b>	98 sq.ft. @ £30	£ 2,940
<b>Mezzanine rear office</b>	115 sq.ft. @ £ 6	£ 690
<b>Mezzanine front store room</b>	82 sq.ft. @ £ 5	£ 410
<b>1<sup>st</sup> floor offices</b>	568 sq.ft. @ £ 9	£ 5,112
<b>2<sup>nd</sup> floor offices</b>	734 sq.ft. @ £ 8	£ 5,872
<b>3<sup>rd</sup> floor offices</b>	591 sq.ft. @ £ 6	£ 3,546
<b>Basement strong room</b> (vault and book room)	572 sq.ft. @ £ 8	£ 4,576
<b>Basement storage area</b>	202 sq.ft. @ £ 5	<u>£ 1,010</u>
		£102,406
	<b>R.V. @ 0.63%</b>	£ 645.16
	<b>Say</b>	<b>£ 645</b>

The Tribunal therefore determines the rateable valuation of the subject hereditament to be £645.



