

Appeal No. VA97/6/057

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

Lithographic Universal Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory at Map Reference 1D Irishtown, U.D. Bray, Co. Wicklow
Quantum - Admissability into evidence of determinations by the Commissioner on which
appeals are pending

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Marie Connellan - Solicitor

Member

Rita Tynan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 22ND DAY OF MAY, 1998

1. By Notice of Appeal dated the 17th day of October 1997 the appellant company appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £750 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice are that "the rateable valuation is excessive and inequitable when compared with similar type properties in the area that have been revised and appealed in recent years".

2. This appeal proceeded by way of an oral hearing which took place in Dublin on 8th day of May 1998. Present and appearing on behalf of the appellant was Mr. Eamonn Halpin B.Sc. (Surveying) A.R.I.C.S. M.I.A.V.I. and Mr. Joseph McBride B.Agr.Sc. M.I.A.V.I., a Valuer in the Valuation Office with 17 years experience appeared on behalf of the Commissioner. As is required by the rules of this Tribunal written précis of the evidence intended to be given on behalf of each party were, prior to the hearing, exchanged between them and submitted to us. Having taken the oath both valuers adopted their respective précis as their evidence in chief. From the evidence so given the following have emerged, either agreed or so found, as being the material facts relevant for the purposes of this appeal;-

(a) the property, the subject matter of this appeal, is located in a new industrial park known as "The Bray Business Park", this park is situated about one and a half miles from the centre of Bray and about a half a mile from the N11 which in a southerly direction leads to Wicklow, Wexford and the South East and in a northerly direction to Dublin and beyond. Furthermore the actual location of the Park is on the Bray Southern Cross Route and therefore has available to it an excellent network of roads for the purposes of access thereto and egress therefrom.

(b) The said park, which is a Forás development, is laid out to cater for about twelve sites. One of these, an area of about five and a half acres, was in or about 1996 purchased by the Appellant Company from the IDA for the sum of £440,000. Consequent thereto and following the obtaining of the required planning permission the company built a new printing factory for a total cost of about £1.9 million. It is this factory which is the subject matter of this appeal.

(c) The areas, as agreed between the parties are as follows;-

Offices	15,228 sq.ft.
Production	35,812 sq.ft.
Plant rooms(grd flr)	1,787 sq.ft.
Store (1st flr)	1,905 sq.ft.
Pump House	380 sq.ft.

Water tank	168,740 gallons
Gas tanks	9,240 gallons
Horse Power	938

(d) The property in question has within it and facing to the front a two storey office block, print planning, design and staff areas. It has a warehouse section alongside a production area, as well as a plant area all within the main building with some storage capacity overhead. Car-parking spaces for thirty two vehicles, are provided onsite. There is reasonably good circulation space to the rear. The building itself is constructed of concrete block with concrete cladding and PVC coated insulated steel clad walls with a PVC coated insulated steel clad roof. The warehouse area has concrete block walls to the roof. The external eaves height is 26 feet. The internal working height is 21 feet. Central heating is of course available as is a sprinkler system. All necessary services are provided.

(e) On the 8th November 1996 the first revised list issued in respect of this property. It placed a valuation of £750, then in November/December Mr. Halpin appealed this R.V. on behalf of his client. On 19th September 1997 the result of the first appeal left the R.V. unchanged. Hence the appeal to this Tribunal by the aforesaid Notice of Appeal dated the 17th October 1997.

(f) The said hereditaments the subject matter of this appeal are held by way of Lease made between Solitude Ltd. as Lessor of the one part and Lithographic Universal Ltd. as Lessee of the other part. The term is one of thirty-five years from 1996 at an annual rent of £200,000 with five year reviews. Neither party placed any reliance upon this Lease for the purpose of this case. This because the terms thereof reflect a private arrangement between Lessor and Lessee who, in any event are, and are accepted as being connected persons.

3. There is no issue on the question of rateability in this case. The sole question for our consideration is one of quantum. And even then the parties have agreed all items of valuation other than the offices and production area. On behalf of the ratepayer Mr. Halpin suggests that a rate of £2.50 p.s.f. should be placed on the office accommodation

with £2.00 p.s.f. on the production area. The comparable figures given on behalf of the Commissioner respectively are £3.00 and £2.75. Therefore the area of dispute, is in this way so confined.

Before dealing with the evidence and submissions as given, there are two points upon which we would like to comment. The first is that we would like to express our appreciation to both valuers for the various maps and photographs which were attached to their respective precis and which were given in evidence. In addition, on the submitted maps, which included site maps of the park itself, the comparisons were helpfully demarcated. This is a practice which we were greatly encourage and is one which, not only facilitates the smooth running of an appeal, but also it is one which can play a significant part in the ultimate decision. Particularly so for areas and locations which the Tribunal itself may not be familiar with.

4. The second point arises in this way. As part of the appeal valuer's comparative evidence, he refers in support of his valuation, *inter alia*, to two units within the same industrial estate, one being occupied by Oriflame Manufacturing Ltd. and the second by Maxtor (Ireland) Ltd. At the time when Mr. McBride was preparing his précis of evidence the position with regard to the Oriflame property was that this Tribunal had heard an appeal on the merits of that case but a decision thereon was awaited. With regard to the Maxtor Property the appeal therein was scheduled for hearing on Monday 18th May 1998. As it happened this Tribunal gave judgment in the Oriflame case immediately before the commencement of this, the subject appeal, which said decision was referred to, *albeit* in a restricted way, given the limited time available for any real consideration thereof.
5. In the *Irish Shell -v- Commissioner of Valuation VA95/1/055* case, this Tribunal dealt with, the reception into evidence of facts and circumstances relating to another hereditament whose appeal, at that time, was still pending before us. Having decided as a matter of principle for such evidence to be given, the judgment however went on to point out that the weight to be attached thereto could vary considerably, indeed to a level of having no value. As a matter of practice it is our view that it would always be difficult and quite frequently impossible to extract sufficiently accurate information, from those cases under appeal, which could form any reliable basis, as comparisons, for supporting the individual valuation suggested

in any given case. Accordingly use of such comparisons, in the circumstances outlined herein, must always be treated with considerable caution and reserve.

6. On behalf of the appellant company Mr. Halpin referred us to three comparisons two of which were located within the administrative area of Bray with the third, being a Marks and Spencer distribution warehouse located at Tallaght. Given the quality and extensive nature of the other evidence so adduced before us, it is not in our opinion necessary to have to resort to this last mentioned comparison. Comparison Number One was the Industrial Packaging Building located at Old Court, which is situated off the Killarney Road in Bray. The rateable valuation attached thereto, as determined by this Tribunal in November 1995, is £515 which devalues as follows:-

Factory	48,319 sq.ft. @ £2.00
1st Floor Offices	2,188 sq.ft. @ £3.00

This hereditament was erected in the early 1990's and was purpose-built as, and continues to operate as a print and packaging factory.

7. There is no doubt in our opinion but that the subject property, in the instant appeal, enjoys very considerable advantages over this comparison. Firstly in terms of location. We are satisfied, beyond question, that the Bray Industrial Park is now the best business park within the environs of Bray. The location just off the Bray Southern Cross Route, is in good measure much more attractive than Old Court which is off the Killarney Road. In addition the Industrial Packaging property has a quite restricted internal working height of only 17 feet 3 inches which is some 3 - 4 feet less than the subject property. Moreover it has a flat roof and its average building cost of £24 p.s.f. may reflect the quality of the structure itself. In any event the rate of £3 p.s.f. on the first floor offices should also be noted.

8. The second comparison given by Mr. Halpin is the property of A.O. Smith Electric Motors which is also located in Bray this time on the Boghall Road. That property which dates from 1978, has an internal eaves height of less than 17 feet, has a flat roof, is not located in an industrial estate and apparently though under lease, no increase in rent was in fact obtained between 1998 and 1993. The areas in question and the R.V., as devalued, are as follows;

Manufacturing area	29,040 sq.ft. @ £2.00
High Bay Manufacturing area	15,716 sq.ft. @ £2.35
Offices, 2 storey	7,400 sq.ft. @ £3.20

Given the facts as herein outlined and given also the accepted supremacy of the location of the subject property, it seems to us that this comparison cannot support the rates as suggested by Mr. Halpin. On the contrary it seems quite clear that in many of its constituent characteristics the subject property is materially superior than that of this comparison.

9. Mr. McBride, the appeal valuer has referred us to three properties within Bray Industrial Park two of which are referred to above. The third is the former Sagami factory which is now occupied by Alert Packaging Ltd. This was also one of the comparisons used by the Commissioner of Valuation in the Oriflame Manufacturing Ltd. Appeal. This property has office accommodation of 15,399 sq.ft. and a production area of 24,731 sq.ft. The rateable valuation was agreed at 1994/3 - First Appeal stage. A rate of £3.75 p.s.f. was placed on the office area with £3.33 being placed on the production area. In total an R.V. of £700 resulted. This property is, as is evident, a modern industrial unit with an internal working height of 20.5 feet. Its production walls are a combination of brick wall and cladding with butt walls on the cladding section. It enjoys of course the same locational advantages as the subject property.

As can be seen, the area of office accommodation in that case is very similar to that of the subject property but the suggested rate on behalf of the Commissioner is some £0.75 p.s.f. less. The production area is about 11,000 sq.ft. less but again the suggested rate results in a difference of almost £0.60 p.s.f. In our opinion the building so occupied by Alert Packaging Ltd. is a prime comparison for the property under appeal and can with complete safety and reliability, be used as a basis for supporting the Commissioner's suggested R.V. in this case.

10. In addition however we now have, as a matter of fact, the judgment of this Tribunal also in the Oriflame case. As previously stated this was delivered on the 8th day of May 1998. The areas within and the R.V. as devalued, are, as to offices, 4,370 sq.ft. at £3.50 and as to warehousing 60,741 sq.ft. at £2.50. This hereditament is a modern industrial unit, constructed in 1994/1995 at a cost of almost £2 million and has

internal eaves height of 25.6 ft. In addition its location is almost identical to that of the subject property. Given the rates which this Tribunal upheld and affirmed in its judgment in Oriflame Case, we are satisfied that this affords compelling support for our view that the Commissioners valuation in this case should not be altered.

- 11.** Accordingly the rateable valuation of £750, as issued by the Commissioner at first appeal stage is hereby affirmed.