

Appeal No. VA98/2/054

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

**X-Pert Systems Ltd.**  
**APPELLANT**

**and**

**Commissioner of Valuation**  
**RESPONDENT**

RE: Office & Warehouse at Map Reference:1a/82/3 (Furze Court/Furze Road)  
Sandyford Industrial Estate, Townland: Murphystown, E.D: Dundrum, Dundrum  
Balally), Co. Dublin  
Notification of Revision under Section 3, 1988 Valuation Act

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Ann Hargaden - FRICS.FSCS**

**Member**

**Finian Brannigan - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 28TH DAY OF JUNE, 1999**

By notice of appeal dated the 29th April 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £135 on the above described hereditament, The grounds of appeal as set out in the notice of appeal were that the valuation was inequitable and bad in law. The appellants were not served with any pre-revision notification in relation to this property in accordance with section 3, 4(a) of the 1988 Act. On this basis appellants seek to have the valuation struck out.

The relevant valuation history is that this is a new property which was first valued in October 1996 as part of the 1996 revision programme. The property was initially valued at £160 but this was reduced on appeal to RV £135. The property is described as an office/warehouse.

For the purposes of the appeal before this Tribunal quantum has been agreed. The only issue to be decided is whether the appellant had been served with proper pre-revision notice pursuant to Section 3(4)(a) of the Valuation Act 1988.

A written submission prepared by Mr. Eamonn Halpin B.Sc., (Surveying) A.S.C.S., A.R.I.C.S., M.I.A.V.I., of Eamonn Halpin & Co., Chartered Valuation Surveyors and Estate Agents, on behalf of the appellant was received by the Tribunal on the 19<sup>th</sup> November 1998.

A written submission prepared by Mr. Peter Walsh on behalf of the respondent was received by the Tribunal on 18<sup>th</sup> November 1998.

A written submission prepared by Ms. Dorothy Kennedy, Solicitor, Law Agent's Office, Dun Laoghaire-Rathdown County Council on behalf of the Council as notice party was received by the Tribunal on 18<sup>th</sup> November, 1998.

The oral hearing took place at the Tribunal's offices in Dublin on 2<sup>nd</sup> December 1998. Mr. Halpin gave sworn testimony on behalf of the appellant and Mr. Walsh gave sworn testimony on behalf of the respondent. Ms. Kennedy made legal submissions on behalf of the notice party and as agent for the respondent.

The following relevant facts either agreed or so found, which emerged during the course of the hearing are;-

- (a) The appellant was informed at its correct address as to the revision of valuation of a property which was about half a mile distant from the subject hereditament in the Stillorgan Industrial Park. Specifically the revision notice contained the rate account number, map reference, property location, and

property description of this particular property. The only items which could be connected with the subject hereditament on the revision notice were the townland and the D.E.D./Ward.

- (b) The appellant's landlord was notified at its correct address (which was different to that of the appellant) with a revision notice which correctly identified the subject hereditament.
- (c) The notice to the appellant and the appellant's landlord were both dated 26<sup>th</sup> September 1996.

Mr. Halpin and Ms. Kennedy agreed that the legal submissions they had both made in the immediately preceding hearing, *Sord Data Systems Ltd.,-v-Commissioner of Valuation(VA98/2/053)* applied equally to this case.

The Tribunal has considered the evidence offered by the appellant and the respondent and the submissions made by the appellant and the submissions made on behalf of the notice party and the respondent.

In the case of **John Pettitt & Son Limited-v-Commissioner of Valuation (VA95/5/015)**, the Tribunal reviewed a number of its decisions in connection with Section 3(4)(a) of the Valuation Act 1988 and derived a number of general principles. It should be noted that for the purposes of the determination of this case that it is the application of the general principles to a 1994 revision in the John Pettitt & Son Limited case that is relevant.

Two relevant principles derived from the John Pettitt case and applicable here are that notification to the occupier under Section 3(4)(a) of the Valuation Act 1988 is mandatory and every owner/occupier suffers prejudice consequent on a notice of revision. The prejudice is that immediately upon his property being revised he is potentially liable for the rate placed thereon.

In this case the Tribunal finds that the appellant was notified of the revision of a property other than his own. The only two items on the revision notice which could

refer to the occupier's property namely the townland and the D.E.D./Ward also referred to the property described in the revision notice and therefore could not serve to identify the appellant's property in the revision notice.

Notice under Section 3(4)(a) of the Valuation Act 1988 concerns in this case an application under Section 3(1) of the Valuation Act 1988 for the revision of the valuation of the appellant's "property". Property as defined by the Valuation Act 1988 means any rateable hereditament.

As to the issue of a clerical error not invalidating the revision notice which Ms. Kennedy sought to support by citing the Kerry Foods case, the Tribunal considers that this case can be distinguished from the instant appeal in that in the former case the subject hereditament was the only factory in its townland and could be easily identified whereas here the subject was located in one industrial estate and the property erroneously referred to in the revision notice was located in an adjoining industrial estate. Furthermore, there were many units in both industrial estates.

The Tribunal therefore finds that the appellant was not notified in accordance with Section 3(4)(a) of the Valuation Act 1988 and was prejudiced thereby.

The Tribunal therefore strikes out the October 1996 revision of the subject hereditament.