

Appeal No. VA98/3/054

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

Bank of Ireland, Parliament Street, Kilkenny

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank at Lot No. 3a.3 Parliament Street, E.D. Kilkenny No. 2 Urban, U.D. Kilkenny,
Co. Kilkenny

Quantum - Banks to be valued as retail or in comparison with other financial institutions

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Barry Smyth - FRICS.FSCS

Member

Michael Coghlan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JULY, 1999

By Notice of Appeal dated the 4th day of August 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £375 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the assessment is excessive, inequitable and bad in law, having regard to the provisions of the Valuation Acts, and on other grounds also.

The appeal proceeded by way of an oral hearing, which took place on the 17th day of May 1999 in the Council Chamber, Kilkenny County Council, Kilkenny. Mr. Donal O'Donnell S.C. with Mr. Owen Hickey B.L. appeared on behalf of the appellant. Mr. Tom Davenport ARICS, ASCS, Chartered Surveyor of Lisney, Estate Agents, Auctioneers and Surveyors gave evidence on behalf of the appellant. Mr. Dan Feehan B.L. appeared on behalf of the Commissioner of Valuation. Mr. Noel Norris, B. Commerce Graduate Diploma in Planning and Development Economics M.I.A.V.I., a District Valuer with 23 years experience in the Valuation Office gave evidence on behalf of the respondent. In accordance with practice and as required by the rules of this Tribunal the parties had prior to commencement of the hearing exchanged précis of evidence and submitted same to us. Having taken the oath each valuer adopted as his evidence in chief his précis.

Material Facts agreed or Found by the Tribunal

1. Valuation History

The property was first valued in 1974 shortly after its construction at R.V. £345. In 1993 the bank made an application for a downward revision of the valuation and following the November 1993 revision and appeal procedure the rateable valuation was reduced to £285. The property was included in the November 1996 quarterly revision of valuation and increased to R.V. £375. No change was made on appeal and in August 1998 an appeal was lodged to the Valuation Tribunal.

2. Situation

The property is situated in Kilkenny on the east side of Parliament Street at its intersection with Market yard and close to the junction with High Street, the city's principal retail area. The premises is immediately adjacent to the courthouse and other occupiers in the area include retail shops, offices, licensed premises, financial institutions and a museum.

3. The Property

The property which dates from circa. 1972 comprises a two-storey over basement end of terrace, purpose built bank building with single-storey and two-storey extension to the rear and to the rear yard for car parking. The front elevation is faced in stone and

has a centrally located entrance with large timber framed windows to either side and two ATM's also incorporated on the frontage.

4. Accommodation

<i>Description</i>		<i>Sq.m.</i>	<i>Sq.ft.</i>
Ground Floor	Banking Hall	297.28	3,200
Ground Floor Return	Stores	19.04	205
First Floor	Offices/Stores/Canteen	127.28	1,370
First Floor Return	Stores	20.62	222
Basement	Stationery Store	64.19	691
	Secure cash area	43.20	465
Boiler Hse. & W.C.			
Rear Yard	15 car spaces		

The Appellant's Case

Mr. O'Donnell in his opening remarks outlined the valuation history of the property and noted that the valuation, the subject of this appeal was £375 and that the appellant would be contending that an appropriate rateable valuation was £235. He asked whether the banks should be treated as a distinct valuation group or compared with neighbouring commercial property both financial and retail. He noted that the bank had spent £480,000 on the premises in recent years.

Mr. Davenport in his evidence stated inter alia;

1. There are basically three classifications of bank premises;
 - (i) The traditional victorian type
 - (ii) The 1960's concrete frame type
 - (iii) The modern shop type unit

and the subject was closest to the second category being a 1970's building renovated in recent years.

2. That Parliament Street at the same side as the bank and from the courthouse onwards comprised offices and that the premises opposite the bank comprised poor quality shops.
3. That in relation to floor areas, the ground floor return nettable area was 205 sq.ft. and that the 522 sq.ft. in the respondent's précis appeared to include corridors and stairwells; that the boiler house and W.C. in the basement were not lettable floor areas; that the first floor return stores of 222 sq.ft. is very basic accommodation formally the watertank area.
4. That the main area of the dispute between the parties related to the appropriate rate p.s.f. to apply to the ground floor with the appellant applying £10 p.s.f. overall and the respondent £15 p.s.f. The total difference between the parties in an estimate of N.A.V. was £28,000 of which £16,000 related to the ground floor.
5. That in his opinion £15 p.s.f. on the ground floor is excessive and this is borne out by the neighbouring property Winstons which is the subject of an appeal to the Tribunal where a larger ground floor area is valued by the Valuation Office at £8 p.s.f.
6. That he applies £10 p.s.f. to the subject to reflect the quantum, its corner position and the fact that it has been refurbished.

Mr. Davenport proposed a rateable valuation of £235 calculated as follows;

<i>Description</i>		<i>Sq.ft.</i>	<i>£ p.s.f.</i>	<i>Total £</i>
Ground Floor	Banking Hall/Offices	3,200	10.00	32,000
Ground Floor return	Stores	205	4.00	820
First Floor	Offices/Stores/Canteen	1,370	5.00	6,850
First Floor return	Stores	222	2.00	444
Basement	Stores	691	4.00	2,764
	Secure cash area	465	6.00	2,790
Car park	15 car spaces at £100 per space			<u>1,500</u>
				47,165
		Say		£47,000

Alternatively, on a zoning basis

<i>Description</i>		<i>Sq.ft.</i>	<i>£ p.s.f.</i>	<i>Total £</i>
Ground Floor	Zone A	1,075	18.00	19,350
	Zone B	1,104	9.00	9,936
	Remainder	1,021	4.50	4,595
Ground Floor Return	Stores	205	4.00	820
First Floor	Offices/Stores/Canteen	1,370	5.00	6,850
First Floor Return	Stores	222	2.00	444
Basement	Stores	691	4.00	2,764
	Secure Cash Area	465	6.00	2,790
Car Park				<u>1,500</u>
				49,049
		Say		£49,000

Reducing factor to translate N.A.V. into R.V. = 0.5%

Estimate of rateable valuation: £47,000 x 0.5% = R.V. £235

Mr. Davenport provided seven comparisons in support of his estimate of N.A.V. These are attached as an appendix to this judgment and in summary are as follows;

1. Winstons, 1 Parliament Street, Kilkenny

Immediately adjoining premises to the subject.

1996/4 Revision/Appeal R.V. £230 N.A.V. £46,000

<i>Analysis</i>		<i>Sq.ft.</i>	<i>£ p.s.f.</i>
Ground Floor	Retail	3,972	8.00
	Zone A		16.00
First Floor	Retail	2,880	3.00

2. Moores (Kilkenny) Ltd., 14c/16 Parliament Street

1997/3 Appeal

R.V. £105

N.A.V. £21,000

<i>Analysis</i>	<i>Sq.ft.</i>	<i>£ p.s.f.</i>
Ground Floor Retail	1,411	11.80
Zone A		22.00
First Floor Offices	641	4.00
8 car spaces		£100 per space

3. Hibernian Insurance, High Street, Kilkenny

1995/4 Appeal

R.V. £150

N.A.V. £30,000

<i>Analysis</i>	<i>Sq.ft.</i>	<i>£ p.s.f.</i>
Ground Floor Retail	2,568	11.50

4. Ulster Bank, 60/62 High Street, Kilkenny

1996/4 Revision

R.V. £125

N.A.V. £25,000

<i>Analysis</i>	<i>Sq.ft.</i>	<i>£ p.s.f.</i>
Ground Floor	1,386	12.25
First Floor Offices	802	5.00

5. Supermacs, 50, 52, 54 High Street, Kilkenny

1994/4 Appeal

R.V. £285

N.A.V. £57,000

<i>Analysis</i>	<i>Sq.ft.</i>	<i>£ p.s.f.</i>
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Ground Floor Retail	2,870	12.50
Zone A		30.00
First Floor Restaurant	1,222	8.00
First Floor Offices/Canteen	978	5.00

This property is let on a 35-year lease with five-year reviews from 1994 at a rent of £72,500 per annum, which could be analysed as follows:

<i>Analysis of 1994 rent</i>	<i>Sq.ft.</i>	<i>£ p.s.f.</i>
Ground Floor Retail	2,870	16.00
First Floor Restaurant	2,200	8.00
Second Floor Stores/domestic	2,946	3.00

(This is a Valuation Tribunal Judgment)

6. **St. Canices Credit Union**

1997/3 Revision

R.V. £205

N.A.V. £41,000

<i>Analysis</i>	<i>Sq.ft.</i>	<i>£ p.s.f.</i>
Ground Floor	2,550	12.25
First Floor	1,423	5.00

7. **William H. Good – 31/35 High Street, Kilkenny**

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R.V. £360

N.A.V. £72,000

<i>Analysis</i>	<i>Sq.ft.</i>	<i>£ p.s.f.</i>
Ground Floor Retail	4,482	8.50
Zone A £27.00		
First Floor Retail	4,636	4.00

Mr. Davenport made the following comments on Mr. Norris's comparisons (which are also appended to this judgment as Appendix 2).

1. A.C.C. Bank, Parliament Street

The rate of £19 p.s.f. is very high in comparison with High Street and it appears to be out of line. It has been valued as a bank premises and the £19 reflects a small floor area.

2. Wright Insurance Ltd. (Comparison No. 2) & Comparison No. 3

These are first and second floor offices in Parliament Street, Kilkenny. These are small office suites on their own and not linked with a larger ground floor area and the rates appear to be out of line.

3. National Irish Bank, Rose Inn Street

This is a mid 1970's building but it is not in a prime location.

4. Ulster Bank, High Street

His analysis would be £14 p.s.f. overall rather than the way it is broken down at £16.00 and two areas of £5 p.s.f. each in the respondent's précis.

5. Ulster Bank Ltd. & Bank Of Ireland, Carlow (Comparisons No. 7 & 8)

These both relate to Carlow and are not relevant when considering Kilkenny.

Under cross examination Mr. Davenport provided the following information or comments;

- In response to a question that by comparing the subject with retail premises he was not comparing like with like, he responded that the banks should be valued as a retail unit and therefore it was appropriate to use Winstons, the immediate adjoining property.
- In response to a question that it would be more realistic to compare a bank with bank premises rather than retail premises where the function was different, he responded that agreeing banks at £15 p.s.f. is out of line with retail premises. Banks were treated as a separate valuation grouping in the past and considered the best buildings on the street and therefore valued at a higher rate often up to 50% higher. The market place is now changed and banks are competing with other financial institutions for standard retail premises.

- His analysis of the rateable valuation in the Ulster Bank at 60/62 High Street at £12.25 p.s.f. was obtained from the consultant who had acted on behalf of the bank in that case.
- He had not valued the ATM's at a higher level but included them in the overall area.
- The front elevation was changed in the recent renovations.
- He accepts the floor areas occupied by the boiler house and W.C. as noted in the respondent's précis, but contends that they are not lettable areas.

The Respondent's Case

Mr. Norris in his evidence stated inter alia;

1. The boiler house and W.C. area had previously been valued by the Valuation Office and it was therefore included in his valuation.
2. In relation to the banking hall, he had compared the property to other banks and institutions and these showed a rate of £15 p.s.f. as agreed between the parties in the cases.
3. He estimated the rateable valuation at £375 on the basis of an N.A.V. of £75,000 calculated as follows;

<i>Description</i>		<i>Sq.ft.</i>		<i>£</i>
Ground Floor	Banking Hall	3,200 @ £15 p.s.f.	=	48,000
Ground Floor Return	File Store	522 @ £ 7 p.s.f.	=	3,654
First Floor	Offices	1,370 @ £ 7 p.s.f.	=	9,590
	Store	222 @ £ 7 p.s.f.	=	1,554
Basement	Stationery Store	691 @ £ 5 p.s.f.	=	3,455
	Secure Cash	465 @ £ 7 p.s.f.	=	3,255

	Boiler & W.C.	602 @ £ 5 p.s.f.	=	3,010
Car spaces	15 spaces @ £150			
	per space			<u>2,250</u>
				74,768
		R.V. @ 0.5%	=	£375

Mr. Norris provided eight comparisons, which are set out in full in Appendix 2 to this judgment.

1. A.C.C. Bank, Parliament Street

R.V. £100

N.A.V. £20,000

<i>Analysis</i>	<i>Sq.ft.</i>	<i>£ p.s.f.</i>
Ground Floor	882	19.00

This is a smaller area than the subject and therefore he adjusted downwards to £15 p.s.f. for the subject.

2. Wright Insurance Ltd. (Comparison No. 2) & Comparison No. 3

These relate to upper floor offices and the analysis of the rateable valuations and N.A.V.'s indicate £9.00 p.s.f. for 690 sq.ft. on the first floor and £7.00 p.s.f. on the second floor.

3. National Irish Bank, Rose Inn Street

This was agreed with the Bank's agent at £15 p.s.f. In his view the subject property is better located for car parking and Rose Inn Street suffers from traffic congestion but is in close proximity to the traditional banking area of the town.

4. AIB, High Street

This was agreed at £15 p.s.f. on the banking hall and there is no car parking.

5. Ulster Bank, High Street

This bank needed refurbishing and the balance of the first and second floors were disused and suffered from dampness. This was agreed at £16 p.s.f. on a banking hall of 1,244 sq.ft.

6. Ulster Bank Ltd. Carlow

This Tribunal decision indicated a figure of £16 p.s.f. on a ground floor banking hall of 2,157 sq.ft.

7. Bank Of Ireland, Carlow

This was agreed at £15 p.s.f. for a banking hall of 2,618 sq.ft. In cross-examination Mr. Norris stated;

- (i) The basis of the valuation is the rate p.s.f. applied to banks.
- (ii) There is a distinction in rent between Parliament Street and High Street and £10 p.s.f. would not be out of line for a retail unit in Parliament Street but is not appropriate to a bank.
- (iii) That in his comparison of the Ulster Bank, High Street, the rate of £1.50 p.s.f. applied to the offices is not low but is realistic in view of the condition of the upper floors.
- (iv) Rateable valuations rather than market evidence justify £15 p.s.f. on the banking hall area.

Submissions

Mr. O'Donnell S.C. for the appellant submitted that banks do not pay more for their premises than other commercial occupiers and that each property must be valued as a separate premises. The 1994 rateable valuation on the premises indicated £15 p.s.f. on the ground floor and £3 p.s.f. on the upper floors. £400,000 had been spent on the ground floor and yet £15 p.s.f. was still applied and the upper floors increased for no good reason. The Ulster Bank analysis with the banking hall at £15/£16 p.s.f. and the offices on the upper floors at £1.50 p.s.f. seemed to be a deliberate depressing of the office rents to maintain the logic of £15 p.s.f. on the banking hall space.

Following the appropriate rate p.s.f. for the location rather than for the function will lead to different valuations for different banks but this will be in accord with the statutory

requirements. In relation to the car parking, he noted that the rate applied by the respondent of £150 per space as opposed to the appellant's £100 per space was reflected in the rate of £15 p.s.f. in the banking hall as opposed to £10 p.s.f. as proposed by the appellant.

Mr. Feehan B.L. for the respondent stated that the Valuation Office rate of £15 p.s.f. was not universally applied and gave the examples of the A.C.C. premises in Parliament Street at £19.00 p.s.f. and the Ulster Bank in Carlow at £16.00 p.s.f.

Determination

The Tribunal is of the view that while banks must in appropriate circumstances be compared with other retail premises, for example where the bank is one of a number of shops in a parade, equally there are locations where banks have a value in their own right, which could exceed retail values in that location because of the commercial reality of the area and or the style, status and desirability of the premises for financial institutions.

We have considered both the size and style of these premises and their location and also the presence of A.T.M. machines, which as we have said in previous cases, increases the efficiency of the ground floor space in banks. In the light of the above comments and the evidence adduced by the parties, we determine the valuation at £300 calculated as follows;

Ground Floor 3,200 sq.ft. @ £14.00 p.s.f.
(to reflect the quantum of the floor area and the presence of A.T.M. machines) = £44,800

Stores (Rear)	205 sq.ft. @ £4.00 p.s.f.	=	£ 820
First Floor Offices	1,370 sq.ft. @ £5.00 p.s.f.	=	£6,850
Store area	222 sq.ft. @ £2.00 p.s.f.	=	£ 444
Basement Stores	691 sq.ft. @ £4.00 p.s.f.	=	£2,764
Secure cash	465 sq.ft. @ £7.00 p.s.f.	=	£3,255
Boiler House & w.c.	Nil		
Car parking spaces	15 car spaces @ £100 per space=		<u>£1,500</u>
	N.A.V.		£60,433
	Say		£60,000

@ 0.5% **R.V.**

£300.00