Appeal No. VA98/3/091

**AN BINSE LUACHÁLA**

**VALUATION TRIBUNAL**

**AN tACHT LUACHÁLA, 1988**

**VALUATION ACT, 1988**

**Inishowen Co-Op Livestock Mart** **APPELLANT**

**and**

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

RE: Livestock Mart at Map Reference On 22 Pound Street, Townland : Churchland Quarters, ED:Carndonagh, RD: Inishowen, Co. Donegal

B E F O R E

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|---|---|
| **Con Guiney - Barrister at Law** | **Deputy Chairman** |
| **Ann Hargaden - FRICS.FSCS** | **Member** |
| **George McDonnell - F.C.A.** | **Member** |

**JUDGMENT OF THE VALUATION TRIBUNAL**
**ISSUED ON THE 16TH DAY OF FEBRUARY, 2000**

By Notice of Appeal dated the 5th August 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £100 on the above described hereditament.

The grounds of appeal as set out in a note attached to the Notice of Appeal were reduced at hearing to one ground i.e. "the valuation is excessive".

**The Property**

The livestock mart consists of a range of single storey industrial-type buildings providing covered pens, two sales rings and administration areas (offices and canteen). The covered pens are steel-framed buildings with single skin (uninsulated) corrugated iron roofing having c. 15 ft. eaves height. The administration areas, part of which were constructed around 1994/1995, consist of a single storey concrete walled and corrugated iron roofed structure to the front of the mart premises. Overall, a typical livestock mart structure, consisting of a mix of mainly old and some modernised buildings.

The mart is located on the northern side of the town of Carndonagh within the town boundary with good vehicular access and adequate parking facilities. Carndonagh and its environs have a population of approx. 1,600, with a reasonably prosperous agricultural hinterland located in the northern half of the Inishowen Peninsula. The agreed areas are as follows :

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|---|---|
| Covered pens | 17,789 sq.ft. |
| Administration areas (to include offices, canteen, sales rings and toilets) | 3,975 sq.ft. |
| | --------------- |
| | 21,764 sq.ft. |

**Valuation History**

The property was listed for revision by the Local Authority in 1996/3 when the R.V. was increased to £110. This figure was appealed and on consideration by the Commissioner of Valuation, the R.V. was reduced from £110 to £100.

**Written Submissions**

The written submission prepared by Mr. Patrick McCarroll ARICS, FIAVI of Patrick McCarroll, Chartered Surveyors and Rating Consultants was received by the Tribunal on 16th day of July 1999. This submission suggested an R.V. of £37 for the subject property.

The written submission prepared by Mr. Patrick McMorrow, District Valuer in the Valuation Office was received by the Tribunal on 19th day of July 1999.

**Hearing and Evidence**

The appeal proceeded by way of an oral hearing, which took place at the Circuit Court Office, Courthouse, Letterkenny, Co. Donegal on 12th day of November 1999. The appellant was represented by Mr. Owen Hickey B.L. with Mr. Patrick McCarroll, Chartered Surveyor. The respondent was represented by Mr. Conor Dignam, B.L. with Mr. Patrick McMorrow, District Valuer. Mr. Maurice Colbert, Executive Secretary of the Policy Development Committee of I.C.O.S. and Mr. Seamus Gorman, Financial Controller of Inishowen Co-operative Society Ltd., also gave evidence to the Tribunal on behalf of the appellant. In accordance with the rules of the Tribunal and following established practice, the parties had prior to the hearing, exchanged their written submissions. At the oral hearing both valuers, having taken the oath, adopted their written submissions respectively as their evidence-in-chief.

**Appellant's Case**

Mr. Hickey explained that the profits method was the basis of valuation being placed before the Tribunal by the appellant. Copies of the lease agreement dated 28th of December 1968, under which the subject property is held, were presented to the Tribunal and Mr. Hickey pointed out that a restrictive covenant applies under this lease whereby the property can only be used as a livestock mart. This was not contested by the respondent.

Mr. McCarroll then gave evidence based on his precis and was questioned by Mr. Hickey with regard to same. He explained there were basically two trades being carried on – the sale of sheep and the sale of cattle. A weekly mart is run in the subject property alternating between sheep and cattle sales. While the sale of sheep is more seasonal, cattle sales take place throughout the year.

The major portion of the income is generated by commission charges. In the case of sheep sales, the Mart charges both the buyer and the seller 2% on the sales price while in the case of cattle, there is a charge of £4 per head between buyer and seller while £2 per head is applied to lower priced animals. Mr. McCarroll explained that the number of animals being sold through the Mart has declined over the past number of years with quite a dramatic fall in connection with sheep numbers. There are several reasons for this decline including increasing regulatory trading arrangements from the Department of Agriculture and the European Union. There are also various local/national factors attributable including the relative decline in importance of buyers from Northern Ireland and what are termed "dealers", together with an increase in part-time farming, the gradual erosion of profitability in farming enterprises and the affects of live shipments. Mr. McCarroll gave details in his precis of the declining sheep and cattle numbers over recent years.

Investment income has been an important element in maintaining profitability in the subject and Mr. McCarroll pointed out that with fairly dramatic falls in interest rates in recent times, this source of income is being further eroded. He said that historically the "mart cheque" was as good as money in the bank for the local population. It had the financial strength of the Co-Op. and people felt secure, especially those who had no bank accounts. Investment income consists of interest arising from reserves and uncashed cheques.

In cross-examination of Mr. McCarroll, Mr. Dignam suggested that the profits basis for determining R.V. was incorrect and was not applied in other livestock marts but rather they were valued by way of the comparative method. He also suggested that in a co-operative Mart such as the subject, the profit motive would not necessarily be the overriding objective as the views and concerns of a broad range of members needed to be taken into account. He further suggested that commission payments may vary from one mart to another and in the case of the subject, they were relatively low. Mr. Dignam pointed out that if commission charges were higher, profits could increase fairly significantly notwithstanding that the number and value of the animals being processed may be decreasing.

Mr. Colbert from the Irish Co-operative Organisation Society (I.C.O.S.) then gave evidence. He explained his organisation had carried out a review of the co-operative mart sector in 1999 and this highlighted a decline in the mart share of livestock sales. He explained that despite an increase in the cattle population of one million from 1990 to 1998, the mart share had fallen by approx. 25% since 1990. While marts had an increase in turnover during the period from 1990 to 1993 of about 19%, there was a fall of about 9% covering the overall period from 1990 to 1997. On the other hand, the survey highlighted the increasing costs of running a mart where the average increase between 1990 and 1997 was 22%. With regard to the future, Mr. Colbert suggested that cattle numbers will decline further. The CAP Reform of 1992 introduced the concept of support price reductions and higher direct payments. This will reduce the end value of stock in the marts. In conclusion, he suggested there will be a continuing trend of decreasing numbers of livestock being sold through the marts.

Mr. Seamus Gorman, Financial Controller of Inishowen Co-operative Society Ltd. (of which the subject property forms part) also gave evidence. The annual reports and audited accounts of the Society for the previous five years had been provided to the Tribunal as part of the precis of evidence from Mr. McCarroll. Mr. Gorman confirmed that the income and expenditure of the Marts Division (the subject of this appeal) formed part of those audited accounts but it was not possible to identify the figures separately in the published accounts.

As a result, he completed a separate extract from the audited accounts with reference to the Marts Division and these details were appended to the precis from Mr. McCarroll. This showed the income and expenditure of that Division for the years from 1994 to 1998. In questioning from Mr. Dignam, Mr. Gorman acknowledged that the income and expenditure shown for the Marts Division were effectively extracted from the management accounts and were not audited in their own right but as part of the overall "group". Accordingly it was not practicable to segregate separate numbers for the marts division and have them subject to audit.

Mr. Gorman said that while the subject generates significant investment income from interest arising on reserves and uncashed cheques, in his opinion, another livestock mart that may operate an equivalent business would not necessarily have the same confidence with the members and the public in general and as a result, this type of income would not be as significant. Mr. Gorman indicated that approx. two thirds of the interest income was generated from uncashed cheques and the other one third from reserves. In cross-examination by Mr. Dignam, Mr. Gorman explained that the raising of commissions was not a practical option as, in his view, this would mean a reduction in livestock numbers being processed. He also stated that the overall objective is to maximise profits notwithstanding the fact that the business is run on a co-operative basis.

**Respondent's Case**

Mr. McMorrow gave evidence and indicated he was not aware of any livestock marts where the R.V. was based on the profits method. The primary basis is N.A.V. p.sq.ft. with reference to appropriate comparisons. He said the profit motive is not necessarily an objective in a co-operative and this particularly highlights the fact that accounts are not an appropriate method. In his view, the primary objective of a co-operative is to deliver a service to its members. On the other hand, a hypothetical tenant would have to assume the profit objective was the primary concern.

Mr. McMorrow put forward four comparisons as the basis of arriving at N.A.V. These all related to livestock marts, two of which are in Co. Donegal – one being at Raphoe, Lifford and the other at Burnfoot, Inishowen. There were two other comparisons, one at Dowra, Blacklion, Co. Cavan and the other at Grange, Lissadell, Co. Sligo. The comparison at Raphoe, Lifford relates to a much larger area being 51,398 sq.ft. and taking account of the quantum effect, the covered pens were valued at 60p p.sq.ft. while the administration area was valued at £1.60 p.sq.ft.

The comparison at Burnfoot has an area of just over 28,000 sq.ft. with the covered pens valued at 65p p.sq.ft. and the administration area at £1.70 p.sq.ft. However its entire Eastern hinterland was lost due to its proximity to the Border (c. 1 mile).

The comparison at Dowra has an area quite similar to the subject (just over 24,000 sq.ft.) and the covered pens were valued at 61p p.sq.ft. and the administration area at £1.80 p.sq.ft. However this was a very remote location on the Leitrim/Cavan Border with particularly poor road access and severely disadvantaged farming hinterland. The comparison at Grange had an area of just over 14,000 sq.ft. but most of the property consisted of open pens and in any event, trading had ceased at that location some time ago. Accordingly, this comparison was not considered further.

Mr. McMorrow referred to the precis submitted by the appellant and in particular to the basis of the R.V. calculated by Mr. McCarroll. He explained that investment income had been excluded from the calculation, and this was incorrect. In addition, he felt the management charge should be added back as this would be the view taken by a hypothetical tenant and the wages included some costs in connection with the general manager, which should likewise be added back. In his view, an allocation of 50% for the rates adjustment was too high and he suggested the “rate in the pound divider” should be 1.162, as distinct from the figure used of 1.38. He also mentioned that the average profit and loss figures used by Mr. McCarroll in his calculations referred to the years from 1994 to 1998. However as the valuation date was November ’96, reference to 1997 and 1998 was inappropriate. Even if one were to use the profits method and take account of the foregoing adjustments suggested, one would end up with an R.V. in the region of £70/£75. In any event, Mr. McMorrow once again contended that reliable comparative evidence was available for livestock marts. He has used these comparisons in arriving at the R.V. and this was the most appropriate basis.

**Findings and Determination**

The Tribunal has considered the written submissions and the oral evidence adduced at the oral hearing by both the appellant and respondent. While the appellant has relied on the accounts/profits method as the basis of arriving at a valuation, the respondent has relied on comparative evidence. The Tribunal has had regard to these methods.

Given that reliable comparative evidence is available for other livestock marts in the surrounding areas, the Tribunal is of the view that reliance on the accounts/profits method is not appropriate in this case. The respondent put forward a schedule of four comparisons. Trading has ceased at Grange (comparison D) and the overall area at Raphoe (comparison A) is approx. 1.5 times that of the subject. In the Tribunal's opinion however comparisons B and C are particularly relevant. The comparisons used by the Respondent have been valued as marts on an existing use basis.

However some weight should attach to the fact that a restrictive covenant is included in the lease agreement under which the subject property is held whereby any alternative occupant will be obliged to continue operating a livestock mart at this location.

Having considered the evidence of both parties, the Tribunal determines the rateable valuation of the subject hereditament at £80 calculated as follows :

| | | **N.A.V.** |
|---|---|---|
| Covered Pens | 17,789 sq. ft. @ £0.55 | 9,784 |
| Administration Area | 3,975 sq.ft. @ £1.60 | 6,360 |
| | | **£**16,144 |

**N.A.V. OF £16,144 @ 0.5% = R.V. £80.72**

**SAY £80.00**