

Appeal No. VA98/3/135

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

Mr. Martin Buckley t/a M.S. Agri Services Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse/Warerooms at Map Reference 21Fa, Townland: Borris Little (pt. of), E.D. Portlaoise Rural, Mountmellick, Co. Laois.

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Michael Coghlan - Solicitor

Member

Ann Hargaden - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF FEBRUARY, 2000

By Notice of Appeal dated the 5th day of August 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £35 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are; "rent payable/turnover".

The appeal proceeded by way of an oral hearing that took place on the 19th day of January 2000 at the Offices of the Valuation Tribunal, Dublin. Mr. Martin Buckley appeared in a personal capacity on behalf of the appellant. Mr. Denis Maher, District Valuer MRICS with 24 years experience in the Valuation Office appeared on behalf of the Commissioner of Valuation.

The Tribunal noted the tender of a letter by the Appellant setting out the basic grounds for the Appellant's appeal. The Respondent submitted a précis of his evidence, which was duly received by the Tribunal on the 7th day of January 2000.

The Property

The premises comprise a free standing rectangular shaped industrial unit of standard concrete block construction with lofted space overhead of the front and mid section. The ground floor of the mid section has been sub-let to Laois Farm Relief Services and is separately valued together with an adjoining yard.

The accommodation comprises of an administrative office of 173sq. ft, a shop/ showroom area partly used for manufacturing purposes of 1775sq. ft, a rear store of 1022sq. ft, a first floor loft at front of 1948sq. ft and a first floor loft at the rear of 895sq. ft.

Valuation History

The subject is held under a 5 year lease from February of 1996 at an annual rent of £8,400.00 per annum and subject to an option to purchase for the sum of £80,000.00 after 2 years from the commencement thereof.

Respondent's Valuation

Administrative Office	173 sq.ft. @ £2.50	=	£ 432.00
Shop Showroom	1775 sq.ft. @ £2.00	=	£3,550.00
Rear Store	1022 sq.ft. @ £1.25	=	£1,278.00
1 st fl./loft at front	1948 sq.ft. @ £0.50	=	£ 974.00
1 st fl./loft at rear	895 sq.ft. @ £0.30	=	<u>£ 313.00</u>
			£6,547.00

R.V. @ 0.5% = £33

<i>Or</i>	Est. Capital Value	=	£140,000.00 (Entire Building)
	Yield at 10%	=	£ 14,000.00
	Adjusted to 88 level	=	£ 12,000.00
	Allow for Farm Relief Services		<u>£ 4,400.00</u>
	Net.	=	£ 7,600.00

R.V. @ 0.5% = £38.00

R.V. of £35.00 assessed

Submissions of the Parties

Mr. Martin Buckley as Managing Director of the Appellant gave evidence under oath and did duly read into the record his letter of complaint upon the Commissioner's assessment. He stated that the premises held by him in fact only gave rise to a net rent of £3360.00 per annum as he had sublet the middle area to Farm Relief Services. He therefore contended that the manner in which Mr. Maher, as Valuer, had assessed his premises was unreasonably harsh.

Mr. Buckley produced a copy of the Lease entered into by him with the Landlord and pointed out that the said Lease was negotiated to provide for the sub-letting which was concurrently arranged as between the Appellant and Messrs. Farm Relief Services.

Mr. Buckley confirmed that the areas were agreed but that the description of same was disputed. Mr. Buckley stated that he agreed the area of the office. He stated however that the shop/showroom was not correctly described, as only 827 sq. ft of that area was in use with the remainder vacant. He said that the rear stores and indeed the entire remainder of the property was vacant. Mr. Buckley made the case that 744sq. ft should be rated at £1.50 per sq. ft as this was an area used by him for manufacturing purposes. Mr. Buckley stated that there was no sanitary or waste disposal facilities available and that he had the use of water only.

Mr. Buckley concluded by making the point that the property had a sale value of £80,000.00 as of February of 1998 and that in the circumstances he considered the capital valuation of Mr. Maher to be excessive.

Under cross examination Mr. Buckley explained that in February of 1996 at the commencement of the Lease the Vendor was not in a position to effect sale of the premises, the subject matter of this appeal. It was for this reason that the Lease with the option to purchase arrangement was negotiated. Mr. Buckley stated that he subsequently went to ICC in or about 1998 when ICC valued the premises then at £90,000.00. Mr. Buckley could not explain how 1/6th of the premises could yield a greater proportion of rent than the 5/6th held by the Appellant. He explained that he had tried to sublet the rear portion of the premises at £50.00 per week but would have taken £25.00 if he could get it.

Mr. Denis Maher gave evidence for the Respondent and adopted his submission as his evidence in chief.

Mr. Maher described the premises and went on to confirm that his valuation was principally arrived at by comparison with the other industrial units within the adjacent estate and nearby, save for the fact that a slightly higher valuation for the shop/retail area was applied.

Mr. Maher stated that a capital value of £135,000.00-£140,000.00 was conveyed to him by Mr. Buckley at first appeal stage. He stated that the valuation should correctly be stated as £35.00. Mr. Maher stated that while the premises might be empty his job as a valuer was to still value the buildings. In his opinion the Appellant could apply to the local authority for vacancy relief.

Under cross-examination Mr. Maher stated that his preferred method of valuation was by reference to a rate per sq. ft. He stated that the figure of £80,000.00 was not in his view an accurate valuation at the valuation date.

Determination

The Tribunal has considered the evidence of Mr. Buckley and Mr. Maher and has noted the content of the submissions. In coming to a determination the Tribunal has taken note of the

overall condition of the property and the provisions as contained in the Lease in respect thereof. The Tribunal has also taken note of the tone of the comparisons adduced by Mr. Maher. The Tribunal notes that though Mr. Buckley disagreed with the tone of the comparisons he was unable to offer any definite evidence to rebut same. Accordingly, the Tribunal has determined that the valuation of the subject matter should be assessed as follows:

Valuation

Administrative Office	173 sq.ft @ £2.50	-	£ 432.50
Shop/showroom/manufacturing area	1001 sq.ft @ £2.00	-	£2,002.00
	774 sq.ft @ £1.50	-	£1,161.00
Rear Store	1022 sq.ft. @ £1.25	-	£1,278.00
First floor loft at front and rear	2843 sq.ft @ £0.30	-	<u>£ 852.00</u>
Total valuation			£5,725.50

Devalued at the usual ratio at 0.5% gives a rateable valuation of £28.40 say £28.00.

The Tribunal therefore determines