

The appeal proceeded by way of an oral hearing which took place in the Tribunal's offices in Dublin on the 16th day of February 2000. Mr. Owen Hickey B.L represented the appellant. Mr Tom Davenport ASCS, ARICS of Lisney, Chartered Surveyors, gave evidence on behalf of the appellant. Mr. James Devlin BL instructed by the Chief State Solicitor represented the respondent. Mr Denis Maher ARICS, a District Valuer in the Valuation Office, gave evidence on behalf of the Commissioner of Valuation. In accordance with the Rules of the Tribunal, the valuers had prior to the commencement of the hearing exchanged their précis of evidence and submitted the same to this Tribunal. Both parties having taken the oath, adopted their précis as being their evidence in chief. Submissions were also made. From the evidence so tendered the following emerged as being the facts relevant and material to the appeal.

The Property

The property comprises a two storey over basement detached building with attic rooms, two storey return and single storey rear extension. The subject includes a rear yard which is used for customer/ staff carparking. The building is situated on Main Street, Portarlinton. The building is traditional in structure and appearance having been formerly used as a bank and manager's residence. The building is now entirely in banking use containing banking hall, strong room and ancillary offices on the ground floor, with further offices and staff areas at 1st floor level and storage space in the attic. Construction is of masonry and concrete walls pebble dashed to front and rear elevations, concrete and suspended timber floors, timber framed sliding sash windows and pitched slated roof. The accommodation comprises:

	<u>Sq.M.</u>
<i>Ground Floor</i> -	
Banking Hall, Offices	121.5
- Strongroom	10.5
- Stores	4.3
<i>First Floor</i> - Offices	97.0
<i>Attic Floor</i>	36.5
<i>Basement</i> - Store / ATM	<u>84.0</u>

Valuation History

The premises was revised on the 1997/4 revisions programme and an R.V. of £135 was fixed. This was an increase on the old valuation of £105 fixed on the premises in 1976 when the building was used as both bank and manager's residence. No change was made at first appeal.

Appellant's Case

Mr. Davenport commented on the premises as follows:

1. The property was located away from the main commercial area and consequently rental levels would be affected.
2. The building itself was outdated and in poor decorative order.
3. Portarlinton was disadvantaged by the fact that it is located on a secondary link road and not directly served by the N7. He said that Portlaoise is the main commercial and retail town in the county with a number of shopping centres and to a large extent would serve the Portarlinton area.
4. The building had all the characteristics of an office building and should be valued accordingly. The property has no retail display and no direct entrance from street level, entrance to the building is via a series of raised granite steps leading to a porch entrance.
5. No expenditure has been committed to the premises for a considerable time other than necessary remedial work. Apart from the installation of an ATM the basement accommodation is disused.
6. A quantum allowance should be made to reflect the fact that the hypothetical tenant must take the entire (354sq.m.).

Mr. Davenport gave the Tribunal details of three comparisons

1. **AIB, Main Street, Portarlinton**
10 Year lease from 31 August 1995 at a rent of £8,500.
2. **Portarlinton Credit Union**
1999/4 Revision RV £105. Located almost opposite the subject.
3. **The Wilton, Main Street, Portarlinton**
Vacant but on offer for £100 per week

Full details of these comparisons are set out in Appendix 1.

Mr Davenport's valuation assessment on the subject premises was £60.

Respondent's Case

In his evidence, Mr Maher indicated that the premises was in a good location on the ring road and has a good profile. He did not agree that the location on Main Street is secondary. Mr Maher said that the appropriate comparisons for the subject premises were banks around the same size and in similar locations. He felt that comparison is best made with buildings of similar function and that retail use was not similar function. He further added that the Credit Union had a very different function from a bank and was not an appropriate comparison. In relation to Mr Davenport's other comparisons, he said that the rent agreed in AIB was in his opinion not an open market rent and that no evidence that it was had been produced. In relation to comparison No 3, The Wilton he said that it was not a valid comparison.

Mr Maher gave the Tribunal three comparisons comprising banks in similar locations as follows:

- 1. Bank of Ireland Mountmellick 94/3 FA
Valued at £11.50 per sq.ft overall**
- 2. Bank of Ireland Abbeyleix 97/4 F/A
Ground floor public office and business centre valued at £9.00 per sq.ft**
- 3. Bank of Ireland, Edenderry VA92/4/012 RV£130
Ground floor valued at £12 per sq.ft**

Full details of these comparisons are set out in Appendix 2.

In cross-examination Mr Hickey queried the comparisons offered by Mr Maher on the basis that they were not in the locality and consisted of banks only.

Findings and Determination

The Tribunal has considered the evidence of Mr. Davenport and Mr. Maher and has noted the submissions of Mr. Devlin B.L. and Mr. Hickey B.L. in respect thereof.

By way of preliminary comment it is noted that issue has been taken with observations made within one of the submissions received in that the said observations may have been derived from discussions and negotiations which occurred prior to the making of submissions in this

appeal and were "without prejudice". In arriving at its determination the Tribunal has not placed any reliance upon this material as furnished.

Secondly, issue has arisen between the parties upon the hearsay nature of evidence presented by the Appellant to the Tribunal. In this respect it is noted that the appellant has sought to contend that comparison evidence obtained particularly by appellants upon a hearsay basis is entirely acceptable before the Tribunal upon the basis of a precedent and particularly when allowing for the position of inferiority in which an appellant may from time to time be placed when seeking comparative evidence.

It is the practice of the Tribunal to accept such evidence as is placed before it for consideration. However, if the providence of that evidence is challenged by either party then the Tribunal may consider the relevance and admissibility of that evidence in such instance. The Tribunal is, thus, not aware of any defined rule of practice absolutely permitting hearsay evidence and thereby rendering same un-challengeable.

In coming to its determination the Tribunal has taken note of and considered the general description of the subject premises as outlined by the parties. The Tribunal is of the view that the subject has been adapted over a considerable period of time from residential accommodation to what might be generally described as a traditional bank premises. In its present use the subject is not in the view of the Tribunal multifunctional or, more particularly suitable for retail user. The Tribunal has, when considering its valuation, noted the ATM facility located at the front of the premises at basement level to be a general but unspecific enhancement to the value of the premises.

The Tribunal has noted the comparisons listed by the appellant and the Respondent. In this respect the Tribunal is not persuaded that the Wilton premises next door to the bank constitutes a particularly appropriate comparison. The Credit Union being a modern premises is in this instance of greater relevance. However, again the Tribunal is not of the view that these premises are to be considered as directly interchangeable with the subject as has been suggested. Allied Irish Bank at Main Street is clearly a premises of similar function and proximate to the subject. However, it suffers as a comparison in that it has not been re-valued since 1930.

The Valuation Office has preferred the Bank of Ireland in Edenderry as a comparison of similar size and within a town similarly located to Portarlington. The Tribunal have noted this comparison as relevant and have also considered the merits of the Bank premises in Abbyelex. In coming to its decision the Tribunal has also noted the general tone for retail units on the main street in Portarlington as standing at between £8.00 - £12.00 per sq. ft for retail space.

The Tribunal has determined that the ground floor banking hall of the subject premises should be valued in its entirety as wholly or mainly for public user. Accordingly, the Tribunal has determined that the valuation of the subject premises should be £90.00 devalued as follows;

Ground floor 1308 sq. ft. @ £10.00	=	£13,080.00
Strong room and stores 159 sq. ft @ £5.00	=	£ 795.00
First floor offices 1044 sq. ft. @ £4.00	=	£4,176.00
Attic and basement 1398 sq. ft. @ £1.50	=	£2,097.00

TOTAL VALUATION		£20,148.00

$$£20,148.00 \quad \times \quad .5\% = £100.74$$

Say £100.00

The Tribunal so determines