

Appeal No. VA99/2/023

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

Lyric Ireland Ltd.,

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse/Warerooms at Map reference: 20, Townland: Cannaboe, ED: Ballinamore, Co. Leitrim

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Michael Coghlan - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3RD DAY OF JULY, 2000

By Notice of Appeal dated the 22nd day of April 1999, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £60.00 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the rateable valuation is excessive having regard to the nature, size and location of the property together with the tone of the list. Furthermore the rateable valuation is bad in law. Our client has no record of any notification prior to revision in accordance with the 1988 Act".

Valuation History

The relevant Valuation history is that the property was revalued to include improvements carried out and change of use. At 1997/4 revision a rateable valuation of £60 was fixed on the property. No change was made in the valuation after an appeal to the Commissioner.

A written submission prepared by Mr. Conor O'Cleirigh on behalf of the appellant was received by the Tribunal on the 23rd of August, 1999. Mr. O'Cleirigh is a member of the Irish Auctioneers and Valuers Institute since 1981 and a member of the Society of Chartered Surveyors since 1989. He has over 20 years experience in the public and private sector of the Irish property market.

The written submission contended that a fair rateable valuation for the subject hereditament would be derived as follows:

Warehouse 4114 sq. ft. @ £1.75 psf = £7199
 Basement (no value)
 Say £7000
 @ .5%
 R.V. £35

The written submission contained details of one comparison. The details of his comparison are annexed to this judgement at appendix A.

A written submission prepared by Mr. Damien Curran A.R.I.C.S., A.S.C.S., B.Sc (Surv.) on behalf of the respondent was received by the Tribunal on the 24th day of August 1999. Mr. Curran is a district Valuer with 19 years experience in the Valuation Office.

The written submission set out the basis of the Rateable Valuation as follows;

Main Buildings	3750 sq. ft.}	4114 sq. ft. @ £2.65 psf = £10,902	
Canteen	364 sq. ft.}	£28.52/m ²	
		@ .5% = £54.51	
		<u>5.00</u>	
		£59.51	
	Say	£60	

The written submission contained a schedule of three comparisons. A copy of this schedule is annexed to this judgement as Appendix B.

The oral hearing took place at the Courthouse, Sligo on the 3rd day of September 1999. Mr. O'Cleirigh represented the appellant and Mr. Curran represented the respondent.

Mr. O'Cleirigh made a submission that the appellant had not at the revision stage received notification in accordance with Section 3 of the Valuation Act 1988.

He said that the appellant - Mr. Frank O'Brien who traded as "Lyric Ireland Ltd." had purchased the property in 1994. He had lodged a planning application with Leitrim County Council on the 3rd day of August 1995. Leitrim County Council had responded to this application on the 1st day of September 1995. Mr. O'Cleirigh said that Mr. O'Brien had received no notice of the revision pursuant to Section 3 of the 1988 Valuation Act despite the fact that the Council knew of his existence as occupier of the subject premises. Mr. O'Cleirigh had raised the issue of notice with the Valuation Office in a four page fax message dated the 13th March 1999. The revision decision had been published by Leitrim County Council on 31st March 1999.

In his submission, Mr. Curran stated that the Commissioner had made the decision on the appeal on the 5th March 1999. He said the first time the issue of notice was raised by the appellant was by way of the fax message dated the 13th March 1999. This was one week after the appeal decision by the Commissioner. Mr. Curran stated there were many decisions by the Tribunal which established the proposition that new grounds of appeal could not be raised before the Tribunal when these grounds had not been raised at first appeal stage.

In further submissions, Mr. O'Cleirigh said he had discussions with Mr. Curran at the appeal stage in person and by telephone. The issue of quantum only was discussed. When Mr. O'Cleirigh found out about the notice issue he had informed the Valuation Office. He had not known about the appeal decision on the 5th March 1999, until the publication of the revision decisions by Leitrim County Council on the 31st March 1999. The Tribunal retired to consider this preliminary issue. The Tribunal decided not to admit the notice issue as an additional ground of appeal. This was on the grounds that the appellant had not raised the issue at appeal stage and prior to the appeal decision by the Commissioner. Mr. O'Cleirigh in his submission

had raised no exceptional grounds for the admission of new grounds of appeal before the Tribunal.

In his sworn testimony, Mr. O'Cleirigh adopted his written submission as his evidence to the Tribunal. He said the property was situated in the town of Ballinamore in the County of Leitrim. This is a town with a low population base. There is poor infrastructure in the area and a weak industrial base. All these factors contribute to a weak demand for commercial property in the area. In the circumstances, Mr. O'Cleirigh considered the rateable valuation to be excessive.

In continuing testimony, Mr. O'Cleirigh said the subject was purchased in 1994 for £35,000. This price indicates the demand for commercial properties in the area. There was very little evidence of rental values in the town.

Mr. O'Cleirigh said taking into account his Drumshambo comparison he had put a value of £1.75 on the subject because it is in the town of Ballinamore. He said the basement in the subject was of no value. It contained rough storage space which was not used by his client.

Under cross examination by Mr. Curran, Mr. O'Cleirigh said that the map of the subject property contained in his written submission did not contain the rear yard and some dilapidated buildings which he had not rentalised.

In reply to a question from the Tribunal about the respondent's comparisons, Mr. O'Cleirigh said these were generally half the size of the subject. Therefore there should be a quantum allowance for the 4,000 sq. ft. in the subject property.

In his sworn testimony, Mr. Curran adopted his written submission as his evidence to the Tribunal. He said he had dealt with a number of buildings in Ballinamore where the rateable valuations had been agreed. He had used this tone of the list to fix a rateable valuation on the subject. The property was superior in construction, layout and location to his comparisons B and C.

Comparison A was inferior to the subject. The problem with this comparison is it did not have street frontage and it had shared access to the rear of the property.

Finally, Mr. Curran said the generally agreed values for storage space in Ballinamore were £2 to £2.50.

In cross examination Mr. O'Cleirigh put it to Mr. Curran that a purchase price of £35,000 in 1994 for the property showed the level of weak demand for properties like the subject in Ballinamore. In reply Mr. Curran said that capital values and rents are difficult to relate in rural Ireland unlike the situation in urban Ireland.

In a further reply to Mr. O'Cleirigh, Mr. Curran said there would be some small allowance for quantum in Ballinamore.

Finally in reply to Mr. O'Cleirigh, Mr. Curran said he had put a value of £2.65 on the subject because it was a superior building. Again the property had a high profile to the street unlike his three comparisons.

The Tribunal has considered the written submissions and the evidence offered by the appellant and the respondent.

This is a property in which the main building contains 4,114 sq. ft. The Tribunal does not consider Mr. O'Cleirigh comparison outside the town of Drumshambo to be relevant.

On the other hand the comparisons adduced by the respondent are in the region of half the size of the subject with respect to storage space.

The Tribunal therefore considers that an allowance for quantum should be made in this case.

Accordingly the Tribunal determines that the rateable valuation of the subject should be calculated as follows:

4,114 sq. ft.	@	£2.25	=	£9,256
	@	.5%	=	£46.28
	Say			£46
	Add £4 for yard			
	Total			£50.00

The Tribunal therefore determines the rateable valuation of the subject hereditament to be £50.