Appeal No. VA99/2/035

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

McDonnell Commercials Ltd., **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Office & Workshop at Map Reference 21Cb, Townland: Urbalkirk, ED Monaghan Rural, Co. Monaghan

B E F O R E

Con Guiney - Barrister at Law	**Deputy Chairman**
Ann Hargaden - FRICS.FSCS	**Member**
Rita Tynan - Solicitor	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF JUNE, 2000

By Notice of Appeal dated the 29th day of April 1999 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £150 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the valuation is inequitable and bad in law. Appellants seek to have the revision set aside as being invalid arising from the local authority's failure to properly list the property for revision."

The relevant valuation history is that at the 1975 revision Lot 21Ca was created and described as house and workshop.

At the 1996/3 revision Lot 21Ca was listed for revision to "value extensions to workshop etc." The revision resulted in the creation of two separate hereditaments, that is domestic and non-domestic.

The domestic hereditament continued to be described as 21Ca and was given a rateable valuation of £15.00.

The non-domestic hereditament, namely the workshop and office, was described as 21Cb and given a rateable valuation of £150.

This rateable valuation of £150 was appealed against and the Commissioner issued his decision making no change in the rateable valuation.

A written submission prepared by Mr. Eamonn S. Halpin B.S.c. (Surveying) ASCS ARICS MIAVI, on behalf of the appellant was received by the Tribunal on 8th day of October 1999. Mr. Halpin has twenty years experience as a valuer both in the Valuation Office and in private practice.

The written submission stated that the quantum of the rateable valuation at £150 had been agreed.

The written submission also stated that the 1996/3 revision, which increased the rateable valuation from £24 to £150, was invalid. This was on the basis that Lot 21Ca contained only a small part of the subject hereditment with the majority of the premises being listed on Lot 21ABCD, which latter Lot had not been listed for revision by the local authority. Consequently the Commissioner of Valuation had no jurisdiction to revise the subject hereditament to the extent it was located on an unlisted Lot number.

In support of this contention the written submission listed the following case law and a decision of the Tribunal:

1. Kildare Railway Case (1901) 2 I.R. 215
2. Switzer Case (1902) 2 I.R. 275
3. John Pettitt & Son Ltd. – VA95/5/015

Furthermore the written submission stated that it was the established practice for 100 years that the Commissioner of Valuation had no jurisdiction to revise buildings or parts thereof which are located outside listed lots.

Finally the written submission stated that the appellant company had received no notice of the revision pursuant to Section 3(4)(a) of the Valuation Act 1988 and that this constituted another ground to render the revision valuation made by the Commissioner invalid.

A written submission prepared by Mr. Patrick McMorrow B.Agr.Sc. (Economics), G. Dip. Planning and Development Economics, MIAVI on behalf of the respondent was received by the Tribunal on 7th October 1999. Mr. McMorrow is a District Valuer in the Valuation Office.

The written submission described the valuation history of the subject hereditament. It also outlined the following observations of the revising valuers:

In 1975 when Lot 21Ca was created as “house and workshop” with no land area defined, the revising valuer noted “lands in dispute”.

In 1996/3 when Lot 21Ca was listed for revision the revising valuer noted, “Bog area surrounding (the workshop) developed as yards/circulation, part of (Lot) 21ABCD, not listed”. The written submission noted that no addition was made for these yards/circulation areas.

The written submissions had the following appendices, Ordnance Survey map which contained the subject hereditament, a copy of the local authority's request for revision of the subject, and a

copy of the notice by the Local Authority pursuant to Section 3(4)(a) of the Valuation Act 1988 informing, as it described it, the occupier of the listing.

The oral hearing took place at Monaghan Circuit Court House on 20th October 1999. Mr. Halpin appeared for the appellant and Mr. McMorrow appeared for the respondent.

In sworn testimony Mr. Halpin said there were two issues for decision by the Tribunal, (a) notice to the occupier of the subject hereditament and (b) validity of the revision due to the non-use of an appropriate lot number.

As to the notice issue Mr. Halpin said the appellant company had been in occupation of the subject hereditament since 1987. It had over time paid its rates bill to the local authority using the company cheque book. No notice had been given, pursuant to Section 3(4)a of the Valuation Act 1988, to the appellant prior to the revision.

Mr. Halpin accepted that a pre-revision notice had been issued by the local authority to Mr. Brian McDonnell. He was a director of the appellant company. Mr. Halpin did not know whether Mr. McDonnell received the notice but Mr. Halpin said he was not producing any evidence to the Tribunal in connection with this matter.

As to the issue of Lot numbers Mr. Halpin said that the Valuation Office's jurisdiction is limited for the purposes of valuation to the lot numbers actually listed for revision. He said the statutory basis for this was Section 4 of the Valuation (Ireland) Amendment Act 1854 and Section 3(1) of the Valuation Act 1988.

Mr. Halpin also referred to a copy schedule, which was contained, in his written submission. This schedule contained two forms referred to in Article 37(e) Adaptation of Irish Enactments Order 1899. These forms set out the format for revision and in each form there was a section with the heading "No and Letter of Reference to Map in Valuation Lists".

Mr. Halpin said that Section 3(1) of the Valuation Act 1988 referred to "any property" entered in the Valuation Lists with respect to which an application to revise can be made. Mr. Halpin said this meant that only properties with a specific lot number, specific valuation, and forming a specific hereditament can be entered in the valuation lists and thereby be subject to revision.

In continuing testimony Mr. Halpin said that in 1975 the Lot listed was 21ABCD (to value workshop). The Valuation Office created 21Ca and described it as house and workshop. There was no land involved in the valuation. This new Lot 21Ca was carved out of Lot 21ABCD, which continued to exist in its reduced form.

In 1996/3 Lot 21/Ca was revised. At that time the majority of the buildings were on Lot 21ABCD which Lot had not been listed for revision.

The essence of the appellant's case was that only the rating hereditament described as Lot 21Ca was validly listed for revision. This was the house and workshop with no land attached. Furthermore the appellants contention was that the revision of the majority of the buildings is invalid because they are located on a lot number which was not listed for revision.

Mr. Halpin referred to the Switzer case, which he said confined the Valuation Office to revising what was exactly on the valuation lists furnished to it. He considered that the practice of the Valuation Office for almost one hundred years that, when a valuation was made on an unlisted lot then on appeal the valuation was reversed, had evolved from the Switzer case.

Mr. Halpin said an instance of this practice in which he himself acted for the appellant was contained in his written submission. A copy letter there dated 31st January 1997 from himself to the Valuation Office contained details of a successful appeal.

Under cross-examination by Mr. McMorrow, Mr. Halpin stated that the notice issue had been raised by the appellant at the appeal stage.

Mr. McMorrow put it to Mr. Halpin that the Pettitt case – VA95/5/015 decided that no particular form of request and no obligation to use lot numbers was required in a request for revision. Mr. McMorrow further put it to Mr. Halpin that what was required was a clear intention in the revision request as to the hereditament to be revised.

In reply Mr. Halpin said his interpretation of the Pettitt case was that sufficient hereditaments had to be listed to allow revision to take place. Mr. Halpin did agree that the intention of the revision request was clear in the present case.

In his sworn testimony Mr. McMorrow adopted his written submission as his evidence to the Tribunal.

He said the request for revision by the local authority was clear, namely to value the extension to the workshop. There was no onus on the local authority to use lot numbers in a revision request.

Mr. McMorrow said the Switzer case and the Kildare Railway case confine the Valuation Office to valuing what was on the list submitted by the local authority. He re-iterated that the local authority listing in this case was quite clear.

As to the notification issue Mr. McMorrow said that Mr. Brian McDonnell, a Director of the appellant company, had received notice. He was the “eyes and ears” of the company.

In his closing submission Mr. Halpin said that with respect to Court cases and Tribunal decisions he was only relying on the three items listed in his written submission.

He again said that all relevant lot numbers should have been listed. Also because the appellant’s rate bill had been paid by the company cheque book then the company itself should have received notice pursuant to Section 3(4)(a) of the Valuation Act 1988.

Determination

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

The Tribunal finds that the revision request by the local authority giving rise to the 1996/3 revision clearly indicated the hereditament, which is the subject matter of this appeal. Accordingly the decision by the Tribunal in the Pettitt Case – VA95/5/015 at paragraph 20 applies to this case. This paragraph states interalia; "*It is also quite clear …….. no particular method of request is necessary and that there is no obligation to describe the property, the valuation of which is to be revised, by reference to lot numbers. Once it can be ascertained from the list sent to the Commissioner that the hereditament in question is included within a request for revision then that is sufficient*".

The two statutes referred to by Mr. Halpin, Section 4 Valuation (Ireland) Amendment 1854 and Section 3(1) show no obligation to use lot numbers in a request for revision. Therefore this ground of appeal fails.

As to the notice issue the Tribunal finds that on the balance of probability Mr. Brian McDonnell, a Director of the appellant, was notified pursuant to Section 3(4)(a) of the Valuation Act 1988. A director of a company is an officer of it with a fiduciary duty to it. In the circumstances of this case, therefore, notification to the director of the appellant company is sufficient compliance with Section 3(4)(a) of the Valuation Act 1988. Therefore this ground of appeal also fails.

Accordingly the Tribunal affirms the decision of the Commissioner of Valuation and determines the rateable valuation of the subject hereditament to be £150.