

Appeal No. VA99/3/016

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

Bank of Ireland (Mallow)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: House, bank and yard at Map Reference 150 Main Street, Mallow South Urban, Mallow, Co. Cork

B E F O R E

Barry Smyth - FRICS.FSCS

Deputy Chairman

Con Guiney - Barrister at Law

Deputy Chairman

John Kerr - MIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 31ST DAY OF JULY, 2000

By Notice of Appeal dated the 27th day of July 1999, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £220 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the assessment is excessive and inequitable and bad in law having regard to the provisions of the Valuation Acts and so on other grounds also".

The appeal proceeded by way of an oral hearing which took place in the Council Chamber, Cork County Council, Victoria Cross, Cork on the 7th day of April 2000. Mr. Owen Hickey B.L. with Mr. Tom Davenport ASCS ARICS of Lisney, Chartered Surveyors appeared on behalf of the appellant. Mr. Tom Stapleton, a Valuer, Grade 1, in the Valuation Office with over 30 years experience appeared on behalf of the respondent.

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 and for the purposes of the appeal.

Material Facts agreed or found by the Tribunal

Valuation History

1980 Revision/AppealRV £235

November 1998 the subject premises was inspected and revised following a request from the local authority to value improvements to bank and the valuation list issued at RV £255. In December 1998 this was appealed and in April 1999 the appeal valuer inspected the property and had discussions with the agent. On the 6th of July 1999, the Commissioner of Valuation issued his decision reducing the valuation to £220. On the 27th of July 1999, an appeal was lodged by the agent to the Valuation Tribunal.

Situation

The property is situated on the Main Street in Mallow in the centre of the town. This section of Main Street is occupied by a mixture of commercial users including shops, offices, licensed premises and banks. Mallow has a population of approximately 7,000 and is located 22 miles north of Cork city and 36 miles south of Limerick.

Property

The Property comprises a traditional three storey and part single storey detached and purpose built bank building with a cut stone finish at street level and brick facade above and cement plaster rendering to the sides and rear. Fenestration is traditional sliding sash windows and there is no shop front installed. Access is via a short flight of granite steps or a ramp. There is an ATM machine located on the frontage.

Accommodation

The building is laid out internally on the ground floor with a banking hall, ancillary offices, strong room, kitchen and toilet facilities and comprises a total of 308m² (3,326 sq. ft.). At the date of valuation the upper floors were in domestic use and the rateable valuation of these is agreed.

Title

Freehold

The Appellant's Case

Mr. Davenport in his evidence stated:

That the building had all the appearance of an office building and the ground floor banking hall comprises typical office space. The main retail pitch on Main Street was located on the opposite side of the road further to the west running from numbers 32/33 - 49 which was uninterrupted retail and that most of the good retail units are located in this area. The next best retail area was between numbers 15 and 63 Main Street. The subject premises at the western end of the town is removed from the main retail pitch and its neighbouring properties are mixed offices and poorer retail premises.

The premises has no retail frontage, has the characteristics of an office building and should be valued as such albeit that it has a certain prominence on the street. The total area including the residential accommodation is 5,490 sq. ft. The building was listed for preservation in the development plan. He also drew attention to various Tribunal decisions including the Bank of Ireland, Tullamore, Bank of Ireland, Pembroke Road, Bank of Ireland, Main Street, Bray.

Mr. Davenport assessed the rateable valuation at £140 calculated as follows:

Banking Hall Front offices	229 sq. m. @	£86.00 per sq. m
Managers Office / Secure Cash Area	33 sq. m. @	£64.50 per sq. m.
Strong room / Book room	29 sq. m. @	£43.00 per sq. m.
Kitchen / Cleaners Store	17 sq. m. @	£32.00 per sq .m.
Total NAV		£24,000
Added NAV for the upper floors (Domestic)		£ 4,000
Total NAV		£28,000
And applying a fraction of 0.5%	RV =	£140.

Mr. Davenport listed 11 comparisons, the details of which are appended to this determination and the salient points of which are as follows.

1. Hibernian Insurance, 44 Bank Place, Mallow

Ground Floor 1,000 sq. ft.

First Floor Canteen/Staff Area 410 sq. ft.

Rent reviewed 1st February 1988 @ £10,000 pa for the ground floor only-equates to £10psf.

This lease was renewed for 35 years from 1993 at £10,750pa analysed at 1,000 sq. ft. @ £9.50 psf ground floor and the first floor at £3psf.

In Mr. Davenport's opinion this is a better location.

2. *Joyce's Chemist, 40 Main Street, Mallow*

Rent Review, January 1994 to £7,750pa.

Analysis:

Ground Floor 515 sq. ft. @ £14psf

Dispensary 155 sq. ft. @ £3.00 psf.

Indexing this back to 1988 using the Jones Lang LaSalle index indicated a rent of £12 psf on the retail area.

3. *Cairnside Ltd, t/a Paperchase, Unit 2, 36 Bank Place, Mallow*

35 year lease from the 1st June 1987 at £7,840pa.

In 1987 the rent analysed at 509 sq .ft. @ £15.40 psf.

4. *O'Leary's Pharmacy and Present Time (Gift Shop), 25 Main Street, Mallow*

Both let from June 1992 the first at £16,000 and the other at £14,000 p.a. and are analysed as follows:

O'Leary's Pharmacy 1,340 sq. ft. @ £11.94psf

Present Time Gift Shop 1,450 sq. ft. @ £9.65psf

Indexed in line with the Jones Lang LaSalle index would give rents of £10 and £8 respectively.

In the 1992/3 rates revision O'Leary's Pharmacy was fixed at NAV £9.70psf and the Present Time Gift Shop @ £8.28psf.

5. *Xtra-Vision and McDonald's, 143/144 Main Street, Mallow*

Each let on thirty five year leases from the 1st of September 1989.

Xtra-Vision @ £12,000pa and McDonalds @ £16,000pa

These analysed as follows:

Xtra-Vision 861 sq. ft. @ £14psf

McDonald's Ground Floor 3,100 sq. ft. @ £ 5psf

First Floor 590 sq. ft. @ £ 2psf

These units were recently revised with McDonald's having an RV of £75 and thus an NAV of £15,000pa, marginally less than its 1989 rent.

Xtra-Vision an RV of £56 and thus an NAV of £11,200pa, again marginally less than its open market rent at 1989

6. *Monument House Department Store, 115 Main Street, Mallow*

1993/4 Appeal RV £110 thus NAV £22,000

Analysis:

Ground Floor Retail	2,345 sq. ft. @	£6.80psf
First Floor	1,687 sq. ft. @	£3.00psf
Stockroom	660 sq. ft. @	£1.50psf

This premises is at the eastern extremity of the town.

In reference to Mr. Stapleton's comparisons, Mr. Davenport stated that they were all based on NAV's and none of them was based on a passing rent or rent adjusted to 1988. He expressed the view that the AIB building was in a better location and was a better building and that in addition its rateable valuation was too high following the 1992/3 appeal. He expressed the view that the figure on the Ulster Bank of £13psf as opposed to the £6.80psf on the Monument House Department Store next door reflected the attitude of the Valuation Office and consultants prior to the decision in the Tullamore case. Similarly the ACC comparison gives an NAV at 1988 higher than Lisneys valued the premises in 1991 and another firm of consultants in 1996. He accepted that it was an agreed RV but emphasised that it was prior to the Tullamore Case. In relation to number 4, the TSB, this is a shop unit and not comparable with the Bank of Ireland, which is essentially an office building. East Main Street is a prime retail area. There is no evidence of £20psf in Mallow in 1988. The best was £15psf on a much smaller retail area. He also drew the Tribunal's attention to the fact that the former AIB premises at 135/136 had sold for only £210,000 in 1992 and that if this was indexed to 1988 and devalued at 10%. It would analyse at £8.75psf on a ground floor of 1,000 sq. ft.

In cross examination Mr. Davenport stated that the building was listed for revaluation by Mallow Urban District Council and not by the appellant and that the valuation of £235 fixed in 1980 had included a domestic element of £50 and therefore the commercial figure was £185. In his view the improvements were not of consequence to the rental value of the property. Of the £50,000 spent, the majority of it refers to the wheelchair access and does not include the ATM machine. He did not accept that Dunnes Stores which is located to the west of the subject premises on the opposite side of the street would have enhanced the rental value of the street. He accepted that the Tesco unit attracts enormous business and is off Main Street behind the subject bank and there is pedestrian access adjacent to the bank. He accepted that this bank building was the best in the locality. It was purpose built as a bank with 70 foot frontage and had 10 car parking spaces to the rear but was not as good for retail purposes as for instance the Xtra-Vision building. His figure of £8psf was not guided by any other bank but by the £9.50 on the Hibernian Insurance building. He accepted that there were four or five banks in Mallow but had not produced these for rental value purposes as in his view the building more resembled an office than a bank premises. He accepted that the Hibernian Insurance building has direct access on the street without steps but that the rateable valuation of £46 had not been revised in recent years although the rent had and this was a good basis for comparison.

In response to questions from the Tribunal Mr. Davenport stated that the distance of the bank to the prime retail area is 150 metres but that this area has broken retail frontage as opposed to uninterrupted retail.

The Respondent's Case

Mr. Stapleton stated that the premises was a long established purpose built bank with considerable street frontage and customer car parking to the rear occupying a prominent central site in the main commercial area of the town.

An ATM facility had been added in recent years. Mr. Stapleton assessed the rateable valuation as follows:

Front Offices (including entrance and ATM)	397 sq. ft.	@	£12psf
Banking Offices	1,330 sq. ft.	@	£16psf
Balance of Staff offices, safe and kitchen	1,599 sq. ft.	@	£ 8psf
Ten carpark spaces	@ £100	=	£1000
	Total		£39,836
	Say		£40,000
Add two floors domestic agreed			£ 4,000
Total			£44,000
Applying the fraction of 0.5%			£ 220

He further analysed this bank as overall 3,336 sq. ft. @ £11.70psf which compared directly with the AIB premises.

He stated that he relied on premises of similar function which had recently been revised and provided four comparisons, the details of which are appended to this determination and in summary are as follows:

1) AIB, 32b Main Street.

RV£300. Agreed with a consultant in 1993

Ground Floor Overall 4,414 sq. ft. @ £11.30psf

2) Ulster Bank, 116 Main Street

Overall Ground Floor Area 1,384 sq. ft. @ £15.90psf

Agreed with Consultant in 1994

3) ACC, 58 Main Street

Ground Floor 1,684 sq. ft. @ £13.05psf

Agreed with Consultant in 1993

4) Trustee Saving Bank, 65 Main Street

Ground Floor 732 sq. ft. @ £14.30psf, fixed in 1994 revision.

This is generally of poor quality with poor layout and improvements were planned to the ground floor.

In Mr. Stapleton's opinion the subject premises is a better building inside than AIB. It has better advertising potential, better frontage and is set back. AIB has two steps up.

In response to questions under cross examination, Mr. Stapleton did not accept that the best retail area in the town is between 36 and 45 Main St. but rather that the Hibernian Bank, AIB and the area around the church to the Bank of Ireland, the subject premises including McDonald's and Dunnes are all good retail areas. The Hotel is the focal point. This area has the main pedestrian activity and it is enhanced by Tesco to the rear. He accepted that the Hibernian Insurance building is in a good area but is not in the best area however he also accepted that the rent at the appropriate time was £10psf. In seeking an NAV, he expressed the view that he was dealing with section 5(2) of the act and therefore comparable properties of similar function. He expressed the view that it was appropriate to compare banks of similar construction. Mr. Stapleton emphasised the nature of the building, that it was unique and that the others are not specialised in any way. He said that he would expect a higher rent for this type of building than for instance the Hibernian Insurance Building and stated that he accepted the principle of adding 20% to local rents to take account of the type of premises involved. In response to a question about banks not paying higher rent than other retail users he gave an example of a premises in Inishannon where a bank pays a considerably higher rent than other traders. In relation to a suggestion that a bank in a shopping centre would not pay a higher rent he said again that the emphasis was on the fact that the building types were the same. He did not accept that the AIB premises in Mallow was superior to the subject premises. In response to questions from the Tribunal as to why he had not provided any rental values he stated that there were no rents for any banks or premises of similar function.

In summing up Mr. Hickey stated that banks do not pay higher rents than other users and no evidence can be found to this effect. The Valuation Office has had a tradition of overvaluing banks. Mr. Stapleton in summing up stated that Lisney was the only agent out on a limb in

relation to the valuation of banks and other consultants often managed to agree matters with the Valuation Office. In his opinion banks do pay higher rents.

Determination

In this instance the relevant comparisons put to the Tribunal comprise, in no particular order:

The Hibernian Insurance Premises at 44, Bank Place, Mallow where there is a February 1988 rent of £10psf on an area of 1,000 sq. ft.

O'Leary's Pharmacy with a 1992 rent of £11.94psf on 1340 sq. ft and the neighbouring Present Time Gift Shop at £9.65 on 1450 sq. ft. which when indexed with the Jones Lang LaSalle index gives respective rents of £10 and £8psf.

The Xtra-Vision shop of 861 sq. ft. @ £14psf in September 1989 or an RV of £13psf and McDonald's with a rental value of £5psf on a large 3,100 sq. ft. and similar NAV.

The Monument House Department Store has an NAV of £6.80psf on 2,345 sq. ft.

The AIB has an NAV of £11.30psf on 4,414 sq. ft. and the Ulster Bank an NAV of £15.90 on 1,384 sq. ft. Similarly the ACC is at £13.05 psf on 1,684 sq. ft. There is some consistency between these figures and it will certainly appear that the banks tend to have higher NAV's fixed upon them than fixed on alternative premises of not dissimilar size. To some degree this may of course reflect the prominence of the bank buildings and their general high standard of construction, maintenance and internal fitting which are matters that must be taken into consideration. The Tribunal has stated that banks must not necessarily be compared only with banks but neither has it stated that banks must be compared with any particular type of premises and has said that it is prepared to consider a variety of users/buildings for comparative purposes. Indeed the Tribunal has gone so far as to say as there are occasions where bank-use for a variety of reasons related to the commercial nature and reality of the location could well exceed any

other commercial use in that location and that there would be considerable demand from the hypothetical tenant including the occupying bank for the accommodation.

It must also be borne in mind that the subject premises has the benefit of an ATM facility and while the Tribunal does not value the ATM machine itself, the space occupied by it and its access to the street is still an enhancement to the rental value of a property. This building also has private car parking for its customers.

The Tribunal determines the rateable valuation in this instance as follows:

Front offices, banking hall/ managers office/secure cash area, book room and strong room	291 m ²	@	£110 per m ²	=	£32,010
Ancillary Accommodation	17 m ²	@	£55	=	£ 935
			Total		£32,945
			Say		£33,000
Add two floors domestic as agreed					£ 4,000
Total			NAV		£37,000
		@	0.5% RV		£185

And the Tribunal so determines.