

Appeal No. VA99/3/040

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

Murrays Europcar

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Workshop and carpark at Map Reference 25L/2, Corballis, E.D. Airport, R.D. Airport, Co. Dublin

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Fred Devlin - FRICS.ACI Arb.

Deputy Chairman

Ann Hargaden - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF MAY, 2000

By Notice of Appeal dated the 4th day of August 1999, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £210 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, inequitable and bad in law".

The Property

The property comprises an enclosed surfaced compound which was formally part of the surface carpark operated by Aer Rianta on which has been erected a single storey car valeting workshop. Murrays Europcar also occupy a car hire counter in the terminal building under a separate licence agreement which also includes a number of car parking spaces in the main car park area.

The parties are agreed that the site area is 16,119 sq.ft. and that the workshop has a footprint area of 7,179 sq.ft.

The Licence Agreement

The compound is occupied under a licence from the Minister of Transport, Energy and Communications for a term of twenty years and one day from the 17th April 1995 subject to an initial yearly rent of £6,000 per annum which is subject to review at the end of each five year period in accordance with movement in the consumer price index or such other method as the Minister may determine in the light of conditions then obtaining. The yearly sum payable is inclusive of Airport service charge but exclusive of rates and other usual outgoings.

Under the provisions of the licence the licensee at its own cost is permitted to develop the licensed area and erect a building and petrol installation in accordance with plans first submitted and approved by the Minister and the licensee is obliged to maintain such buildings and facilities during the term of the licence. In the event that the licensee ceases to operate the car hire counter in the terminal building the licensee may, subject to the approval of the Minister offer the right of use of the facilities to other firms who operate counters in the terminal building on payment of an amount equivalent to 5% of the cost of facilities multiplied by the remaining calendar years of the license term. The Minister may at any time terminate the licence if the licence area is required for the purposes of operating or developing the airport on giving six months notice in writing, subject to a refund of the apportioned part of the sum paid by the licensee in respect of the period for which the licensee shall not enjoy the use of the licensed area.

Valuation

The property was first valued in November 1998 at a rateable valuation of £210 of which it is agreed, £155 is attributable to the buildings and petrol tank installation. No change was made at the first appeal stage and it is against this decision that the appeal to this Tribunal now lies.

Hearing

The appeal proceeded by way of an oral hearing held at the Tribunal Offices on Monday, 24th of January 2000 at which the appellant was represented by Mr. Frank O'Donnell B.Agr.Sc., FIAVI, MIREF and the respondent by Mr. Desmond Doyle B.Comm, a District Valuer in the Valuation Office. Prior to the hearing both valuers forwarded a written submission and valuation to the Tribunal and each party received a copy of the other party's submission. At the oral hearing these submissions and valuations were adopted by the valuers as being their respective evidence in chief given under oath.

The Appellant's submission and contentions

1. Mr. O'Donnell in his written submission stated that the only element of the assessment in dispute was the value to be attributable to the yard area. At the oral hearing he amended the valuation in his précis of evidence to take account of the agreed area of the workshop of 7,179 sq.ft. and the site area of 16,119 sq.ft. thus giving the following outcome;

(i)	Rateable valuation of buildings and tanks agreed at	£155
(ii)	Value of site to be added valued on a separate basis as follows;	
	(a) Rent of site – April 1995 = £6,000 per annum	
	Total site area - 16,119 sq.ft.	
	Equivalent rent p.s.f. = £0.37	
	Site area less footprint area of buildings = 8,940 sq.ft.	
	Rental value of undeveloped site @ £0.37 p.s.f. = £3,307.80	
	Less 35% adjustment to 1988 = £2,150.35	
	Rateable valuation @ 0.63% =	<u>£ 13.55</u>
	Total R.V.	£168.55

(b) Alternative Method

11 Carparking spaces @ £0.66 per space R.V. =	£ 7.26
Add for buildings and tanks as before =	<u>£155</u>
Total R.V.	£162.26

Mr. O'Donnell at the hearing submitted that in line with previous determinations of the Tribunal the annual sum payable under the license agreement represented the best evidence of net annual value and he had therefore used this as the basis of his valuation of the undeveloped portion of the licensed area suitably adjusted to represent the general uplift in rental values between November 1988 and April 1995.

In support of his valuation he included six comparisons as set out in **Appendix attached hereto**.

Under examination by Mr. Doyle, Mr. O'Donnell agreed that his comparisons consisted of car parking spaces held with other buildings but did not agree that this type of evidence was not relevant to this appeal. Whilst he agreed that Murrays occupied a counter in the terminal building he did not accept that this arrangement had a bearing on the annual licence fee paid for the subject property. He contended that all licence payments agreed with the airport authority were arms length transactions and he had no reason to believe that this was not the case in this instance.

The Respondent's submission and contention

Mr. Doyle in his written submission valued the property as follows;

Rateable valuation of buildings and tanks as agreed		£155
Site area	= 16,119 sq.ft.	
Less buildings	= <u>7,179 sq.ft.</u>	
Undeveloped Area	= 8,940 sq.ft.	
Less 15% for circulation	= 7,599 sq.ft.	
N.A.V. @ £1.00 p.s.f.	= £7,599	
Rateable valuation @ 0.63%	= £47.87	<u>£ 47</u>
Total R.V. =	Say	£200

In support of his valuation Mr. Doyle introduced four comparisons as set out in the **Appendix attached hereto.**

In further submissions to the Tribunal Mr. Doyle contended that an annual license fee was not a rent in the accepted sense of the word and in response to a question from Mr. O'Donnell he stated that the licence payable in this instance reflected the fact that the appellant occupied a counter in the terminal building. To that extent it was not an arms length transaction and hence of little assistance to the Tribunal. He also pointed out that the added value of the buildings and other installations constructed by the appellant accrued to the benefit of the Minister at the end of the license term and that this was an important factor in the overall agreement.

Findings and Determination

1. The Tribunal accepts Mr. Doyle's contention that an annual license fee is not a rent and that in this instance the actual sum payable under the licence agreement for this property reflects the fact that the benefit of the additions carried out at the licensee's own cost ultimately accrues to the Minister, and the relationship that exists between the parties in relation to the car hire counter at the terminal building. It is obviously in both parties' interest to have a valeting centre close to the terminal in order to provide a better service to the users of the airport car hire facilities and this would be likely to be a factor in the negotiations for the licence. Accordingly therefore the Tribunal does not consider the annual payment under the licence agreement to be *prima-facie* evidence of the net annual value of the site element in this instance.
2. The Tribunal accepts the agreed valuation attributable to the building and tanks in the sum of £155 which figure includes that portion of the site covered by these facilities.
3. The Tribunal prefers the valuation method and comparisons put forward by Mr. Doyle i.e. attributing a value to the undeveloped area of the site used for parking less 15% for circulation purposes.

4. The Tribunal prefers Mr. Doyle's comparisons, which are of a similar nature to the subject property and are not car parking spaces ancillary to buildings as are Mr. O'Donnell's.

Determination

Having regard to the above and all the evidence adduced the Tribunal determines the rateable valuation of this hereditament to be £200 as contended for by Mr. Doyle on behalf of the Commissioner of Valuation.

Rateable Valuation attributable to the buildings and tanks as agreed	£155
Rateable Valuation attributable to the undeveloped portion of the site which is used for parking, say	<u>£ 45</u>
Total Rateable Valuation	£200
Say	£200