

Appeal No. VA14/4/010

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Highpoint Communications Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

Re: Property No. 2214145, Mast/Antenna, at Lot No. 3D/1, Athlone, Cornamagh, Athlone East Urban, Athlone UD, County Westmeath.

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 31st DAY OF MAY, 2016

BEFORE:

Barry Smyth – FRICS, FSCSI, MCI Arb

Deputy Chairperson

Frank O'Donnell – FRICS, B Agr Sc, MIREF

Member

Brian Larkin – BL

Member

By Notice of Appeal received on the 4th day of November, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable annual value of €28 on the above described relevant property on the grounds as set out in **Appendix 1** of the Notice of Appeal.

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence adduced before us on the 30th day of April, 2015 by Mr Rory Geraghty of Highpoint Communications Limited for the Appellant and by Ms Ciara Marron and Mr Mark Adamson of the Valuation Office for the Respondent,

DETERMINES

That the net annual value of the subject property remains unchanged at €28.

The reasons being as follows:

1. The subject property i.e. the mast, falls within one of the categories set out in paragraph 1 of Schedule 3 of the Valuation Act, 2001.
2. The category into which the subject property falls is outlined at (n)(i) of paragraph 1 along the following lines – “The entire networks subsumed in an undertaking including as the case may be –
 - (i) Signal transmission and reception equipment, all associated masts, lines, cables, posts, pylons, supports, brackets, ducting, tubing and all equipment necessary for normal effective functioning of the networks up to the supply point for each individual consumer”.
3. As the property also meets with the conditions included in paragraph 2 of Schedule 3 of the Act in relation to occupation it is deemed to be relevant property and rateable.
4. The Appellant is the owner of the mast and is in de facto occupation. Highpoint is in possession of the mast and there is no rival claimant to its occupancy. This was verified by oral and documentary evidence of the leasehold arrangement before the Tribunal.
The Appellant also: -
 - (1) controls entry and exit to the property,
 - (2) grants access to the land developed – Meteor, Vodafone and Hutchinson 3G do not and cannot,

(3) grants licences to place telecommunications equipment on the mast - Meteor, Vodafone and Hutchinson 3G are limited easement holders.

5. The mast was arguably “missed out” in the global valuations of the operators, as was at least one of the antennae. It would have simplified matters enormously if the position were otherwise. But be that as it may, the Tribunal can only deal with the situation as it presents.
6. The rating approach adopted in the English and Scottish jurisdictions for similar type communications assets was examined in depth by the Tribunal but proved to be only of limited assistance.
7. The Tribunal is not convinced that the office block comparator canvassed by the Appellant is apposite in this Appeal. Mr Geraghty on behalf of Highpoint contended that in that particular instance the tenants and not the landlord were responsible for and paid the rates. The Act is very clear however that all associated masts are rateable and as noted at 4 above the Appellant is in defacto occupation and the various licensees are limited easement holders and furthermore the Tribunal is satisfied from the evidence that the mast was not included in the valuation of any of the operators’ global valuations.
8. The Tribunal is not satisfied that the appeals for exemption from rates in respect of the car park adjacent to St Vincent’s Hospital viz St Vincent’s Healthcare Group Limited versus Commissioner of Valuation (unreported High Court, Cooke J, 26th February, 2009) and the mast in the subject appeal are on all fours. In the former case the use of the car park was deemed not “remote” from the main activity of the Appellant and qualified for exempt status, because St. Vincent’s hospital was exempt on that basis. In the subject case it was also argued that the use of the mast by the telecommunication operators was intrinsically linked to their main activity and that any rating must come via the global system only.

The Tribunal does not accept this argument on the grounds that it has been evidentially established that Highpoint is the owner and occupier of the said mast and it was not otherwise included in the global valuations of any the operators.

9. Evidence was given in relation to two other masts Property No. 2105543 and Property No. 2108335 where the valuations were reduced to nil as the properties were included in the global valuations. That is not the case here.

10. By way of observation and without prejudice to its determination in the subject appeal the Tribunal is concerned that certain deficits in terms of information appear to exist at valuation level with regard to communication networks. This may result in equipment being omitted from the list or double counted.