

Appeal No. VA88/0/348

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

Cork County Council

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Poultry houses Lot 5E, Ballytrasna, E.D. Mashanaglass, R.D. Macroom, Rated Occupier:
Riverview Farms Limited, Co. Cork

B E F O R E

Paul Butler

Barrister (Acting Chairman)

Mary Devins

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF APRIL, 1989

By notice of appeal dated 23rd day of August 1988, the appellants appealed against the respondent's decision to grant exemption to the above described hereditament.

The premises are situated in the townland of Ballytrasna off the Macroom/Cork Road in the County of Cork. The area comprises 12½ acres approximately on which are sited 6 poultry houses, each with a capacity for 8,000 hens, together with packing stores, office, canteen and

boiler house. These buildings are designed for the intensive production of eggs for the retail market. The eggs are collected daily, graded, packed and despatched to the various buyers. The remainder of the land is in grass on which cattle are grazed during the summer months.

Valuation History

The premises were the subject of annual revision prior to 1970, when a valuation of £85 (buildings) and £6.85 (land) was assessed. Following the Supreme Court decision in the Nixon v. Commissioner of Valuation (1980) I.R. 340, the Commissioner of Valuation amended the valuation by striking out the R.V. £85 (buildings).

The premises were the subject of annual revision and first appeal in the years 1983-1988 inclusive. Judge Fawsitt in a Circuit Court appeal in 1986 ruled in favour of the Commissioner of Valuation and against Cork Co Council in finding that the poultry houses were not rateable. The present appeal refers to the 1987 annual revision.

Written submissions

In a written submission dated March 1989 the appellants stated that the buildings consist of 6 large poultry houses of standard size i.e. 139' x 32', in which hens are kept, fed and watered mechanically from storage silos. Normally up to 48,000 birds are kept and all the food is brought in.

The eggs are collected daily. There is a central unit which contains sorting or grading machinery, a packaging department and an office. There are also fuel tanks and parking and loading areas which are paved.

Under normal circumstances a foreman and nine girls would be employed but at present, due to the salmonella scare, business is temporarily reduced and the staff is reduced to a foreman and four girls.

The balance of the 12 acres which are not covered with buildings or paved areas is in grass and this is more of a buffer zone between this dusty smelly plant and the neighbouring lands. These lands are not cultivated or put to any other use.

The owner of the company is a Mr Dick Collins, who resides at The Highlands, Glounthaune, which is a residential area over 20 miles from this plant and on the opposite side of the City. He formerly resided at Riverview Estate, Ballyvolane, in the City of Cork, but the dwelling here is now rented although the out offices are used as a delivery depot for the distribution of the eggs.

A brief written submission dated 17th January 1989 was received from Mr Liam Cahill on behalf of the respondent.

A written submission, on behalf of Riverview Farms Limited, was also received from Mr Desmond M. Killen, F.R.I.C.S., A.R.V.A., who is a Fellow of the Chartered Surveyors in Ireland and is a Director of Donal O'Buachalla & Co. Ltd. In this Mr Killen stated that the following points were of extreme relevance:

- (a) The poultry houses are "environmental control houses", where the birds are kept for a period of 56 weeks.
- (b) The birds are obtained when 18 weeks old.
- (c) Each poultry house contains 8,064 birds in cages.

- (d) The birds are automatically fed.
- (e) The egg laying is for a period, from 22 weeks old to 78 weeks old, during which the supply of eggs is approximately 290 eggs per hen.
- (f) The bird droppings are spread on the land, from which the grass is cut as hay.
- (g) There is a total of 9 persons employed to look after egg collection, grading and packaging. Mr John O'Connor is the manager.
- (h) Without grading, which is now an E.E.C. Directive, the eggs could not be sold to the wholesaler.

Oral hearing

At the oral hearing which took place on 10th March, 1989, the appellants were represented by Mr Anthony Kennedy S.C. instructed by Mr Terence O'Keeffe, Executive Solicitor, Cork County Council.

Mr John Hogan and Miss Phil McSweeney rates department, Cork County Council were also present.

The respondent was represented by Mr Liam Cahill, valuer. Mr Sean O'Leary B.L. instructed by Mr Jim O'Sullivan of Ronan Daly Jermyn & Co, Solicitors, appeared on behalf of the rated occupier, Mr Collins who was a notice party to the appeal. Mr Desmond Killen of Donal O'Buachalla & Co Ltd was also present on behalf of Mr Collins.

Submissions

Mr Kennedy stated that the land surrounding the poultry houses is merely curtilage and that no income is derived therefrom. It serves merely as a buffer zone between the hen houses and neighbouring lands.

He further pointed out that the irregularity of the shape of the holding might prevent it from being farmed successfully and that Mr Collins lived approximately 20 miles away, although describing himself as a poultry farmer.

Mr Kennedy highlighted the business nature of the enterprise and stated that it was in fact akin to any commercial undertaking but for its location in a rural area. He compared it to a hatchery situated in the heart of Cork City and felt that it should be similarly rateable.

Mr O'Leary stated that these poultry houses are undoubtedly farm buildings and referred the Tribunal to the Nixon judgment.

"Intensified production of cattle, pigs and fowl in specialised houses of this kind has become a common feature of modern farming." Per Mr Justice Henchy at p. 346 of the judgment.

Mr O'Leary pointed out that the remainder of the land is in grass, that cattle are grazed thereon and that hay is cut every year and fed to the cattle. There is electric fencing on the lands and slurry is spread on the lands as a fertilizer.

Mr Collins gave evidence that drainage was put into the land in 1986 and that as soon as it is dry enough, barley will be grown as feed for the hens. He also stated that all the water used is supplied by two wells on the land.

Replying to Mr Kennedy, Mr Collins pointed out that his operation was not a hatchery i.e. he produced eggs and not battery chickens. While agreeing with Mr Kennedy that the shape of his lands was not perfect he stated that it was good for rotation, allowing different portions to lie fallow as needed.

Law

S. 14 of the Valuation (Ireland) Act, 1852, provides:-

"No Hereditament or Tenement shall be liable to be rated in respect of any Increase in the Value thereof arising from any Drainage, Reclamation, or Embankment from the Sea or any Lake or River, or any Erection of Farm, Outhouse, or Office Buildings, or any permanent agricultural Improvement as specified under the Provisions of an Act passed in the Session of Parliament held in the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapter Thirty-two, Section Four, made or executed thereon within Seven Years next before the making of such Valuation or Revision."

S. 2 of the Local Government (Reduction of Valuation) Act 1966 amended S. 14 of the Valuation (Ireland) Act, 1852 as follows, viz:-

2.-In a case in which-

(a)Section 14 of the Valuation (Ireland) Act, 1852, falls to be applied consequent upon any such erection of farm, outhouse, or office buildings as is referred to in that section, and

(b)the work of erection was completed on or after the 1st day of March, 1959,

that section shall have effect subject to the deletion of "within seven years next".

Findings

In this case the poultry houses are undoubtedly on agricultural land. Cattle are grazed on the lands which are fenced electrically. Hay is cut and used as fodder. The land is being drained and we have had evidence that barley will be grown as soon as possible. Slurry from the hen houses is spread on the lands as fertilizer.

This operation does not take place independently of its surroundings. These buildings are connected with farming operations and form an integral part of same. To reiterate what the Supreme Court said in the Nixon case:-

"I consider that the words "farm ... buildings" in s. 14 of the Act of 1852 should be given their ordinary meaning, namely, buildings on a farm which are used in connection with the farming operations on the farm. This is what these poultry houses are. They are used for intensive poultry farming as houses in which chickens are reared to be sold as broilers or in which laying hens are kept for egg production. They are not used as a separate or self-contained activity. They are situated on the farm and are a related part of its activities. It is impossible to treat them as other than an integral part of the farming operations. In each case the litter from the poultry house provides valuable fertilizer for the rest of the farm, thus effecting a substantial saving in the expenditure on artificial fertilizer. They are thus an important adjunct to the purely agricultural use of these farms. In Mr. Nixon's case, water for the birds is supplied from a well on his farm. In Mr. Quinn's case, grain grown on his farm is scattered on the litter as scratch food for the young fowl. In those circumstances it cannot be held that the poultry houses are not a part of the farming operations on these farms. Intensified production of cattle, pigs and fowl in specialised houses of this kind has become a common feature of modern farming." Per Mr Justice Henchy at p. 346 of the judgment.

The Tribunal is of the opinion that this case is governed by the reasoning in the Nixon case. Accordingly, the Tribunal affirms the decision of the respondent.

