

Appeal No. VA96/4/042

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

I.W.T. Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse and Office at Map Ref: 2Aq/1, Townland: Ballytrasna, ED: Caherlag, RD: Cork Upper, Co. Cork

Quantum - Rate psf for factory space - impact of the ratio reduction in Cork County`

B E F O R E

Fred Devlin - FRICS.ACI Arb.

Deputy Chairman

Brid Mimmagh - Solicitor

Member

Michael Coghlan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 22ND DAY OF JULY, 1997

By Notice of Appeal dated the 29th August, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £80 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

- "1. The valuation is excessive and inequitable.
2. The valuation is bad in law".

The Oral Hearing:

This appeal proceeded by way of an oral hearing held in the District Courthouse, Angelsea Street, Cork on the 11th March, 1997. The Appellant was represented by Mr. Alan McMillan, ASCS, ARICS, a Director of Donal O'Buachalla & Company Limited. The Respondent was represented by Mr. Terry Dineen, B.Agr.Sc., a District Valuer in the Valuation Office.

Having taken the oath each Valuer adopted as their evidence in chief their respective written submissions which had previously been exchanged by them and furnished to the Tribunal.

The Property:

The property comprises the front half of a former warehouse building in Sitecast Industrial Estate, Little Island, Cork. The original building is now subdivided and each half is in separate occupation. The subject of this appeal is the front half of the original building and is used for warehousing purposes.

The building is of concrete portal frame construction with a low pitched double skinned and insulated asbestos roof and has a concrete floor. The infill walls are of part rendered concrete block construction with insulated metal cladding over to an eaves height of some 18 ft. There is a roller shutter doorway at the front and side, giving access to the warehouse area. No heating is installed in the warehouse.

At the front there is a two storey office building of concrete block construction with a timber framed asphalt covered mansard roof. Heating in the office building is by way of electric convector units.

At the front of the building there is a small tarmac covered yard.

All of the usual services are attached to the property but evidence was given to the effect that the estate road and services have not been taken in charge by the County Council.

Accommodation:

The agreed accommodation measured on a gross external area basis is as follows:-

Warehouse	4,633 sq.ft.
Offices	<u>2,165 sq.ft.</u>
Total Area	<u>6,798 sq.ft.</u>

The Appellant's Evidence:

Mr. McMillan, in his evidence drew attention to the fact that the estate road had not been taken in charge by the County Council and that there were on going problems in relation to foul drainage. Generally speaking he said the estate was not well maintained and in an effort to improve matters the various occupiers within the estate were now getting together in order to carry out works at their own cost with a view to having the estate roads taken in charge by the Local Authority.

Mr. McMillan gave the following evidence in relation to the letting agreement under which the subject property has been held for several years past.

1. Initial letting took place in 1989 when 3,000 sq.ft. of warehousing space and 1,000 sq.ft. of office accommodation was let at £4,620 pa, including insurance and external repairs. This he said devalued at £1 psf on the warehouse area and £1.50 psf on the office area respectively.
2. In January 1993 the rent of the above was increased to £10,000 pa in respect of 3,000 sq.ft. of warehousing and enlarged office accommodation of 2,165 sq.ft. which he devalued as being £1.60 psf and £2.50 psf in respect of the warehousing and office space respectively.
3. In January 1994 the rent for the same accommodation was increased to £11,000 pa and in January 1995 was further increased to £12,000 pa.
4. In May 1995 an additional area of warehousing was included and the rent increased at a rate of £2.30 psf for the extra space.

5. From January 1997 the rent was increased to £17,930 pa inclusive of insurance and external repair. This rent, Mr. McMillan devalued as being £2.30 and £3.40 for the warehouse and office areas respectively.

Mr. McMillan said that in arriving at his opinion of net annual value he had regard to the actual rents being paid for the building which he considered to be the best evidence available.

In support he included three other comparisons as follows:-

1. Premises occupied by D.D. Williamson Ireland Limited which is the other half of the original warehouse and which is also the subject of an appeal to this Tribunal. Ref: VA96/4/041. This building was leased in February 1989 for a term of 2 years and 9 months at a rent of £8,640 pa, £1.30 psf overall.
2. Waterman Printers Limited premises, Sitecast Industrial Estate. This is a detached factory premises adjoining the subject let for a term of 2 years and 9 months from the 23rd May 1989 at £10,000 pa plus a capital payment of £3,000. Mr. McMillan was unsure of the area of this property, but said that on the basis of information available to him the rent and capital payment devalued at a figure of approximately £2 psf overall.
3. Simon Eurolift premises at Courtstown Industrial Estate, Little Island. Mr. McMillan said that this building was located in a better estate than the subject and it was occupied under a lease for a period of 1 year and 6 months from October 1989 at a rent of £20,000 pa. On the basis of a total area of 12,460 sq.ft. he devalued the rent paid at £1.60 psf.

Having regard to the above, Mr. McMillan valued the subject premises as follows:-

Warehouse	4,633 sq.ft.	@	£1.60 psf	=	£ 7,413
Offices	2,165 sq.ft.	@	£2.00 psf	=	<u>£ 4,330</u>
NAV					<u>£11,742</u>

RV @ 0.5% £59. Say £60.

Mr. Dineen on behalf of the Respondent arrived at his opinion of net annual value on the following basis.

Warehouse	4,633 sq.ft.	@ £2.25 psf	=	£10,426.00
Offices	2,162 sq.ft.	@ £3.00 psf	=	<u>£ 6,486.00</u>
NAV				<u>£16,912.00</u>
RV @ 0.5%				£84.50. Say £80.

Mr. Dineen's evidence in relation to the building and the estate was similar to that of Mr. McMillan. However he considered his opinion of net annual value to be fair and reasonable and in support of this contention relied upon the following statement contained in a previous appeal to this Tribunal - **Henkel v. Commissioner of Valuation (VA93/3/004)**: "The Tribunal finds that the indication of a standard of £2.25 psf for standard factory space in the Cork area produces a reasonable rate of return on capital to ensure a continued supply of same."

Mr. Dineen also cited two comparisons as follows:-

1. Hansens Laboratory premises.

Lot 2T, Ballytrasna.

The property was let on a 31 year full repairing and insuring lease from around 1980 at a rent of £13,250 pa. This rent devalues as follows:-

1051 sq.ft.	@ £3.00 psf	=	£ 3,153
5248 sq.ft.	@ £2.00 psf	=	£10,496
Total		=	£13,649

The rateable valuation of this property is £95 but this was determined before the introduction of the 1986 Act.

2. Cork Plastics

Lot 2KF Wallingstown

This was listed for a Tribunal hearing as VA94/3/072. Within it additional warehouse space of 14,309 sq.ft., was agreed at £2.25 psf with Mr. Des Killen of Donal O'Buachalla & Company Limited. The old factory area of c. 44,500 sq.ft. is also valued at £2.25 psf.

Mr. Dineen outlined in some detail how after the introduction of the *Valuation Act 1986* rateable valuations in the Cork area were determined by applying a fraction of 0.63% to the net annual value. However, as a result of a number of decisions handed down by this Tribunal and he made specific reference to the case of **Showerlux v. Commissioner of Valuation (VA93/3/046)** the reduction factor of 0.63% had been reduced to 0.5% throughout the County Cork area. These decisions, he said, created an anomalous situation contrary to the intention of the Valuation Act 1986. The intention of this Act he said was to ensure that there was a continuity and relativity between valuations assessed prior to the implementation of this Act and those assessed after the Act. The result of the Showerlux case and other cases was that several rateable valuations were effectively reduced by 20%. He was of the view that the scale of reduction must have a bearing on net annual value and in his opinion Mr. McMillan did not fully appreciate this argument.

Determination:

The Tribunal has carefully considered all of the evidence and arguments adduced at this appeal and makes the following preliminary observations.

1. The question to be determined by this Tribunal is what rent a hypothetical tenant would pay for this property in its actual state as of November 1988.
2. It is common case that this property is typical of industrial buildings, constructed in the late 1970's. It is also agreed that the estate roads and services have not been taken in charge. Mr. McMillan's evidence to the fact that there are ongoing problems associated with the foul drainage was not disputed by Mr. Dineen nor the fact that the occupiers of the estate were at their own cost taking steps to remedy the

situation. These are factors which in the Tribunal's opinion a hypothetical tenant would consider in formulating an opinion of rental value.

3. The Tribunal notes with some interest Mr. Dineen's argument regarding the impact of the various decisions of this Tribunal which have the effect of reducing the adjustment factor from 0.63% to 0.5%. Whilst the Tribunal accepts that these decisions have created anomalies in the Valuation List, it is unfortunate that nothing that can be done to remedy this situation short of a general revaluation either of the county or the country as a whole.
4. In rating law, evidence of the rent being paid for a property is generally considered as being *prima facie* evidence of its letting value. In this instance there is evidence of actual rents being paid at or about the relevant date and hence the Tribunal does not feel itself bound by the statement taken from the Henkel judgment. In any event this statement is of a general nature and is not applicable to any particular property or estate which are subject to quite wide variation in relation to size, nature and condition. The Tribunal considers this estate to be below the normal and this is a factor which a hypothetical tenant would bear in mind in formulating an opinion of rental value.
5. Mr. McMillan in his evidence adduced information regarding actual rents being paid for industrial buildings including the subject at or about the relevant date and this Tribunal accords greater weight to this evidence than any other.
6. The Tribunal notes that whilst Mr. McMillan gave evidence that part of the subject property was let in 1989 at a rent equivalent to £1 psf and £1.50 psf respectively on the warehouse and office areas, he disregarded this evidence himself in arriving at his net annual value. Accordingly, therefore, it would appear that he came to the conclusion that this evidence of itself was unreliable.
7. The Tribunal also considers Mr. Dineen's evidence in relation to the Hansen Laboratory premises to be relevant.
8. Having regard therefore, to all the evidence and argument adduced at the oral hearing the Tribunal determines the net annual value of this property to be £14,600 giving a rateable valuation of £73 as follows:-

Warehouse	4,633 sq.ft. @ £2.00 psf = £ 9,266	
Offices	2,165 sq.ft. @ £2.50 psf = <u>£ 5,412</u>	
NAV		<u>£14,678</u>
Say		£14,600
RV @ 0.5%		£73.