

Appeal No. VA96/6/007

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

**Bank of Ireland (Clonmel)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Bank and Yard at Map Reference 77a.77b.78 O'Connell Street, UD: Clonmel West Urban, Clonmel, Co. Tipperary

**B E F O R E**

**Liam McKechnie - Senior Counsel**

**Chairman**

**Barry Smyth - FRICS.FSCS**

**Deputy Chairman**

**Michael Coghlan - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 17TH DAY OF APRIL, 2000**

By Notice of Appeal dated the 9th day of December, 1996, the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £285 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is excessive and inequitable having regard to the provisions of the Valuation Acts and on other grounds also."

The appeal proceeded by way of an oral hearing which took place on the 8th of October, 1999 at the offices of the Valuation Tribunal, Dublin. The appellant was represented by Mr. Donal O'Donnell S.C. with Mr. Owen Hickey B.L. Mr. Thomas Davenport A.R.I.C.S. A.S.C.S., Chartered Surveyor of Lisney gave evidence. The respondent was represented by Mr. Mark Sanfey B.L., instructed by the Chief State Solicitor, Mr. Denis Maher, a District Valuer with over 20 years experience in the Valuation Office gave evidence on behalf of the respondent. Mr. Frank Gregg from the Valuation Office was also in attendance.

Mr. O'Donnell outlined the history of the ratable valuation of the premises under appeal and also the situation generally regarding the valuation of banks for rating purposes. He indicated that there are two issues in this appeal:

1. Whether banks and financial institutions are to be treated *sui generis* or in comparison with other premises.
2. Whether the valuation is correct.

Mr. O'Donnell drew attention to the fact that the respondent's four comparisons in Clonmel are buildings designated under the urban renewal schemes.

Having taken the oath each valuer adopted as his evidence in chief his written submission which had previously been exchanged with the other valuer and submitted to the Tribunal.

### **Material facts agreed or found by the Tribunal**

#### **Valuation History**

The property was valued in 1977 on the old m<sup>2</sup> basis and following appeal the valuation was fixed at £260. Further to an application on behalf of the Bank of Ireland for a revision of the valuation, the property was included in the November, 1995 quarterly revision and the ratable valuation was increased to £315. Following an appeal to the Commissioner the valuation was reduced to £285. The subject appeal is against this figure.

## **Situation**

The property is situated in the business centre of Clonmel on the north side of O'Connell Street close to its intersection with Gladstone Street. O'Connell Street is the prime retail street in the town with retail users at pavement level with banks and other financial institutions interspersed.

## **The Property**

The property comprises a three story and part single story terraced building dating from the mid 1970's constructed with a reinforced concrete frame, concrete and timber floors and flat rooves of asphalt on concrete. The ground floor is fitted with a timber framed shop front and incorporates an ATM machine. The elevation to the upper floors is of red brick with aluminum framed windows. The single story section has a pitched asbestos slated roof and is pebble dashed externally. The property is laid out internally as a banking hall on the ground floor with ancillary offices and office accommodation on the two upper floors. The building is in good decorative and structural order throughout.

## **Accommodation**

Banking hall/offices	227.79 sq.m.
First floor offices and canteen	111.39 sq.m.
Second floor offices	<u>79.99 sq.m.</u>
Total	419.17 sq.m.

## **Tenure**

Freehold

## **The Appellant's Case**

Mr. Davenport in his evidence, stated that:

- Bank buildings had changed over the years from the traditional cut stone or brick façade to, in the 1960/70's, modern often concrete façade structures and in more recent years standard retail type premises that could be used for any retail purpose including banking;
- An analysis of recent agreements with the valuation office or decisions of the Tribunal confirm that historically the assessments on premises of the main banks have been excessive;

- The premises was built by the bank in the 1970's as a banking hall and office and that in the 1990's the original shop front was replaced with the present one which is more retail in character than traditional bank;
- Adjoining occupiers include a variety of retail users and include Dunnes Stores.
- The building could quite easily be used as a normal and standard retail unit;
- The ground floor banking/retail area is quite deep having an overall depth of 22.9m with the principal source of natural light being provided by the front display windows. The net internal frontage is 11m narrowing to 9m in its mid section;
- There is no on-site car parking;
- The total floor area of the building is 419m<sup>2</sup> and a quantum allowance should be made to reflect the fact that the hypothetical tenant must take the entire under a single letting;
- The following Valuation Tribunal judgements are of relevance in this case.  
VA96/2/010 - Irish Permanent Building Society, Upper Baggot Street, Dublin.  
VA95/6/013 - Bank of Ireland, Tullamore  
VA93/2/008 - Allied Irish Bank, Dun Laoghaire

Mr. Davenport proposed a ratable valuation on the premises of £180 calculated as follows:

***Ground Floor:***

Banking hall/offices	2,452 sq.ft.	@ £10 per sq.ft.
First floor offices	1,199 sq.ft.	@ £5 per sq.ft.
Second floor offices	861 sq.ft.	@ £4 per sq.ft.
Total		Say £34,000

Alternatively on a zoning basis

Zone A	749 sq.ft.	@ £20 per sq.ft.
Zone B	676 sq.ft.	@ £10 per sq.ft.
Remainder	1,027 sq.ft.	@ £5 per sq.ft.
First floor	1,199 sq.ft.	@ £5 per sq.ft.
Second floor	861 sq.ft.	@ £4 per sq.ft.

Total                    £36,314 Say £36,000 NAV @ 0.5% = RV £180

Mr. Davenport provided ten comparisons, summarized below:

***Comparison No. 1***

Allen's Wallpaper and Hardware Shop, 76 O'Connell Street, Clonmel

RV £75 1995/4 Appeal

Analysis

Ground Floor, Retail            1,519 sq.ft.    @    £8.50 per sq.ft.

Or Zone A                            400 sq.ft.    @    £20 per sq.ft.

For the subsequent six comparisons, Mr. Davenport requested from the Valuation Office and received, their analysis of the ratable valuations in each case. These are appended in full to this judgement and in summary are as follows:

***Comparison No 2***

Fitzgerald's Clothes Shop, 73a/73b O'Connell Street, Limerick    RV £125 1995/4 revision

Analysis:

Ground Floor:

Zone A            £20 per sq.ft.

***Comparison No 3***

Tony Connelly Menswear Shop, 4 O'Connell Street, Clonmel    RV£85 1995/4 revision

Zone A            £18 per sq.ft.

***Comparison No 4***

R.H. Major Opticians, 72a O'Connell Street, Clonmel    RV £65 1995/4 revision

Zone A            £20 per sq.ft.

***Comparison No 5***

Phelan's Shoe Shop, 71 O'Connell Street, Clonmel    RV £75 1995/4 revision

Zone A            £20 per sq.ft.

**Comparison No 6**

Nora Cronin Ladies Fashions, 69 O'Connell Street, Clonmel      RV £80 1995/4 revision  
 Zone A      £20 per sq.ft.

**Comparison No 7**

Joys Pharmacy, 68 O'Connell Street, Clonmel      RV £90 1992/3 appeal  
 Shop 987 sq.ft.      @ £15 per sq.ft. or Zone A £25 per sq.ft.

**Comparison No 8**

Dunnes Stores Ltd., 79/80 O'Connell Street and 1-6 Phelan's Lane, Clonmel  
 RV      £325 1995/4 Revision  
 Overall Retail 7,017 sq.ft. @ £8.00 per sq.ft.  
 Stores      2,167 sq.ft. @ £4.00 per sq.ft.  
 Zoning Basis from O'Connell Street Frontage  
 Zone A      650 sq.ft. @ £25.00 per sq.ft.  
 And Zoning from the car park frontage  
 Zone A      904 sq.ft. @ £15.00 per sq.ft.

**Comparison No 9**

E.S.B., 8 O'Connell Street, Clonmel  
 RV £105 1995/4 Appeal  
 Analysis of 1991 Rent:  
 Ground Floor: Zone A - 451 sq.ft. @ £25.00 per sq.ft. or overall 1,195 sq.ft. @ £15.00 per sq.ft.  
 Analysis of the NAV:  
 £14 per sq.ft. on an overall basis

**Comparison No 10**

John Tyler & Sons, 11 O'Connell Street, Clonmel.  
 RV £95 1995/4 Appeal  
 Analysis:  
 Zone A      460 sq.ft. @ £22 per sq.ft. or overall 1,214 sq.ft. @ £13.50 per sq.ft.

Mr. Davenport made the following comments on the respondent's comparisons:

**First National Building Society, O'Connell Street, Clonmel.**

This is a designated property - totally refurbished and considerably smaller than the subject premises. The NAV at £35,000 seems inconsistent with the 1994 rent of £33,000 per annum.

**National Irish Bank, O'Connell St. Clonmel.**

Passing rent - June 1993 £33,000 per annum yet NAV £35,000.

Smaller than the subject, has 48ft frontage and 38ft depth, that is a frontage to depth ratio of 1.25 : 1 and therefore has a large Zone A of 835 sq.ft.

**E.S.B. O'Connell Street, Clonmel**

Stores analyzed at only £1.36 per sq.ft. which inflates the rate per sq.ft. on the shop.

In this case the NAV is less than the rent reserved.

**Irish Permanent Building Society, the corner of O'Connell Street and Gladstone Street.**

This is the best building in Clonmel in terms of location at a prime corner and it is all Zone A. There was an expenditure of one million pounds on the premises and because of its size there should be a quantum adjustment for the premises under appeal.

**AIB, Nenagh**

The floor area is similar to the subject premises yet it has an NAV of £15 per sq.ft. as opposed to a proposed NAV of £18 per sq.ft. on the subject.

**Ulster Bank, Nenagh**

2,143 sq.ft. @ £15 per sq.ft. NAV, whereas the subject has £18 per sq.ft. on 2,452 sq.ft.

**AIB, Cashel**

832 sq.ft. @ £15 per sq.ft. whereas £15 per sq.ft. NAV on Ulster Bank in Nenagh.

Overall valued at £14 per sq.ft. on 1,300 sq.ft.

**Bank of Ireland, Cashel**

Similar comments to AIB

**TSB, Nenagh**

1,800 sq.ft. @ £16 per sq.ft. whereas £18 proposed on subject.

**Irish Permanent Building Society, Thurles**

Overall £15 per sq.ft. on 1,000 sq.ft. whereas £18 proposed per sq.ft. on 2,450 sq.ft. in the subject.

Under cross examination Mr. Davenport provided the following information:

That his interpretation of the Irish Permanent Building Society, Baggot Street Tribunal decision VA96/2/010 is that the premises must be valued in line with adjoining premises although he accepted that this is not a general rule of valuation.

He accepted that the subject was a very good building with an optimum depth to frontage ratio of 2:1.

That there could be more than one potential occupant of the entire floor area of 4500sq.ft.

That his comparison No.1 is 60 to 70 years old and that he had not inspected it and could not comment on its structural conditional. He accepted that it had 17 ft. frontage and 118 ft. depth and seemed to accept that a bank would not take these premises.

He accepted that the break down of floor area in the analysis provided by the Valuation Office in relation to his comparisons No. 2-6 inclusive was not quite Zone A on the basis of frontage by 6m depth but was a close equivalent. He felt that it was correct to look at both zoning and overall rent per sq.ft. and that it was appropriate to use zoning in Clonmel. He accepted that all the other comparisons had smaller frontage but added that they also had smaller floor areas. He also accepted that most of the comparisons are of traditional construction and all of them 70 or 80 years old. He accepted that 75% of the Dunnes Stores premises was more than 60 ft. back from O'Connell Street frontage. A retailer could readily adapt the subject premises as it was completely open plan with partitioning only and no major reconstruction would be required.



### **The Respondent's Case**

Mr. Maher in his evidence stated:

This is a purpose built structure dating from the mid 1970's and providing an open plan banking hall with offices and has a gross frontage of about 38 ft.

The layout is therefore modern and condition throughout is good.

It is correct to have the valuation in line with other banks and financial institutions dealt with on the same revision programme.

That it is appropriate to compare the premises with other banks and financial institutions because generally the premises occupied by such bodies are better buildings than the average shop.

Mr. Maher assessed a rateable valuation of £285 calculated as follows:

Ground floor	2,452 sq.ft.	@ £18 per sq.ft.
First floor	1,199 sq.ft.	@ £7 per sq.ft.
Second floor	861sq.ft.	@ £4 per sq.ft.
Total NAV	£55,973 but say NAV £57,000 to include the yard and external building.	
RV @ 0.5%	= £285	

Mr. Maher provided ten comparisons, the main details of which are as follows:

#### **First National Building Society, O'Connell Street, Clonmel.**

1995/4 First Appeal - RV £175 - Rent reserved June 1994 £33,000 p.a. net of fit out costs.

Analysis of NAV 1,735 sq.ft. @ £18 per sq.ft.

#### **National Irish Bank, O'Connell Street, Clonmel.**

1995/4 First Appeal - RV £175 - Rent reserved June 1993 £33,000 p.a.

Analysis of NAV

Ground floor 1,580 sq.ft. @ £18 per sq.ft.

#### **E.S.B. O'Connell Street, Clonmel.**

1995/4 First Appeal - RV £105 - Rent reserved 1991 £23,500 p.a.

NAV analyzed at 1,195 sq.ft. @ £16 per sq.ft.

**Irish Permanent Building Society, O'Connell Street / Gladstone Street, Clonmel.**

1995/4 First Appeal - RV £190

Analysis	1,805 sq.ft.	@ £21 per sq.ft.
----------	--------------	------------------

**AIB, Nenagh. VA97/2/038** RV £275 by agreement prior to the hearing

Analysis:

Public Office and Managers officers	2,638 sq.ft.	@ £15 per sq.ft.
-------------------------------------	--------------	------------------

First floor offices	1,664 sq.ft.	@ £6 per sq.ft.
---------------------	--------------	-----------------

Second floor stores	960 sq.ft.	@ £3 per sq.ft.
---------------------	------------	-----------------

**Ulster Bank, Nenagh. VA97/2/037**

Agreement at RV £170

Analysis:

Ground Floor	2,143 sq.ft.	@ £15 per sq.ft.
--------------	--------------	------------------

First floor	419 sq.ft.	@ £7 per sq.ft.
-------------	------------	-----------------

**AIB, Cashel. 1994/4 First Appeal - RV £120**

Analysis:

Public Offices	832 sq.ft.	@ £15 per sq.ft.
----------------	------------	------------------

Offices at rear	397 sq.ft.	@ £12 per sq.ft.
-----------------	------------	------------------

First floor offices		@ £5 per sq.ft.
---------------------	--	-----------------

**Bank of Ireland, Cashel. 1994/4 First Appeal.**

Banking Hall	951 sq.ft.	@ £15 per sq.ft.
--------------	------------	------------------

Managers Office/Strong room	262sq.ft.	@ £12 per sq.ft.
-----------------------------	-----------	------------------

First floor offices	645 sq.ft.	@ £4 per sq.ft.
---------------------	------------	-----------------

**T.S.B., Nenagh. 1993/4 First Appeal - RV £160. Rent reserved September 1992 £38,500 p.a.**

Analysis of NAV

Public offices/Managers Office etc.	1,800 sq.ft.	@ £16 per sq.ft.
-------------------------------------	--------------	------------------

First Floor	230 sq.ft.	@ £7 per sq.ft.
-------------	------------	-----------------

Second Floor    685 sq.ft.              @ £3 per sq.ft.

**Irish Permanent Building Society, Thurles.**

1992/3 First Appeal.

Analysis of NAV:

Public office 620 sq.ft. @ £20 per sq.ft.

He made the following additional comments in relation to his comparisons:

The rent reserved in No.1 of £33,000 per annum is attributed to the shell building only whereas the NAV of £35,000 reflects the fit out costs in addition to the rent. This premises has no car parking but does have double rent allowance. The N.I.B. premises, comparison No 2, did not qualify for double rent allowance. The local authority deemed the South side of the street to be poorer in quality than the North side and it was therefore designated. In his opinion there was no difference in rental levels between designated and non designated premises. He broke down the rents on an overall basis rather than Zone A/B because that was the basis of the comparisons.

Commenting on the appellant's comparisons he stated that most have poor frontage to depth ratio and all are very old buildings. Fitzgeralds is the only premises that might be suitable as a Bank and all the others are too narrow, too insecure and with very poor upper floors. The subject premises has an ideal depth to frontage ratio and the ratios in the comparisons would only be acceptable if it was on the basis of a very large frontage. Mr. Davenport's comparisons are not suitable because they are owner occupied small shops with narrow frontages and the buildings are old.

In cross examination, Mr. Maher provided the following information:

- In principle he would not rule out retail premises as a comparison but is of the view that the best comparisons are other financial institutions because they occupy similar premises.
- He valued the subject premises in 1996.
- He did not look at Mr. Davenport's comparisons at all because he did not consider them suitable because they are not good buildings.

- He elaborated on the valuation office analysis on the comparisons as put forward by Mr. Davenport and stated that they were not on a strict Zone A basis, that is frontage x 6m but did approximate to same.
- He explained his figure on the retail area of the E.S.B. and the apparent low rate per sq.ft. on the stores on the basis of an error in floors areas.
- He offered the view that the rent on the NIB premises may have been depressed by the closures of Digital in Clonmel at about the time of the letting and that the Market Place shopping center was designated at that time.
- He accepted that designation will have an effect on rent.

He put forward the comparisons outside Clonmel to show what banks in adjoining towns are valued at and that they are valued at an overall rate per sq.ft. and also that the T.S.B. premises shows a higher rent than the adjoining shops.

### **Determination**

Firstly to deal with the suggestion of the appellant's counsel that there are two issues in this case, 1) are banks and financial institutions to be treated sui generis or in comparison with other premises and 2) is the valuation correct?

- 1) The Tribunal in numerous previous cases including Bank of Ireland Tullamore VA95-6/013 and Irish Permanent Building Society, 22 Upper Baggot Street, Dublin 2, VA96/2/010 has stated that banks are not to be treated sui generis and the determination in relation to the Irish Permanent case is very clear in this regard in that it states that where the premises under appeal has all the characteristics of a shop it should be valued on that basis. However, the Tribunal has also stated in other cases particularly Bank of Ireland Kilkenny, VA98/3/054, that there are locations where because of the commercial nature of the area premises might have a higher value as a bank than for general retail purposes. The Tribunal has never stated that banks must be valued only on the basis of neighboring shops and the Tribunal is quite happy to accept as comparisons, where appropriate, other bank premises, retails shops and offices. The Tribunal is anxious to avoid a situation where banks, irrespective of the town in which they are located, have the same value, although there will obviously be cases where the evidence indicates by coincidence that this should be so.

- 2) The parties are in accord that this is a fine premises located in the busiest retail area of Clonmel where neighboring occupiers include both general retail users and banks and other financial institutions. The premises was purpose built as a bank with ancillary offices but is readily adaptable for retail use. It can reasonably be assumed that the demand for these premises because of their physical nature, condition and location could be strong from both large retailers and from banks and financial institutions.

The appellant's comparisons with two exceptions are of much smaller premises than the subject and it is unlikely that any would be suitable for a bank or financial institution. Clearly the Dunnes Stores comparison is considerably bigger and it is unlikely that the bank would have an interest in occupying the Dunnes property or visa versa. Only the Fitzgeralds Clothes premises in any way equates to the bank building but it is clearly a much older premises with basement retail and first floor stores and the second floor apparently unused but certainly no value attributed to it in the valuation office analysis. The respondent's Clonmel comparisons are also of somewhat smaller premises thought not as markedly so as the appellants and three of them are in similar use and revised at the same time as the valuation in this appeal. The premises of the Irish Permanent Building Society is in an acknowledged prime corner location and the valuation reflects this. The comparisons relating to bank premises in other towns are of limited value to the Tribunal.

Taking the comparisons provided by the respondent in Clonmel indicates:

Floor Area - sq.ft.	NAV, psf
1,735-1,580	£18
1,195	£16
1,805 (Irish Permanent)	£21

In view of the size of the subject premises at almost 2,500 sq.ft. on the ground floor, it is appropriate that a quantum reduction should be made and in addition the subject premises has considerable first and second floor accommodation which does not appear to be the case in the other comparisons.

Taking the above comments and the evidence into account, the Tribunal determines the ratable valuation of these premises calculated as follows:

Ground floor, banking hall and ancillary offices	227.79 sq.m.	@ £172 per m <sup>2</sup>	= £39,180
		(£16/sq.ft)	
First floor offices	111.39 sq.m.	@ £65 per m <sup>2</sup>	= £7,240
		(£6/sq.ft.)	
Second floor offices	79.99 sq.m	@ £43 per m <sup>2</sup>	= £3,440
		(£4/sq.ft.)	
Total			£49,860 say £50,000 NAV @ .5% = RV £250