

Appeal No. VA98/3/010

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

Kelly Bros. (Erinline) Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory/Land at Map Reference 4B, Townland: Cornahesk, Castlerahan, Virginia, Co. Cavan

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Finian Brannigan - Solicitor

Member

Ann Hargaden - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF JUNE, 2000

By Notice of Appeal dated the 23rd day of July 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £120 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that:

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

The appeal proceeded by way of an oral hearing which took place on the 24th day of May 1999 at the office of the Valuation Tribunal, Dublin. The appellant was represented by Mr. Alan McMillan ASCS ARICS MIAVI of GVA Donal O'Buachalla & Co Ltd. The Respondent was represented by Mr Ray McSweeney a District Valuer with twenty nine years experience in the Valuation Office.

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

1. Valuation History

The premises was a newly built factory in 1980 and at the 1980 revision was valued at £25. Expansion of the business resulted in an increase in the floor area from 2,830 sq. ft. to 5,513 sq. ft. which at 1984 revision resulted in an increase in rateable valuation to £70. Further development in 1994 approx. doubled the size of the production area and resulted in an increase in valuation to £130 in the 1996/4 revision. Total floor area at 1996/4 revision was 10,302 sq. ft. A first appeal was lodged following the 1996/4 revision which resulted in the rateable valuation being reduced from £130 to £120. A Tribunal appeal was lodged against the determination at first appeal.

2. Situation

The property is located alongside the main Virginia/Baileborough Road about 2km north of Virginia. Reference 4B in the Townland of Cornahesk, Virginia.

3. The Property

The property comprises a factory in two narrow bays and fronted by a single story office section and flanked by a new factory extension. The recent factory extension is of typical

steel portal frame construction with walls of rendered concrete block work (lower section) topped and finished with metal cladding under an insulated metal decked roof. The eaves height is approx. 5.2 meters (17ft.) but includes a higher section to approx. 7.6meters (25ft.). The floors are of concrete and sodium lighting is installed. The old factory in two bays dates from the 1970's and is constructed of basic concrete block walls supporting an un-insulated asbestos-sheeted roof on steel lattice trusses. Floors are of concrete and fluorescent lighting is installed. The span is 9.3meters (30ft.) and headroom is approx. 4 meters (13ft.). The offices are of basic construction finish and there is reasonable parking and circulation area to the front and rear.

4. Accommodation

Old factory:	4,615 sq. ft.
New factory:	4,778 sq. ft.
Offices:	909 sq. ft.
Total	10,302 sq. ft.

5. Services

Mains electricity connected
 No mains water/well on site
 No mains drainage/septic tank on site
 Lighting provided throughout
 No heating to factory space (old or new)
 No fixed heating to offices

The Appellant's Case

Mr. McMillan in his evidence stated inter alia:

The measurements in relation to the subject property were agreed between himself and the Respondent. He said he attached no importance to the mezzanine mentioned by Mr Sweeney for the Respondent and he stated that the premises was situate 2km north of Virginia and was set back from the public road on a shared laneway. He said there were no mains water or drainage and the premises was now flanked by a new factory extension. He said there was a 5.2meters eaves height which included a higher section 7.62m (25ft) high.

With regard to the history of the premises he informed the Tribunal that the old factory dated from the 1970's and that the span was 9.14m (30ft) with headroom of 5.48m (18ft) and reasonable parking. He said the area was 958 sq. m. (10,310ft) and there was a septic tank, and no fixed heating in the offices. Mr McMillan stated that Mr Sweeney had valued the water tanks which he, Mr McMillan, did not include as the company supply their own water and these tanks are not for production purposes but for fire purposes. He said there was a bad road between Virginia and Baileborough.

Mr. McMillan gave three comparisons, 1. J B Brady Limited of Virginia which had been the subject of Tribunal Appeal VA93/1/004, 2. Flair Plastics, Cavan Road, Bailieborough and 3. Drydeck Panels Limited, Bailieborough Road, Kingscourt, Co Cavan details of which are set out below:

SCHEDULE OF COMPARISONS:

1. J P Brady Ltd., Virginia Newly built builders providers premises.
Levelled enclosed site (1.46 acres).
Located on edge of Virginia just of Baileborough Road
RV £75 (VA93/01/04).

Analysis:

Shop/Showroom:	3,220	sq. ft.	@	£1.75
Offices:	820	sq. ft.	@	£2.00
Warehouse:	4,874	sq. ft.	@	£1.25
Store:	840	sq. ft.	@	£0.50

The Warehouse is physically comparable to subject new factory.

2. Flair Plastics, Cavan Road, Bailieborough.

Located approx. 2 miles west of Baileborough on Cavan Road.

Lot 26b, Crocknahattin.

RV £37 (1993/4 FA).

Floor area 14,846sq. ft. (includes 858 sq. ft. offices).

Rent 60p psf.

Leased to Flair Plastics from Baileborough Foundry Ltd.,

1990 at £9,000 pa.

NAV 50p psf.

Would be comparable to subject old factory space.

3. Drydeck Panels Ltd., Baileborough Road, Kingscourt.

Modern basic steel frame factory with metal decked roof on elevated narrow roadside site. Minimum office content.

Floor area 17,155 sq. ft.

Sold (1993) for approx. £65,000 (M. Lavelle & Co, Auctioneers).

Devalues at £3.80p psf.

Mr. McMillan stated that while a structural survey is not being carried out it is reasonable to comment that the old factory is in fair condition only and well "worn" and that the floors are in poor condition and heavily pitted. It was his opinion that the valuation is very substantially excessive and would appear to effectively endeavour to maintain the level of valuation attributable to the old square metre basis. After due allowance for miscellaneous items (say

RV£10) the NAV devalues at £2.15p per sq. ft. overall and he said that this closely reflected Dublin values. He said the Commissioner's estimate was not supported by any evidence of contemporary rentals or capital values and did not reflect rental values as at November 1988 when the market conditions were poor and tenant demand for industrial accommodation in rural locations was very modest and thin. He said that Virginia had a population of approx. 800 people and lay on the N3 approx. 30km east of Cavan town and 16km west of Kells. He said that while the original factory was modest and dated and the office accommodation was basic, the new extension was more spacious with a clear span of 15.7meters (50ft.). He stated that an RV/NAV ratio of 0.5% was agreed for the purposes of the appeal. Mr McMillan's valuation of the subject property was as follows:

MISCELLANEOUS ITEMS

- (a) 3 no. silos @ 48 Tonnes each.

Cost second-hand (1991) £2,000 each

Value at 2 ½ p per tonne = £3.60

[or @ 6.5% on cost = RV £2]

- (b) Oil tanks:

Process oil: 3,500 gallons.

Diesel fuel: 2,000 gallons.

Total: 5,500 gallons.

Value @ 50p/'000 gls. = £2.75

- (c) Motive power: 75 HP @ 5p = £3.75

Total = say £10.00

Old factory: 4,615 sq. ft. @ £0.60 = £2,769

New factory: 4,778 sq. ft. @ £1.25 = £5,972

Offices:	909 sq. ft.	@	£1.20	=	£1,091
Miscellaneous items:	(RV £10 Supra)			=	£2,000
	NAV			=	£11,832
	RV	@	0.5%	=	£ 59

Mr. McMillan said he did not value the water tanks and on cross examination he stated that his breakdown of comparison No. 1 J P Brady was a subjective one as the Tribunal determined the rateable valuation of £75 but did not give a breakdown. He said he did not accept that the occupants were happy with the premises because they had improved them and he said there were no market rents available from 1988.

Mr. Nugent the company secretary of the Appellant Company was sworn and gave evidence that the premises were in a rural area and they contained old buildings which were obsolete and weather-beaten prior to the new section being constructed. He said there was a high section in the new building because they would be using high manufacturing equipment for the production of thermoplastics which go into road markings and the higher the equipment you have the less blockages you get.

RESPONDENT'S CASE

Mr Raymond Sweeney having taken the oath adopted his précis and gave evidence that there was a disagreement on the silos with regard to the 6.5% on cost as a method of valuation and that he also disagreed with Mr McMillan with regard to the non valuation of the water tanks.

He said that he had given a list of three comparisons, comparison No. 1 - Whelan Footwear, Cootehill, comparison No. 2 - Derek Eakin, Cootehill and comparison No. 3 - Cool Rite Refrigeration, near Baileborough but that he would only be relying on comparisons 2 and 3 of these which are set out below.

He said that the Derek Eakin premises was close to Whelan Footwear and was a premises of average quality outside Cootehill and that in relation to Cool Rite Refrigeration near Baileborough, the valuation had been agreed with Mr McMillan. He gave a history of the premises and submitted photographs of the subject premises and his comparisons. He stated that the property comprised of a compact factory producing paint for road markings located along the main Virginia/Baileborough road and that the floor areas were agreed. He said his valuation basis on the subject premises was as follows:

Offices	909 sq. ft.	@	£2.50	=	£2,272
Original Factory	4,615 sq. ft.	@	£1.60	=	£7,384
New Factory	4,778 sq. ft.	@	£2	=	£9,556
Mezzanine	408 sq. ft.	@	£0.75p	=	£ 306
Silos 144 tons		@	5p	}	
Diesel/Oil Tanks 5,500 gals.		@	50p per 1000 gals.	}	
Water Tank 30,000 gals.		@	20p per 1000 gals.	}	NAV = £3,940
Horse Power 75		@	5p	}	
Yard at rear = £	500				
			£23,958 @ 0.5%	=	£119.79
			Say		£120

SCHEDULE OF COMPARISONS

1. Whelan Footwear, Cootehill - Withdrawn as a comparison
2. Derek Eakin, Cootehill

Offices	1,690 sq. ft.	@	£2.50
Warehouse	6,867 sq. ft.	@	£1.75
Mezz store	2,961 sq. ft.	@	£0.60
RV.	£90.00		
Rural location, c. 2 mls. Cootehill			

3. Cool Rite Refrigeration, near Baileborough

Agreed 91/4 with Mr McMillan of O'Buachalla & Co.

Office/Display 1,091 sq.ft. @ £2.25

Stores 5,301 sq.ft. @ £1.75

RV. £58.00

Rural location with infamous road network per Mr. McMillan.

Offices @ £2.25, Stores @ £1.75

These comparisons devalue on overall basis as follows (Mezzanine areas etc. excluded)

CP 2: Derek Eakin 8,557 sq. ft. @ £1.89

CP 3: Cool Rite 6,392 sq. ft. @ £1.81

Subject devalues: 10,302 sq. ft. @ £1.86

Mr Sweeney said on the basis of his comparisons that the RV on the subject property was reasonable.

In cross-examination Mr Sweeney stated that he relied on Derek Eakin and Cool Rite as comparisons and Derek Eakin was partly new but that he would think that it was comparable to the old Kelly Bros. with a 40 or 50 ft. span. He stated the he believed that the old Kelly Bros. property to have been well constructed in 1979 although he accepted that the old accommodation there is somewhat dated. Mr Sweeney said that the Cool Rite premises had a poor road network. He stated that it was difficult to comment on the J P Brady premises in that he did not know what the basis of the valuation was although he could have done an analysis. He did accept however that the analysis submitted by Mr McMillan on behalf of the appellant was not unreasonable. He accepted that the entire of J P Brady's was built in 1993 and that the subject property was different. He said that J.P. Brady's included the store which is 18ft. high and very basic but also said that the new buildings of J P Brady's were better than Kelly's old building but not as good as Kelly's new buildings. He stated in cross-examination that he did not dispute the facts in relation to the history of the silos as set out by Mr McMillan. He said that in his opinion

comparison number 2 of the appellant, Flair Plastics of Cavan road, Baileborough was a very poor comparison. He also stated that the absence of mains supply would be negative factor affecting the subject premises but the water tanks for fire fighting would be usual. He that he did not know if Cool Rite had a mains supply.

He said that with regard to his comparison number 2 Derek Eakin of Cootehill that this premises does not appear to have a storage yard. Mr. Sweeney included a valuation of £500 in respect of the yard at the rear. Mr McMillan for the appellant challenged this on the basis that the yard in the J P Brady Ltd. premises, which was his number one comparison, was a developed yard for storage and was surrounded by a protective pallisade fence and that this was not the case with the subject premises.

DETERMINATION

Having read the précis of the appellant and respondent and having considered the oral evidence of Mr McMillan and Mr Nugent for the appellant and Mr Sweeney for the respondent the Tribunal is of opinion that the best comparison is the premises of Messrs J P Brady Ltd. of Virginia which is located on the edge of Virginia just off the Baileborough Road. The Tribunal is cognisant of the fact that this premises was the subject matter of an appeal *VA93/1/004* where the RV was held to be £75 and of the fact that Mr Sweeney for the respondent does not dispute Mr McMillan's breakdown of the figures and agrees that they are not unreasonable. The Tribunal also takes into consideration that the premises of J P Brady Ltd. Virginia is of a similar age to the new section of the subject premises but is much newer than the old section. The Tribunal accepts the 6.5 % of capital value on the silos as Mr Sweeney did not dispute that the Commissioner had used this system. The Tribunal accepts the evidence of Mr McMillan that the yard is not developed for storage and does not propose to take the yard into consideration. The Tribunal also accepts the appellant's evidence that the water tanks are not for production purposes but for fire purposes and accordingly does not propose to value them.

The Tribunal therefore finds as follows:

1	Old Factory:	4,615 sq. ft.	@	£1.00 psf	=	£4,615
2	New Factory:	4,778 sq. ft.	@	£1.50 psf	=	£7,167
3	Offices:	909 sq. ft.	@	£2.00 psf	=	£1,818
4	Miscellaneous:					
	(including 6.5% on cost of silos):				=	£1,700

TOTAL NAV	=	£15,300
£15,300 X .5%	gives	£76.50p
Say		£77

The Tribunal therefore determines that the rateable valuation is £77.