

Appeal No. VA98/3/039

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

Kilsaran Concrete

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Sand Pit at Map Reference 1B, Townland: Ballynamona, E.D. Galtrim, R.D. Trim. Co. Meath

Quantum - Methodology for valuing a quarry

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Finian Brannigan - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF JULY, 1999

By Notice of Appeal dated the 4th day of August 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £522 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the valuation is excessive, inequitable and bad in law when rental levels and other factors are taken into account".

The appeal proceeded by way of an oral hearing, which took place on the 1st day of March 1999 at the offices of the Valuation Tribunal, Dublin. The appellant was represented by Mr. Brian Bagnall of Bagnall & Associates and Mr. John Barnett of John Barnett & Associates Ltd., Chartered Mineral Surveyors. The Respondent was represented by Mr. John Colfer A.R.I.C.S., a Valuer in the Valuation Office.

Having taken the oath both Mr. Barnett and Mr. Colfer each adopted as his evidence in chief his written submission, which had previously been exchanged with the other and submitted to the Valuation Tribunal.

Material Facts agreed or found by the Tribunal

1. Valuation History

Following inspection of the property in October 1997 the Valuation Lists issued in November 1997 included the subject property with R.V. fixed at £22 on buildings and £500 absolute. This was appealed and in July 1998 the Commissioner issued his decision leaving the assessments unchanged. The matter was then appealed to the Tribunal.

2. Agreed Rateable Valuations

Negotiations resulted in the rateable valuation for the buildings being agreed at £18 and for horsepower at £15.

3. Situation

The property is situated in an agricultural area approximately two miles north-east of Summerhill, Co. Meath and 14 miles from Clonee, Co. Meath where the company has a processing plant and 23 miles from Dublin city centre.

4. The Property

The property comprises a sand and gravel pit in operation for approximately 4 years. The sand and gravel is extracted by front loader and is fed to the processing plant on site where it is washed and screened. The graded sand and gravel is then sent to the ready-mix and block making plant in Clonee.

5. Output

The production of sand and gravel from the site has averaged about 245,000 tonnes annually.

6. Ex-Pit price for sand and gravel @ valuation date £3.50 per tonne

Using the sand and gravel wholesale price sale index £2.90 per tonne

7. Freehold

The Appellant's Case

Mr. Barnett in his evidence stated interalia;

1. The sand and gravel pit has the benefit of full planning permission from Meath County Council and it is a condition of the planning condition that workings must keep a minimum of one metre above the water table.
2. The site adjoins a Meath County Council landfill site and therefore ground water is polluted and water is taken from an adjoining stream with an appropriate system installed.
3. The deposit is quite silty and must be washed.
4. Water must be brought in daily for the workmen on site.
5. As a consequence of the above this is an expensive site to operate.
6. As at the valuation date the pit has a remaining life of approximately 18 months.
7. There are no further reserves in the area.
8. Due to the limited life of the pit the cost of the plant and equipment would have to be amortised over a very short period and therefore the royalty fee should be reduced by 5% to reflect this disability.
9. The appropriate royalty is 10% of the ex-pit price at 1988 i.e. £0.29 per tonne.
10. There are virtually no direct sales from the pit and all the products are washed and screened on site and sent directly to Kilsaran's ready-mix and block work plant at Clonee.
11. In relation to the Tribunal decision in Appeal No: VA96/2/044 – *Dan Morrissy Ltd.* which is an appendix to the Respondent's précis of evidence he stated that he probably had not explained himself properly in relation to royalty values and that his evidence had been taken out of context.
12. His valuation was calculated as follows:

245,000 tonnes of sand and gravel @ royalty of £0.29 per tonne = £71,050 p.a.

Rateable valuation @ 0.5% of rental value (N.A.V.) = £355.25

Disability allowance (based on the life of the deposit is insufficient fully amortised the capital investment in the plant and equipment and infrastructure on the site) 5%

Rateable valuation therefore £337.50.

This figure does not include the agreed rateable valuations on buildings of £18 and horsepower £15.

In cross-examination Mr. Barnett conceded that the deposits are clean and above the water table and that when transported to Clonee they are upgraded to ready-mix and concrete blocks.

The Respondent's Case

Mr. Colfer in his evidence stated inter alia;

1. This is a well-developed sand and gravel pit with clean deposits and all workings above the water table.
2. That his initial assessment was based on information that the output was 225,000 tonnes per annum but this was not agreed at 245,000 tonnes per annum and he was therefore now proposing a rateable valuation of £540 absolute including £15 agreed for horse-power and with the addition of £18 agreed for the buildings.
3. That there is no problem with the extraction.
4. That all products is sent to the Clonee processing plant where it is upgraded to ready-mix and blocks and that Clonee is ready convenient to Dublin.
5. That the appropriate royalty fee is 15% of the ex-pit price adjusted to 1988 i.e. of £2.90.
6. That Mr. Barnett in his evidence in the Tribunal case VA96/2/044 – *Dan Morrissey Ltd.* had submitted;
 - (a) The formula applied by the Valuation Office in arriving at rateable valuations appeared right for sand and gravel pits (subject that provided each case must be examined on its own merits).
 - (b) Sand and gravel royalties compared favourably with those encountered in the study of royalties in N.W. England and N. Wales. A £0.50 per tonne sand and

gravel royalty would apply as an average here with royalties being higher nearer Conner Patience?? and lower in the country areas. Mr. Barnett is aware of a pit near Anfield where a royalty charge of £0.55 per tonne was being paid.

- (c) Mr. Barnett valued quarries and gravel pits by capitalising royalties in arriving at his opinion of value he usually applies the following rates or charges;

Stone	£0.18 to £0.20 per tonne
Sand & Gravel	£0.60 to £0.70 per tonne
Less sand	£0.75 per tonne

Both Mr. Barnett's précis of evidence in the Morrissey case and the Tribunal judgment are appended in full to Mr. Colfer's précis of evidence.

Mr. Colfer proposed three methods of valuation as follows;

(note that the agreed tonnage of 245,000 has been used in each method as set out below)

Method 1 – Application of the Valuation Office Formula

First 50,000 tonnes @ £.0028 per tonne	R.V. £140
Next 50,000 tonnes @ £.0024 per tonne	R.V. £120
Remainder 145 tonnes @ £.00185 per tonne	R.V. £268.25
Total R.V.	£528.00

Add 308 horse-power @ £0.05	R.V. £ 15 (Agreed)
Total R.V.	£543.00

Method 2 – As a % of an ex-fit price

An ex-fit price of £3.50 per tonne adjusted to £2.90 per tonne as at November 1988 is agreed with the appellants. Because of the location of the pit and the quality of the extract a 50% royalty is adopted thus giving a royalty of £0.43 per tonne.

Output:	245,000 tonnes @ £0.43 per tonne = £145,350
	R.V. @ 0.5% = £526.75

Add : Horsepower as above £15.00 Total £541

Method 3 – Application of £0.60 tonne minimum royalty

By applying the minimum range of £0.60 usually applied by Mr. Barnett in arriving at his opinion of value adjusted to £0.50 to November 1988 gives:

245,000 @ £0.50 tonne	= £122,500
R.V. @ 0.5%	= £612.50
Add : Horse power as before	= £15
Total	= £627

Mr. Colfer therefore proposed £540 for the appropriate rateable valuation with an addition £18 for the buildings.

In cross-examination Mr. Colfer stated;

1. That they were not double handling costs and having the processing plant off the site as it involved only one extra unloading of vehicles and thus there was no advantage of having upgrading equipment on the site.
2. In relation to his first method of valuation that the Morrissey case had not overturned the traditional Valuation Office method in that the Tribunal stated has stated that the formula method was inappropriate for stone but did not state that it was inappropriate for sand and gravel.
3. In the hypothetical case that the pit was actually beside the plant at Clonee he would still apply a royalty of 15%. Ballynamona was not too disadvantageous but he did accept that it was at some disadvantage.
4. In relation to his third method of valuation he accepted that in the Morrissey case the Tribunal might have taken Mr. Barnett's evidence out of context.
5. There was a lack of evidence of royalties for sand and gravel pits because most sites were owner occupied rather than leased.

Determination

The basic facts in relation to this case were agreed between the parties and the dispute centres on the appropriate method of valuation and the percentage royalty of the ex-pit price. The appellant adopts one method of valuation only namely a royalty, which is a percentage of the ex-pit price while the respondent provides three methods. The second of which is the same as the appellants, the others being a Valuation Office formula basis and the application of a minimum price per tonne royalty.

The Valuation Office formula method was arrived at in 1979 and following the Supreme Court decision in the Roadstone case in 1955 (this statement is contained on page 4 of the Tribunal judgment in VA96/2/044 which was an Appendix to the respondent's précis of evidence). It seems inappropriate to this Tribunal that fixed rates per tonne should apply irrespective of the location of the pit, the quality of its deposit or the costs involved in its deduction. We therefore will not follow this method in this case.

In relation to the third method the application of a minimum £0.60 per tonne royalty, Mr. Colfer greatly acknowledged in cross-examination that Mr. Barnett's evidence in a previous case had been mis-interpreted and he effectively withdrew his method from consideration. In any event he did appear to rely on the figure that this method produced which was considerably higher than the figure produced under the other two methods and his proposal of the correct rateable valuation which was somewhat less than the average of the figures produced under methods one and two, both of which were very similar in any event.

We have therefore decided that the valuation method common to both parties namely a royalty that has a percentage of the ex-pit price is appropriate in this case. The ex-pit price as at 1988 is agreed at £2.90 per tonne. Mr. Barnett for the appellant suggested the appropriate percentage to be 10% i.e. £0.29 per tonne and made a further reduction called a disability allowance of 5%. Mr. Colfer for the respondent adopted a royalty of 15% of the ex-pit price, which is £0.43 per tonne and made no deduction on that figure.

The Tribunal considers that the subject pit is dis-advantaged on the grounds;

1. Of its distance from the processing plant which incurs some additional handling expenditure.
2. The relatively short life of the deposit and the effect of that on the amortisation of capital investment in plant and equipment and infrastructure on the site.

The Tribunal determines the rateable valuation as follows:

245,000 tonnes of sand & gravel at a royalty of 15% of the 1988 ex-pit price of £2.90 = £0.435 x £245,000 = £106,575 less 10% for distance from the plant and relatively short life of the deposit = £10,657.50 subtracting that from the figure above gives £95,917.50. N.A.V. @ 0.5% = £479.58. Say £480.00 Add: Horsepower agreed at £15 = £495 and buildings agreed at £18. Total £513.

And the Tribunal so determines.