

Appeal No. VA89/0/025

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

**North Kerry Milk Products Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: General Store at Ballygrenane, Listowel, Co. Kerry  
Quantum - Pragmatic approach where little between the parties

**B E F O R E**

**Hugh J O'Flaherty**

**S.C. Chairman**

**Paul Butler**

**Barrister**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 21ST DAY OF MARCH, 1990**

By notice of appeal dated the 15th day of August, 1989, the appellants appealed against the determination of the Commissioner of Valuation in setting a rateable valuation of £185 (buildings) on the above mentioned hereditament.

The subject property comprise a general store and yard which forms part of the North Kerry Milk Processing Plant, Listowel. It is a warehouse building with a double skin asbestos roof and has a clearance of 24 feet to the eaves. There is a concrete yard in front of the store and to the front of this again is a hard stand area of gravel and hardcore. Part of the warehouse is occupied by the Department of Agriculture and this is separately valued.

### **Valuation History**

The store was first valued in 1980 at £170 but was reduced on first appeal to £148. In 1988 the property was listed for revision and the valuation was increased from £148 to £220 which valuation took account of the addition of a hardcore yard. At first appeal stage the Commissioner distinguished the part of the property occupied by the Minister for Agriculture and fixed the valuation on the warehouse and yard at £185. This appeal to the Tribunal is against that amount.

### **Written submissions**

A written submission was received on the 5th January, 1990 from Messrs Hennigan & Co., 23 Upper Mount Street, Dublin 2, Rateable Valuation Consultants & Valuers. Messrs Hennigan outlined the valuation history of the property as above but in addition say that the subject premises were also included in the 1984, 1985 and 1987 annual revision of valuation and no change was made in the rateable valuation of £148 at issue as a result of any of these revisions. They say that there have been no changes to the balance of the subject store since the 1980 first appeal, however they say a rough gravelled yard (7,000 sq.m. approx) has been provided as parking for the company's transport vehicles. They then outline how the £148 assessed on the premises by way of the 1980 first appeal devalues as follows:-

General store	-	1,324 sq.m. @ 8p	=	£105.92
Office area	-	266 sq.m. @ 12p	=	£ 31.92
Lofted area	-	266 sq.m. @ 4p	=	<u>£ 10.64</u>
				<u>£148.48</u>
			Say	£148.00

Messrs Hennigan then say that during further discussions with Mr Brian O'Flynn on the 31st May, 1989, he advised that his estimate of a fair and equitable valuation on the subject hereditament is £185. This assessment devalues as follows:-

General store -	1,340 sq.m. @ 10p	=	£134.00
Office area (to be separately rated to the Dept of Agriculture).			
Lofted area -	268 sq.m. @ 5p	=	£ 13.40
Gravelled yard-	7,200 sq.m. @ ½p	=	<u>£ 36.00</u>
			<u>£183.40</u>
	Say		£185.00

Messrs Hennigan & Co say that in their opinion a fair and equitable valuation in this case would be £150 having regard in particular to the following factors:-

- (a) their assessment is based, inter alia, on the figures already agreed on 1980 first appeal, no change of any kind having been made to the section of the store occupied by the clients since. The valuation agreed on 1980 first appeal also had regard to the levels of valuation already established for the main factory/warehouse buildings which are located adjacent to the subject store in the townland of Islandmacloughry.
- (b) the store at issue is constructed of concrete block walls with a mineral felt roof. They consider that this store has not increased in value since the date of the previous valuation appeal in 1980. It is in fact normal to depreciate the capital value of same over this period particularly as the mineral felt roof covering has an estimated lifespan of twelve to eighteen years.

- (c) the rate of ½p per square metre adopted for the rough gravelled yard is fair and reasonable especially as a rate of 1p per square metre was agreed by way of a previous appeal in respect of the client's carpark alongside in the townland of Islandmacloughry. This carpark is tarmacadamed and the car spaces are individually marked.
- (d) the R.V. £148 agreed on 1980 first appeal was not altered by the Commissioner of Valuation by way of the subsequent revisions of valuation in 1984, 1985 or indeed in 1987 following the passing into law of the Valuation Act, 1986.

Their estimate of valuation is assessed, on a rate per square metre basis, as follows:-

General store (as agreed at 1980 first appeal)		
1,324 sq. metres @ 8p per sq. metre	=	£105.92
Lofted area (as agreed at 1980 first appeal)		
266 sq. metres at 4p per sq. metre	=	£ 10.64
Gravelled yard		
7,000 sq. metres @ ½p per sq. metre	=	<u>£ 35.00</u>
		<u>£151.56</u>
	Say	£150.00

A written submission dated the 21st of December, 1989 was received from Mr Brian O'Flynn, a valuer with 14 years experience in the Valuation Office. In this submission Mr O'Flynn outlined the details of the property and its valuation history.

He then outlines details of the net annual value which would yield a rateable valuation of £195 as follows:

Warehouse 24' eaves 12,423 sq ft @ £2.00 p.s.f.	=	£28,846
Loft area 12' eaves 2,885 sq ft @ £0.75 p.s.f.	=	£ 2,160



Mr O'Caomh said that the proper way to calculate the rateable valuation on this was by determining the net annual value rather than approaching it on a square footage basis and that he had evidence of actual rental figures which would indicate that the proper valuation is as applied by the Commissioner of Valuation. Mr Cooke argued that his client had to pay £43,000 in respect of re-roofing the warehouse and that the hypothetical tenant would have had to pay this had he acquired it at the time of this revision. Mr O'Caomh said that the appellants had failed to produce a net annual value for the hereditament and as such that the Tribunal would have to accept the net annual value produced by the respondent which was based on a similar type property which is rented at £2.00 per square foot at Causeway which is only 15 miles from the subject hereditament. It is rented by the appellant in this case and it is rented at £2.08 per square foot.

### **Determination of the Tribunal**

The Tribunal is conscious that little separated the parties on this appeal. It finds it impossible to decide that one valuer's testimony is to be preferred to the other. It will apply the old maxim: equality is equity and will take a pragmatic approach in reaching its decision. On this basis it is decided that the gravel yard should be valued at £35, the loft area at £10 and applying 9p per square metre to the general store area that the rateable valuation on it would be £120 giving a total rateable valuation of £165.