

Appeal No. VA89/0/042

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

**Janssen Pharmaceuticals Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory, Offices & Grounds at Lot No. 20 E.D. Caherlag, Wallingstown, Cork Upper, Co. Cork

**B E F O R E**

**Henry Abbott**

**Barrister Chairman**

**Brian O'Farrell**

**Valuer**

**Veronica Gates**

**Barrister**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 10TH DAY OF JANUARY, 1991**

By Notice of Appeal dated the 3rd day of August, 1989 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,050.00 as follows; Buildings £860, Absolute £190 on the above described hereditament.

A further appeal dated 18th September, 1990 was received in respect of the subsequent year's revision on the same hereditament.

The grounds of appeal as set out in the Notices of Appeal are that the valuation is grossly excessive and inequitable.

The appellant firm consists of an industrial chemical factory located in the Little Island Industrial Estate outside Cork City.

### **Valuation History**

The property was first valued in 1981 and a rateable valuation of £450 was fixed. The property was again the subject of revision in 1988 on foot of a new warehouse, alterations to and extension of the offices within the existing office/warehouse block, the construction of an Effluent Treatment works and other minor additions. The rateable valuation was increased to £800 which was appealed to the Commissioner of Valuation. The outcome of the appeal was that the valuation was increased to £860 on Buildings and £190 Absolute. It is against this determination that Appeal No. 89/42 lies with the Tribunal. In 1989 the property was subject to revision and the valuation was unaltered both at revision and first appeal stages. It is against this determination that Appeal No. 90/3/15 lies with the Tribunal.

### **Written submissions**

A written submission was received on the 24th December, 1990 from Mr Terence Dineen, B.Agr.Sc., a valuer in the Valuation Office on behalf of the Respondent.

Mr Dineen said that the Little Island industrial estate is the prime estate for light and medium industry in the Cork city environs. It is extremely well serviced with good water, sewage, telephone, telex, road, natural gas and three phase electricity services. The port of Cork is adjacent.

He said that the rateable valuation here has to be fixed in accordance with Section 5(1) of the 1986 Act. In this case the percentage 0.63% of the November 1988 rent is appropriate.

In this pharmaceutical factory, as in others, the complex is made up of rateable and non rateable elements; the divide between the two has been more or less agreed.

With regard to costs and expenditure Mr Dineen said that the costings only are available to him.

- (1) Per revising valuer's note in 1980, expenditure was £2.6m of which 70% or £1.8m related to plant and equipment. The land at that time - four acres - would have cost £15,000 per acre or a total of £60,000.
- (2) In 1988, expenditure on a new warehouse was given as £600,000 or £434/m. sq. and an office extension costs £210,000 or £340/m. sq. - these figures exclude site costs.
- (3) Separate from these plant capacity was increased by 40% between 1981 and 1988.

Mr Dineen then outlined three approaches by which he calculated the rateable valuation as follows:-

Approach No. 1	Contractors	£3,137 R.V.
Approach No. 2	Comparison	£2,140 R.V.
Approach No. 3	Rentals	£1,500 R.V.

The details of these are attached as Appendix "A"

Mr Dineen supplied his calculations on the tanks which are R.V. £10 on Propane, R.V. £72 on Liquid Nitrogen and R.V. £70 on the Stainless Steel.

A written submission was received from Mr Desmond Killen F.R.I.C.S., I.R.R.V. a Director of Donal O'Buachalla & Co. Ltd. on behalf of the Appellant.

Mr Killen referred to the judgment of Barron J in the I.M.I. v. Commissioner of Valuation and referred to 3 methods by which the rateable valuation can be calculated as follows; the comparison basis, the rental basis and the contractor's basis. Using the comparative basis he referred to the following properties which have been revised and gives a devaluation of their respective rateable valuations as they apply to offices, factory and plant/tanks.

<b>Premises</b>	<b>Offices</b>	<b>Factory</b>	<b>Plant/Tanks</b>
F.M.C. Little Island	19p/sq.m.	15p/sq.m.	25p/1000g
Mitsui Denman Little Island	20p/sq.m.	15p/sq.m.	25p/1000g
Gaelco Little Island	20p/sq.m.	15p/sq.m.	25p/1000g
Irish Fher Little Island	20p/sq.m.	15p/sq.m.	10p/1000g
Henkel Island Little Island	20p/sq.m.	15p/sq.m. 12p.sq.m.	10p/1000g 25p/1000g
Pfizer Chemicals Ringaskiddy	20p/sq.m. 18p/sq.m.	15p/sq.m. 13.5/sq.m.	25p/1000g 50p/1000g

Mr Killen outlined the alterations/additions that have taken place and are to be valued. He then proceeded to outline an approach of deducting items no longer to be valued from the existing valuation of £450 and added in the new items to be valued using the appropriate devaluation as outlined above as follows:-

- (i) Existing Valuation R.V. £450

(ii)	Deduct			
	1.	Office/Warehouse		
	5.	Gatehouse		
	7.	Bundwall		
		Effluent Tank & Cooling Tank		R.V. <u>£230</u>
				£220
(iii)	Add			
		Pipebridges		
		Pipelines		
		Boilers		£ 40
1.	Offices/Canteen (gr fl) 208 sq m }			
	Offices (1st fl)	617 sq m } @ 20p		£164.00
	Warehouse	409 sq m @ 15p		61.35
	Boiler House	350 sq m @ 15p		52.50
	Engineering Office	35 sq m @ 20p		7.00
5.	Gatehouse	16 sq m @ 15p		2.40
6.	Washroom	60 sq m @ 12p		7.20
7.	Bundwall	369 sq m @ 3p		11.07
	Tanks 80,000 galls @ 25p/1000			20.00
8.	Chiller Room (gd fl)	29 sq m @ 15p		4.35
	Industrial Office 1st fl	29 sq m @ 12p		3.48
	Stores 2nd fl	29 sq m @ 10p		2.90
10.	Waste Treatment Building			
	A. Offices (2 storey)	133 sq m @ 15p		19.95
	B. Treatment Building	67 sq m @ 12p		8.04
12.	Warehouse	1380 sq m @ 15p		207.00
	Liquid Nitrogen Tank 8000 galls/50p/1000			4.00
	Open Storage Areas	305 sq m @ 2p		<u>6.10</u>
				£621.00
				Say <u>£620.00</u>

to arrive at a new rateable valuation of £840.00

He calculated the net annual value under the rental basis at £100,000 and using the contractor's basis he estimated the rateable valuation would not exceed £600.

### **Oral Hearing**

At the oral hearing which took place on the 8th January, 1991 in Cork, Mr Des Killen represented the Appellant and Mr Terence Dineen represented the Respondent.

Mr Killen elaborated on his precis of evidence and referred to the judgment of Barron J in the I.M.I. v. Commissioner of Valuation. He said that this judgment outlined the requirements for purposes of comparison under Section 5(1) of the Valuation Act 1986. He said that what must be considered are valuations which (a) are comparable; (b) relate to tenements and hereditaments of similar function; and (c) have been made or revised within a recent period.

Mr Terence Dineen disagreed with the contention of Mr Killen and said that he found fault with the interpretation outlined in the judgment. Mr Dineen outlined his approach of determining the rateable valuation under the contractor's method and said that this was the only valid method of valuation of the subject premises. Mr Dineen's estimate of the contractor's approach is attached as Appendix "A". Substantial differences emerged between the parties on the correct application of the contractor's approach in this case, not least of which was the percentage depreciated replacement cost which should apply.

The Tribunal considered all the evidence and despite any reservations Mr Dineen may have concerning the High Court judgment in the I.M.I. case the Tribunal is nonetheless bound by that decision. The Tribunal in reaching its decision is primarily moved by the methodology used by Mr Killen as outlined above, while not necessarily accepting the details thereof. The Tribunal also finds that in line with its decision in the F.M.C. appeal it should accept the validity of the existing rateable valuation prior to alteration being used as the base by reason of frequent unchanged listings up to 1987.

Accordingly the Tribunal feels that the following properly reflects the rateable valuation of the subject premises. The Tribunal notes that the items of pipeline are agreed at £60 and takes the view that the gatehouse should be increased to 20p per sq.m. and that the chiller room and industrial office be similarly increased while store be valued at 15p per sq.m. The office in the waste treatment should be similarly valued at 20p. Horse power is agreed at £25 R.V. The Tribunal heard evidence that the liquid nitrogen tank would cost in the region of £40,000 and this would indicate that the R.V. should be in the region of £25.

The Tribunal therefore determines that the proper rateable valuation for the hereditament is £920

as follows:

(i)	Existing Valuation		R.V. £450.00
(ii)	Deduct		
	1. Office/Warehouse		
	5. Gatehouse		
	7. Bundwall		
	Effluent Tank & Cooling Tank		R.V. <u>£230.00</u>
			£220.00
(iii)	Add		
	Pipebridges		
	Pipelines		
	Boilers		£ 60.00
1.	Offices/Canteen (gr fl) 208 sq m }		
	Offices (1st fl) 617 sq m } @ 20p		£164.00
	Warehouse 409 sq m @ 15p		61.35
	Boiler House 350 sq m @ 15p		52.50
	Engineering Office 35 sq m @ 20p		7.00
5.	Gatehouse 16 sq m @ 20p		3.20
6.	Washroom 60 sq m @ 12p		£ 7.20
7.	Bundwall 369 sq m @ 3p		11.07
	Tanks 80,000 galls @ 25p/1000		20.00
8.	Chiller Room (gd fl) 29 sq m @ 20p		5.80
	Industrial Office 1st fl 29 sq m @ 20p		5.80

	Stores 2nd fl	29 sq m @ 15p	4.35
10.	Waste Treatment Building		
	A. Offices (2 storey)	133 sq m @ 20p	26.60
	B. Treatment Building	67 sq m @ 12p	8.04
12.	Warehouse	1380 sq m @ 15p	207.00
	Liquid Nitrogen Tank	8000 galls/	24.00
	Open Storage Areas	305 sq m @ 2p	6.10
13.	Horse Power	500 @ 5p	<u>25.00</u>
			£919.01
			Say <u>£920.00</u>

The Tribunal has made no decision and does not find it necessary to do so on the use of the capital cost method in this appeal. It considers that the authority of the High Court in the I.M.I. case compels it to take the comparative approach offered by Mr Killen. The Tribunal does not in so holding rule out the validity of taking a capital cost approach based on relevant calculations in certain cases. However, when this latter approach is being taken by either party it may only be pursued by the production of actual construction costs and appropriate vouching data or equivalent professional evidence. Where the Commissioner of Valuation and his valuers find that the lack of disclosure by an appellant hinder them from meeting the standard of proof required by the Tribunal in relation to the capital cost method, then they are at liberty to apply to the Chairman of the Tribunal for directions pursuant to the 1988 Act for remedies which will ensure disclosure.