

Appeal No. VA92/2/008

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

**Midland International Industries**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory and Offices at Lot No. 13, Townland of Leiter, E.D. Bailieborough, Co. Cavan  
Quantum

**B E F O R E**

**Padraig Connellan**

**Solicitor (Acting Chairman)**

**Veronica Gates**

**Barrister**

**Joe Carey**

**P.C. M.I.A.V.I.**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 19TH DAY OF MARCH, 1993**

By Notice of Appeal dated the 11th day of March, 1992, Donal O'Buachalla & Company Limited on behalf of the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £600 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is excessive, inequitable and bad in law".

**The Property:**

The property is a purpose built factory consisting of large production area, ancillary stores and two storey offices. Construction standard consists of insulated walls and double skin asbestos insulated roof. The offices have central heating (oil) and the production area has hot air (blow) heating. A fire sprinkler system is installed. The premises has mains water supply, own sewerage and three phase electricity supply. It is located in the townland of Leiter approximately 2 miles from Bailieborough on the road to Cavan. Bailieborough is a small town with a population of approximately 1,000 located approximately 55 miles north-west of Dublin and 20 miles east of Cavan. The total agreed floor area is 65,500 square feet.

**Valuation History:**

The property was first valued in 1977 at an R.V. of £600. It was listed for revision in 1990 on the grounds that the valuation was excessive and inequitable. The R.V. of £600 remained unchanged at revision and an appeal was lodged to the Commissioner. No change was made by the Commissioner at first appeal stage and it is against this valuation that this appeal lies to the Valuation Tribunal.

**Written Submissions:**

A written submission was received on the 10th November, 1992 from Mr. Alan Mc Millan A.R.I.C.S, a Director of Donal O'Buachalla & Company Limited on behalf of the appellant. In the written submission, Mr. Mc Millan described the property and the valuation history attaching to it. Mr. Mc Millan stated that in arriving at an estimate of N.A.V. on the subject premises he had regard to the provisions of Section 11 of the 1852 Act and Section 5 of the 1986 Act, that he had sought direct market rental evidence and deduced rental evidence from market sales. He also said that he had regard to the case of Bailieborough Foundry Limited agreed by him at a recent 1990/4 revision. In that case the N.A.V. per square foot had been agreed at £0.50. He said, commenting on the subject premises, that although serviceable and functional it was dated and fell well short of modern standards in terms of clear floor areas and insulation. Also, the widespread application of asbestos to roofs and walls is unacceptable in today's terms with the use of metal cladding and glass fibre now predominant. He said that the concrete guttering was difficult to maintain in a watertight condition and being integral even a minor defect gives rise to immediate damp penetration through the outside walls. The offices are basic but inadequate reflecting the narrow elongated and linear layout, being only one office deep. The provision of office services is problematic, for example, computer networking becomes both difficult and technically involved and expensive.

Mr. Mc Millan stated in relation to the existing R.V. of £600 that it denoted an N.A.V. of £120,000, equivalent to over £1.80 per square foot which was, he submitted, grossly excessive. He said that this equated to the N.A.V.'s of good, well located industrial space in Dublin and well ahead of what would be typical for locations such as Cork and Limerick.

Mr. Mc Millan estimated that the appropriate N.A.V./R.V. on the subject premises should be:-

N.A.V.		£52,000
R.V. @ 0.5%	=	£260.00
+ Plant: Motive power 160 H.P. @ 5p	=	<u>£ 8.00</u>
<b>Total R.V.</b>	<b>=</b>	<b>£268.00</b>

Mr. Mc Millan also submitted a schedule of comparisons and these are attached as Appendix 1.

A written submission was received on the 12th November, 1992 from Mr. Patrick Mc Morrow, a Valuer with the Valuation Office on behalf of the respondent. In the written submission, Mr. Mc Morrow set out details of the subject premises and the valuation history. In commenting on the appellants grounds of appeal, Mr. Mc Morrow stated that comparison of Bailieborough cited by the agents for the appellants, was in his view, not comparable to the subject in either construction or condition being vastly inferior, that the building was very old and generally in a poor state of repair, with part earthen floors and the roof in poor condition.

Mr. Mc Morrow said that he had calculated the R.V. on the subject premises in accordance with Section 5 of the 1986 Valuation Act by reference to other recently revised hereditaments and using the fraction generally in use for the entire of County Cavan. He set out his basis of Rateable Valuation as follows:

"N.A.V.	65,500ft <sup>2</sup>	@	£1.80p.s.f.	=	£117,900
N.A.V.	X	R.V./N.A.V. (Fraction)		=	R.V.
£117,900	X	0.5%	=		£589.50
Add for Horse Power			Say	<u>£ 11.00</u>	
					£600.50

Rounded to £600.00

**R.V. = £600.00 "**

He also set out details of comparisons and these are summarised below:-

**Summary of Comparative N.A.V.'s**

<b>Premises</b>	<b>Floor Area sq.ft.</b>	<b>Estimated N.A.V. £/sq.ft</b>
A. Pauwels Trafo	104,375	£1.70
B. Bailieborough Co-op	37,500	£1.85
C. Fruit of the Loom	121,400 (+ 55,100)	£1.75 (2.50)
Subject Midland International Ltd	65,000	£1.80

**Oral Hearing:**

An oral hearing took place at the Courthouse, Cavan on the 17th November, 1992. Mr. Alan McMillan appeared on behalf of the appellant and Mr. Kevin McKay was also in attendance. The respondent was represented by Mr. Patrick McMorrow.

Both parties relied on their written submissions. In opening his evidence for the appellant, Mr. McMillan described the subject property as being located in the townland of Leitir, which is approximately 2 miles from Baileborough on the main Cavan Road. The immediate environs are strictly rural with the significant exception of the Baileborough Foundry located approximately 200 yards away. The local road network is infamously poor and no mains water or drainage services are available. Mr. McMillan said that he had had regard to the provisions of Section 11 of the 1852 Act and Section 5 of the 1986 Act. The application of Section 5 has produced a proportion of .5% between hypothetical rents and valuations applicable here. This ratio was agreed between the parties prior to the oral hearing.

Mr. McMillan went on to say that in considering his estimate of N.A.V. he had regard to the schedule of comparisons attached at Appendix 1 and has borne in mind the fact that the provincial and rural industrial market has been depressed for a number of years. Despite the efforts of the I.D.A., SFADCO and other state agencies an abundance of industrial space still remains vacant.

A feature of this provincial industrial market is that many transactions follow on company closures including receiverships and liquidations. He stressed that it was clear from real open

market evidence that the opportunity for letting a premises of over 65,000 square feet of industrial space in rural County Cavan in November 1988 was slim indeed.

Mr. McMillan said that in his opinion the best and prime evidence in determining N.A.V. "as a question of fact" is open market letting evidence. He gave evidence that he had deduced rental evidence from market sales as evidence is more easily found here and illustrates capital values ranging from £10.00 per square foot to £2.50 per square foot. He referred to the Baileborough Foundry Limited, a property which is located just across the roadway from the subject premises, and is of very similar size at approximately 63,000 square feet. Mr. McMillan said that this property, although now in three lots, was agreed at an overall N.A.V. of £0.50 per square foot. The original pre-revision assessment was reduced by over 60%.

Mr. McMillan went on to comment on the condition of the subject premises itself and said that although the building was serviceable and functional it is now dated and falls short of modern standards in terms of floor areas and insulation. The application of asbestos to roofs and walls is unacceptable by today's standards. He said that the offices are basic and somewhat inadequate because of the narrow, elongated layout.

Mr. McMillan said that the existing R.V. of £600 denotes an N.A.V. of £120,000 which is equivalent to over £1.80 per square foot which, in his opinion, is grossly excessive, and comparable to N.A.V.'s of good, well-located industrial space in Dublin and well ahead of what would be typical for locations in Cork and Limerick. It was his submission that an N.A.V. of £1.80 per square foot is unsustainable. Mr. McMillan submitted that a fair assessment of R.V. would be £268. He felt that the most appropriate evidence came from Comparisons 1 - 4 in his schedule of comparisons. Comparison No. 12 situate in Kilcohan in Waterford City is in Mr. McMillan's view a suitable comparison. It was on the market at present (a recent sale agreed at £375,000 having fallen through). This devalued at less than £6.00 per foot or rentalised at 7YP at £0.85 per square foot. Mr. McMillan also referred to a recently auctioned factory situate at Baileborough Road, Kingscourt, Co. Cavan which he said rentalised at £75,000 which, given a 7 year purchase devalued at £0.62 per square foot.

Mr. McMorrow for the Commissioner, said that in the case of Cavan properties the most suitable comparisons are other Cavan properties such as Comparisons No. 10 and 11 in the appellants schedule of comparisons which are geographically close to the subject premises. Mr. McMillan agreed with the proposition but went on to say that comparisons from the

provincial market for a 65,000 square foot industrial property were more comprehensive than county comparisons only.

Mr. McMorrow commented on the factory situate at Baileborough Road, Kingscourt, Co. Cavan which has a rateable valuation of £170.00 and was assessed in 1988. He devalued this property at £2.00 per square foot on the application of a .5% ratio.

Mr. McMorrow in cross-examination questioned the appellants use of a 7 year purchase factor in Comparisons 10 - 20. In response Mr. McMillan said that one could not realistically go much lower than 7 years purchase. Mr. McMorrow said that in considering any individual comparisons all facts should be taken into consideration including the rateable valuations. Mr. McMillan said that what he had taken into consideration was a realistic estimate of how much the subject property would have sold for in November 1988.

In giving his comparative evidence, Mr. McMorrow emphasized that he had tried to restrict his comparisons to recently revised properties which were geographically close to the subject premises. He said that the rateable valuation of the Pauwels Trafo Factory was fixed on 1st Appeal in 1988 and devalues at approximately £1.70 per square foot. The Baileborough Co-op premises was valued on 1st Appeal in 1990 and devalues at approximately £1.85 per square foot. The third comparison put forward by Mr. McMorrow was the Fruit of the Loom factory situated in Co. Donegal which devalues at between approximately £2.50 - £1.75 per square foot. Given this comparative evidence, Mr. McMorrow said that the subject premises has a reasonable level of Net Annual Value at £1.80 per square foot, taking into account the important factors of comparing properties of similar use and geographic proximity.

**Determination:**

The Tribunal has had regard to the written and oral submissions of the appellant and respondent, the comparisons adduced and the fact that a .5% ratio has been agreed between the parties. In all the circumstances the Tribunal determines that a fair and reasonable rateable valuation is £458.00.

