

Appeal No. VA96/2/055

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

Governor & Company of the Bank of Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Bank and 15 Car Spaces at Map Ref: 87/89a Pembroke Road, Ward: Pembroke West,
County Borough of Dublin

Quantum - Appropriate comparisons, passing rent

B E F O R E

Mary Devins - Solicitor

Deputy Chairman

Rita Tynan - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF MAY, 1997

By Notice of Appeal dated the 25th day of April, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £440 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is excessive and inequitable in accordance with the provisions of the Valuation Acts and on other grounds also."

The Property:

The property comprises a retail banking hall on the ground floor with kitchen and stores in the basement. It is located on the west side of Pembroke Road, close to the intersection with Lansdowne Road, about 1 mile south of the city centre.

The building is constructed with a concrete frame, concrete block infill walls, pointed brick work to all elevations, concrete floor, single glazed aluminium framed windows and a flat asphalt covered concrete roof. Entrance to the ground floor is via a series of raised concrete steps leading to a porch entrance lobby. Internally the premises are laid out with banking hall and ancillary offices on the ground floor with a strong room, store and canteen facilities at basement level.

Title:

The premises is held under a lease of 150 years from 29th September 1968. The lease provides for rent reviews every 14 years. The rent payable until 29th September 1996 is £45,000 p.a.. Under the terms of the lease the rent was due for review on the 29th September 1996. No agreement had been reached at the date of hearing.

Valuation History:

At the request of the occupier the property was revised in 1995/4 revision. As a result of that revision the rateable valuation was reduced from £600 to £440. No change was made at first appeal. It is against this determination that an appeal lies to the Tribunal.

Written Submission:

A written submission was received on the 18th day of November 1996 from Mr. Tom Davenport, Lisney on behalf of the Appellant.

In his written submission, Mr. Davenport described the subject premises and gave details of its tenure and valuation history. Mr. Davenport set out his valuation considerations. He said that he had assessed net annual value taking into account *Section 11 Valuation (Ireland) Act 1852* and *Section 5 of the Valuation Act 1986*. He said his valuation was based on rental evidence and on the rateable valuation of comparable and nearby office properties. He also said he had regard to the current rent paid on the subject premises, taking into account the appropriate loading factor to reflect the 14 year review pattern and also the stagnant office

market between the years 1982 and 1988. Based on these considerations, he estimated rateable valuation as follows:-

Valuation

Method 1

Ground Floor

Banking Hall/Offices	2,684 sq.ft. @ £12 psf = £32,208
Basement/Strong Rooms/Stores/Canteen	554 sq.ft. @ £ 5 psf = £ 2,770
15 car spaces	£500 per car space = <u>£ 7,500</u>
Total Net Annual Value	= <u>£42,500</u>

Method 2

Current rent passing as at September 1982 £45,000

Reduce figure by 14% to allow for loading factor = £39,500

Add 8% to allow for time period between 1982 and 1988 = £42,600

Reducing factor to translate NAV into RV = 0.63%

Estimate of rateable valuation £42,500 @ 0.63% = RV £265

In support of his valuation, Mr. Davenport supplied the Tribunal with a schedule of six comparisons briefly summarised below.

1. **91, Pembroke Road, Dublin 4**
Bank of Ireland Commercial Finance Department
1991/4 Appeal. RV £1,135
2. **85, Pembroke Road, Dublin 4**
A.I.B. Capital Markets Corporate Finance (formally Equity Bank Limited)
1990/2 Revision. RV £265
3. **87/89 Pembroke Road, Dublin 4**
Institute of Chartered Accountants
1994/4 Appeal. RV £1,100. (This property comprises the 1st and 2nd floors of the subject premises)
4. **87/89 Pembroke Road, Dublin 4**
Poster Management Limited
1995/4 Revision. RV £106. (These offices are situated on the 1st floor above the subject premises)

5. **Texaco House, 83 Pembroke Road, Dublin 4**
 Texaco Ireland Limited
 (This property is located to the subject premises).
6. **7, Wilton Terrace, Dublin 2**
 National Irish Bank
 1991/4 Appeal. 1995/2 Revision. RV £1,600

A written submission was received on the 13th day of November 1996 from Mr. Patrick Deegan, a Valuer with over 20 years experience in the Valuation Office.

In his written submission he gave details of the Appellant's grounds of appeal, a description of the subject premises, its title and valuation history. Mr. Deegan set out his calculation of the rateable valuation on the subject premises using two methods as follows:-

Valuation

Method 1

Ground Floor

Banking Hall	Zone A	1,312 sq.ft. @ £ 30.00 psf =	£39,360
	Zone B	1,312 sq.ft. @ £ 15.00 psf =	£19,680
	Zone C	60 sq.ft. @ £ 7.50 psf =	£ 900
	Basement	554 sq.ft. @ £ 7.00 psf =	£ 3,878
	Car park	Spaces @ £400	= <u>£ 7,500</u>
			<u>£69,818</u>

£69,818 @ 0.63% = £439. Say RV £440.

Method 2

3,238 sq.ft. @ £20 psf = £64,760
 15 car spaces @ £400 = £ 6,000
£70,760

£70,760 @ 0.63% = £445. Say RV £440.

In support of his rateable valuation, Mr. Deegan gave comparisons of six other bank premises. These comparisons are briefly summarised below.

1. **VA95/1/046 - Ulster Bank Limited**
 103, Lower Baggot Street
 RV £386
 Banking Hall 2,117 sq.ft. @ £20 psf = £42,340

2. **National Irish Bank**
23-27 College Green
RV £2,275
Ground Floor Banking Hall 2,545 sq.ft. @ £30 psf
3. **National Irish Bank**
138 Lower Baggot Street
RV £497
Ground Floor Banking Hall 1,434 sq.ft. @ £29 psf
4. **VA95/6/025 - A.I.B., Sutton**
RV £320
Ground Floor 2,300 sq.ft. @ £20 psf
5. **Bank of Ireland**
22a Navan Road, Blanchardstown
RV £300
Zone A 851 sq.ft. @ £30 psf
6. **A.I.B., Navan Road, Blanchardstown**
RV £270
Zone A 394 sq.ft. @ £31 psf

At the oral hearing which took place on the 22nd November, 1996 Mr. Eoin Hickey, BL appeared on behalf of the Appellant.

The Respondent was represented by Mr. Patrick Deegan, BA, BL of the Valuation Office.

Also present were Mr. Tom Davenport of Messrs. Lisney and Mr. A. Ring Rose of the Appellant Company.

Mr. Davenport gave evidence in relation to the fourteen year rent reviews in the lease of the subject premises and said that in 1982, during a period of high inflation it was accepted practice that a loading figure would be added in situations where the rent review period was longer than the normal five year span.

Referring to the indices attached to his written submission Mr. Davenport said that these indicated that in the period 1982 to the end of 1988 approximately there was no great movement in office rental prices.

In reply to a question from the Tribunal in relation to his comparison No. 3, Mr. Davenport explained that the 1994 revision figures differed from the actual rent passing by reason of several factors among them the "Tone of the list" and the rates impact factor.

Mr. Davenport confirmed to Mr. Hickey in direct examination that the loading figure of 14% had been agreed by the tenant.

In the course of cross examination by Mr. Deegan, Mr. Davenport confirmed that the rent agreed reflected the banking use of the subject premises.

Mr. Deegan submitted that banks should be valued as a separate entity and in support of his contention referred the Tribunal to the judgement of Mr. Justice Barron in the *I.M.I. v. Commissioner of Valuation* and in particular to Mr. Justice Barron's interpretation of the provisions of *Section 5 of the Valuation Act, 1986*.

Mr. Deegan stressed that his comparative evidence related to banks only and replied to Mr. Hickey in cross examination that he did have some difficulty with the Appellant's comparisons as he considered them unsuitable in terms of similar function.

Replying further to Mr. Hickey, Mr. Deegan submitted that his estimate of the rent which a hypothetical tenant would offer for the subject premises as of 1988 was in the region of £69,000 to £70,000. He estimated that the building as a shell would attract rent in the region of £45,000 and that the balance would reflect tenant's improvements. However, in reply to further questions, Mr. Deegan conceded that he had no evidence of tenant's improvements in relation to the subject premises nor, apparently, had he sought any such evidence.

Submissions:

Mr. Hickey submitted that the basis of valuation in law is the net annual value and that there was weighty evidence of the subject's net annual value both in the rental evidence of adjoining premises and in the actual rent passing.

Mr. Deegan submitted finally that banks should be valued as banks.

Findings and Determination:

The Tribunal has had regard to the evidence relating to passing rent. There has been no evidence proffered to indicate that the lease entered into by Bank of Ireland was other than an open market transaction and this view is strengthened by the evidence in relation to rent reviews. Again, no evidence has been offered as to tenant's improvements or as to the value, if any, which should be attributed to them.

It is accepted that the loading factor of 14% was agreed between landlord and tenant and therefore the hypothetical tenant in 1988 would obviously have taken that into account.

The Tribunal notes Mr. Deegan's submissions in relation to the judgement of Mr. Justice Barron in IMI. In this case, however, the ratio of 0.63% has been agreed and accepted and the Tribunal finds therefore that the provisions of *Section 5 (2) of the Valuation Act, 1986* are not strictly relevant.

Taking into account therefore the comparative evidence in relation to neighbouring premises, all of which, it should be pointed out, are office type buildings, together with the evidence in relation to passing rent, the Tribunal has had regard to the question of the rates impact factor as of 1988 and in the circumstances determines that the correct rateable valuation of the subject premises is £300.