

Appeal No. VA02/6/016

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 2001**  
**VALUATION ACT, 2001**

**Ropav Ltd t/a Roly @ The Pavilion**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Restaurant at Lot No: 4 The Pavilion, Dun Laoghaire, Dun Laoghaire East Central,  
Dun Laoghaire-Rathdown, County Dublin

**B E F O R E**

**Tim Cotter - Valuer**

**Deputy Chairperson**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**Brian Larkin - Barrister**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 10TH DAY OF JUNE, 2003**

By Notice of Appeal dated 16 December 2002 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €359 on the relevant property above described.

The Grounds of Appeal as set out in the Notice of appeal are:

“ On the basis that the estimated RV is excessive inequitable and bad in law.”

The appeal proceeded by way of an oral hearing which was held at Ormond House, Ormond Quay Upper, Dublin 7 on the 4<sup>th</sup> April 2003. Mr. Eamonn Halpin BSc Surveying appeared on behalf of the appellant. Mr. Christopher Hicks, District Valuer, in the Valuation Office appeared on behalf of the Commissioner. Both valuers having taken the oath adopted their respective précis as their evidence in chief.

### **Location**

The property is located in the new Pavilion Development at the lower end of Marine Road in Dun Laoghaire. It is one of four restaurant / café units which front a slightly railed walkway overlooking the harbour. The Pavilion Centre is comprised of a large leisure centre and theatre complex with a number of restaurants and a large retail unit on the lower level. There is also underground paid parking on site.

### **Description**

This is a single-storey ground floor restaurant with ancillary toilets, kitchen, staff area and cold store. There is seating for approximately 100 diners. The property enjoys approximately 10.1 metre frontage and has a depth of approximately 30.3 metres. The total floor area gross internal is 335.47sq.m.

### **Tenure**

The premises is held under a 25 year lease from June 2001 at an initial rent of €1,700. This rent is for the first 2 years and will rise to approximately €14,625 for year three and again to €37,550 for year four and €60,475 for year five.

### **Appellant's Case in relation to Quantum**

The NAV adopted by the Commissioner is too high in view of the following:

- A) The level for this type of unit was already established as a result of the earlier 2000/4 first appeals on two adjoining units- Kaffé Moka Unit 4 and Mao Restaurant Ltd. Unit 3. This level is €273.35 per square metre for zone A.

- B) The subject property is very similar in layout unit depth etc to Unit 5 – Kaffé Moka while Mao Restaurant enjoys better frontage and a shorter depth.
- C) The level applied to the subject is excessive: Zone A €452 per square metre in view of the earlier appeal and the general level applied in the best parts of the retail area in the town.
- D) The Commissioner has failed to be consistent in that he has sought to apply a higher basis to the subject premises than that applied to the two adjoining units based exclusively on the passing rent which is substantially more than that of the adjoining units which are comparable.
- E) The Commissioner has failed to maintain the tone of the list and thus has over-assessed the subject.

In his evidence Mr. Halpin stated that the subject restaurant is one of a number of new restaurants in the Pavilion Centre in Dun Laoghaire. The Centre is adjacent to the harbour area and is removed from the established prime retail areas which are in upper and lower Georges Street and Bloomfield Shopping Centre. Mr. Halpin contended for a rateable valuation of €25 which he calculated as follows:

Method 1 – Restaurant

Zone A	10.1 x 6.1m	=	61.61m <sup>2</sup>	@	€73.35/m <sup>2</sup>	=	€16,841
Zone B			61.61m <sup>2</sup>	@	€136.67/m <sup>2</sup>	=	€8,420
Zone C			61.61m	@	€68.34/m <sup>2</sup>	=	€4,209
Balance			150.64m	@	€41/m <sup>2</sup>	=	<u>€6,176</u>
							€35,646
				@	0.63%		€224.57
				say			€25

In support of his valuation Mr. Halpin introduced five comparisons details of which are attached to this judgment. Mr. Halpin also produced photographs of the subject property.

### The Respondent's Evidence

Mr. Hicks gave evidence in accordance with his précis. He stated that zoning as a method of valuation is appropriate only to high street retail locations where there is a large amount of passing trade and window displays are used to market goods and services. The subject property is of a type and within a location where window display is of little importance. Mr. Hicks stressed that the subject property is completely unsuitable for a valuation based on zoning. He used as his comparisons the two adjacent restaurants.

#### 1. Kaffe Moka

This was dealt with and agreed at the 2000/4 first appeal and devalues as follows:

140m<sup>2</sup> @ €137/m<sup>2</sup> giving an RV of €120.63

#### 2. Mao

This devalues as follows:

283m<sup>2</sup> @ €178/m<sup>2</sup> plus

mezzanine store 24m<sup>2</sup> @ €27/m<sup>2</sup> giving an RV of €21.24

Mr. Hicks assessed the Rateable Valuation on the subject property as follows:

The Average rent for 5 years from June 2001 = €19,200

Backdate to May 2000 (13% growth) €105,487

Backdated to Nov 1988 @ 55% = NAV €58,000

RV @ 0.63% = €65.40

Say €359

This equates to 335sm @ €170per sq.m.

When asked to explain the anomaly between the two comparisons Kaffe Moka at €137psm and Mao at €178psm. Mr. Hicks stated that Kaffe Moka was dealt with on first appeal, submissions were made, negotiations took place and a valuation agreed. While Mao was appealed, apparently no submission was made to the Commissioner and no change was made at first appeal.

### **Findings and Determination**

The Tribunal has considered the evidence presented by Mr. Halpin for the appellant and Mr. Hicks for the respondent. The Tribunal considers that the most relevant comparisons are those submitted by Mr. Hicks namely Kaffe Moka and Mao Restaurant. The Tribunal has taken into account the street frontages of the subject and both comparisons. The subject has street frontage of practically twice that of Kaffe Moka and have taken that into account in arriving at its decision.

Accordingly the Tribunal determines the Rateable Valuation as follows:

Restaurant 335sq m	@	€150/m <sup>2</sup>	=	€0,250
RV	@	0.63%	=	€16.57
Say				€15

The Tribunal therefore determines the rateable Valuation to be €15.