

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

Tom Neville and David Neville

APPELLANT

And

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

**Property No. 2110430, Licenced Shop At Lot No. 93/9.15.16ab Pt, Fethard (Wexford),
Grange, Fethard, New Ross, County Wexford**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27th DAY OF APRIL, 2015

BEFORE:

Rory Lavelle – M.A., FRICS, FSCSI, ACI ARB
Frank O'Donnell – FRISC, B Agr Sc, MIREF
Aidan McNulty – Solicitor

Deputy Chairperson
Member
Member

By Notice of Appeal received on the 25th day of November, 2014, the Appellant appealed against the determination of the Commissioner of Valuations in fixing a rateable Valuation of €140 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

“On the basis that the RV as assessed is excessive and inequitable.”

The appeal proceeded by way of an oral hearing held at the offices of the Valuation Tribunal on the 3rd Floor of Holbrook House, Holles Street, Dublin 2, on the 2nd March 2015 at 2.30pm.

The Appellant was represented by Mr. Eamon Halpin, Eamon Halpin & Co. Limited, Chartered Valuation Surveyors. The Respondent was represented by Mr. Dean Robinson, BSc (Hons) Surveying Valuer at the Valuation Office.

THE ISSUE:

The issue between the parties was one of quantum only, the tenant maintaining the rateable valuation of €140 is excessive.

THE PROPERTY:

The property comprises original bar with newer lounge and restaurant at first floor together with kitchens and ancillary storage. The property was re-developed in phases between 2006 and 2009 and include the residential portion. The property has won a number of awards recently.

LOCATION:

The property is located in Fethard on Sea, Main Street, Co. Wexford a small town on the Hook Peninsula close to the Hook Lighthouse.

ACCOMMODATION

The floor area is based on the net internal area of the trading area and agreed between the parties as:

Bar Area Ground Floor	185.6 sq.m.
Bar Area First Floor	116 sq.m.

VALUATION HISTORY:

Valuation Certificate (Proposed) was issued 13th November 2013 and assessed a valuation of €140. Representations were lodged by Halpin & Co. on the subject property and the valuation remained unchanged. An Appeal was lodged by the Appellant to the Commission of Valuation on 8th September 2014 and the valuation remained unchanged after this first appeal. An Appeal was lodged to the Valuation Tribunal on the 26th November 2014.

THE APPELLANTS CASE

Mr. Halpin appearing for the Appellant took the oath and adopted his Precis as his evidence and chief. He particularly referred to the rural seasonal setting of the property and maintained seasonal adjustments should be allowed in arriving at the NAV. He referred to the first floor restaurant premises being closed and vacant.

Mr. Halpin included two tribunal cases VA11/3/012 (Glowise Limited) and VA13/4/004 (CB Pub Management).

Mr. Halpin referred to the RV as assessed as being excessive and inequitable and the property has not been valued in line with the established tone of the list for comparable properties within the rating area per Section 49 Valuation Act 2001.

Mr. Halpin particularly refers to these judgements in connection to the Commissioners preferred approach to the valuation of pubs since 2008 i.e. “to use a rate per sq.m. to value the trading area only, normally derived from the division of the trading area back into the NAV.” Prior to 2008 NAVs were derived from a number of different basis including turnover and he refers to VA11/3/012 which appears to show a difference in approach. Mr. Halpin argues that the use of the trading area will throw up anomalies in valuations which put an artificially high level per sq.m. on the bar area and is not in line with how the tone of the list was formed.

Mr. Halpin accepts a proportional approach on the first floor space and has used 50% of the ground floor level excluding the licence or 40% of the ground floor level including the licence.

Mr. Halpin puts forward two basis for arriving at the RV both on the trading area only, the first allowing €1,000 for the licence and taking the bar/lounge area at €54.68 per sq.m. and the first floor restaurant at €27.34 per sq.m. giving a total of €14,297. The RV is €71.

The second method is an all inclusive rate per sq.m. taking the bar/lounge at €68.34 per sq.m. and the first floor restaurant at €27.34 per sq.m. giving a total of €15,827 and a RV of €79.

Comparisons

1. **Droopy’s Drop Inn, Fethard on Sea** located almost directly opposite the subject property in Fethard and states that the subject property is undoubtedly superior but larger and hence less valueable on a per sq.ft. basis. Mr. Halpin has adopted a similar level per sq.ft. for the subject property on the ground and analysed Droopy’s Drop Inn which is done on a trading area only at:

Bar 90 sq.m. @ €70.25 per sq.m. or
 90 sq.m. @ €57.77 per sq.m. and the license at €1,000.
2. **Molloy’s in Fethard on Sea** also exactly opposite the first comparison with an RV of €59.68 in evidence it was proven that this is a pre-1988 valuation and arrived at using a different method of analysis to the subject. This represented a 235% premium on the subject.
3. **Grange Villa, Fethard on Sea** part of the caravan park complex 500 metres from the centre of the village, again this is a pre-1988 valuation with an RV of €38.09 which represents a 367% premium on the subject. This RV was arrived at using a different basis to the subject.
4. **Foley’s, Crossabeg** located off the N11 with an RV of €50 this was analysed not on a trading area only and broken down per the bar, shop, takeaway, store, licence and residential.
5. **Furlong’s, Curracloe** again this is not analysed on the trading area only and is broken down bar, function room, takeaway, store, kitchen, toilets and licence. Mr. Halpin stated that the valuation was rounded from RV €125 to RV €120 to reflect seasonality.

- 6. Forde's, Castlebridge** again this is not trading area only and analysed as bar, ancillaries and licence located in a larger village and €4,000 has been reflected to the licence.

In summary Mr. Halpin refers to a flawed devaluation of other premises which is blatantly inequitable and as a means of analysis is not consistent with the tone of the list.

RESPONDENT'S EVIDENCE:

Mr. Robinson in his evidence referred to the location of the premises as being a good all year trading area and also referred to the extent of the refurbishment carried out in 2003 and 2007 and the Awards the premises has obtained.

Mr. Robinson referred to turnover figures as follows:

2010	€722,537
2011	€756,578
2012	€730,248

Mr. Robinson states the valuation is made by reference to values of comparable properties appearing on the valuation list for Wexford County Council in line Section 49.1 of the Valuation Act 2001.

Mr. Robinson's analysis is:

Bar	Ground Floor	185.2 sq.m. – rate per sq.m. €125.1	NAV €23,168.52
Bar	First Floor	116 sq.m – rate per sq.m. €41.25	<u>NAV € 4,785.00</u>
Total			NAV €27,953.52
RV @ 0.5%			€139.76
Rounded			€140.00

Mr. Robinson included Tribunal Decisions VA12/2/002 and VA06/3/006 highlighting the method of valuation used however in both cases these are for offices.

COMPARISONS:

Mr. Robinson included 6 no. comparisons including:

- 1. Licensed Premises, Gerard Millett, Kilrane, Rosslare** – a similarly sized premises to the subject but located in the village of Kilrane approximately 1.6km from Rosslare with a:

Bar Trading Area	176.04 sq.m. @ €125.1 per sq.m.	NAV €22,022.60
Off Licence	27.28 sq.m. @ €68.34 per sq.m.	<u>NAV € 1,864.32</u>
	Total	NAV €23,886.91
	RV @ 0.5%	€119

- 2. Licensed Premises, The Sportsman's Inn, Ramsgrange, New Ross** – located in the rural village of Ramsgrange with:

Bar Trading Area	171.2 sq.m. at €114.01 per sq.m.	NAV €19,519.00
	RV @ 0.5%	€97.59

- 3. Licensed Premises, John Hosey, The Ferry Inn, Mount Elliott, New Ross** – located 2 km from New Ross with an RV of €95.23 and a bar trading area of 108.7 sq.m. with a rate per sq.m. of €175.2, this would appear to have been carried out on the previous methodology excluding ancillary areas of 146.8 sq.m. and a valuation established on Appeal at 9% of the turnover of €179,566.

- 4. Licensed Premises, The Templar's Inn, Templeton, Fethard on Sea** – it is agreed that this has a mainly summer trade and similar size to the subject with a bar trading area of 183.73 sq.m. and rate per sq.m. used of €172.76 giving an RV of €158.71. It would appear that this was arrived at on a turnover basis and there are ancillary areas of kitchen, stores and hall of 228 sq.m.

- 5. Licensed Premises, Roche's Bar, Duncannon, Co. Wexford** – this appears to have a seasonal trade with:

Bar Trading Area	140.83 sq.m. @ €99.03 per sq.m.	NAV €13,947
Bar Trading/Restaurant	38.66 sq.m. @ €59.50 per sq.m.	NAV € 2,300
Open Deck Area	20.37 sq.m. @ €30.00 per sq.m.	NAV € 611
	RV @ 0.5%	€84

- 6. Licensed Premises, Droopy's Drop Inn, Fethard on Sea** – this property is included in both parties evidence with a bar trading area of 90.36 sq.m. and €70.25 per sq.m., with an RV of €31. Ancillary smoking area of 97.9 sq.m. is excluded.

CROSS EXAMINATION:

Cross examination of the Appellant revolved around location, seasonality and the method of valuation. It would appear post 2008 that pubs are valued on a trading area only basis with the majority of pubs pre-2008 done on 3 basis and cross checked. Mr. Robinson questioned Mr. Halpin's devaluation of 50% on the first floor and referred to the burden of proof being on the Appellant and no evidence was produced to sustain this.

In cross examination it was particularly referred to that Comparisons 3, 4, 5 and 6 of the Appellant's Evidence had the ancillary areas valued separately. Mr. Halpin relies particularly on Comparison 1 which Mr. Robinson contends is not comparing like with like.

In relation to the Respondent's Evidence in cross examination particular reference was made to the distance of some of the comparisons to the subject and the method of devaluation. Reference is made to Section 63 of the Act and that pre 1988 property should not be used. Particular reference is made to the fact that the only category that the basis of valuation has changed significantly on was public houses and offices had not changed.

FINDINGS:

Having carefully considered all the arguments and evidence produced by the parties the Tribunal finds as follows:

1. The use of the trading only method results in the exclusion of all other areas in the premises and from the evidence this would include the exclusion of a 92 sq.m. Kitchen, all ancillary areas and smoking areas. Pre-2008 three methods of valuation were used and an average taken.
2. This means that pre-2008 evidence is arrived at using a different method and as such the Tribunal can place little weight on it.
3. The Tribunal is persuaded by the Appellant's argument regarding seasonality as this is a rural location with a relatively small population, in an established tourist location.
4. From the evidence the Tribunal does not know the gross area of the premises however it is clear that the 92 sq.m. kitchen and other areas are excluded and that this is a substantial premises which can be correctly compared to premises of equivalent size.
5. Droopy's Drop Inn is a considerably smaller premises and not in as good a condition as the subject, accordingly the Tribunal can place little weight on it.
6. Whilst trading area only is the method of valuation used by both parties and obviously makes comparisons to other properties quite difficult, it is the method used to analysis recent comparable properties on the list and as such must be adopted for the subject.
7. Similar sized properties used as comparisons by the Respondent are relevant in that they are recent decisions and arrived at using the trading area only basis, however the Tribunal considers that the rate per square meter used should be adjusted to reflect the location, relative population size of Fethard on Sea and the seasonal nature of the business.

DETERMINATION

Having regard to the foregoing the Tribunal determines the rate of valuation of the property concerned to be as set out below:

Ground Floor Bar	185.2 sq.m. @ €110 per sq.m.	NAV €20,372
First Floor Bar	116 sq.m. @ €35 per sq.m.	<u>NAV € 4,060</u>
Total		NAV €24432
RV @ 0.5%		€122.16
Say		€122

And the Tribunal so determines.