

Appeal No. VA95/1/052

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

**Power Corporation (Upton Court t/a Family Leisure)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Amusement Centre at Map Ref: 108,109 (part of) Patrick Street, Ward: Centre West,  
County Borough of Cork

Quantum - Unit in poorly trading S.C.

**B E F O R E**

**Mary Devins**

**Solicitor (Acting Chairman)**

**Marie Connellan**

**Solicitor**

**Joe Carey**

**PC.DDSc.DBAdm.MIAVI**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 19TH DAY OF APRIL, 1996**

By Notice of Appeal dated the 21st day of April 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £100 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

- "1) the valuation is excessive and inequitable
- 2) the valuation is bad in law."

**The Property:**

The property consists of part of the second floor of the old Savoy Cinema which has been adapted for use as a leisure centre. The centre contains numerous gaming machines, simulators, and shooting galleries. The area of the subject hereditament is agreed at 4,854 square feet.

The property was held on a short term lease by Upton Court Limited from September 1992 at:-

Rent:	Year 1 £50,000
	Year 2 £75,000
	Year 3 £100,000

The company went into liquidation on the 11th April, 1994. A licence agreement was issued to a company called Lasoner Trading Limited (the current occupier) registered office 108, 109 Patrick Street, Cork in respect of Unit 27 and the foyer on the 1st July, 1994 at a rent of £500 per week.

**Valuation History:**

Prior to 1978 revision the old rateable valuation of £850 referred to Savoy Cinema which was redeveloped in 1977 and adapted to accommodate shopping arcade with theatre at second floor level.

Following the 1978 revision shops and theatre comprising 700 permanent seats and 400 chairs were separately assessed. Rateable valuation of £420 was fixed on the theatre. This figure was reduced to £200 at 1984 First Appeal. At 1994 revision, following request from Cork Corporation to value "change of use" the valuation was increased to £470. The revising valuer reported the passing rent of £100,000 with premises now being used as family leisure centre. Following first appeal the rateable valuation was reduced to £100 on the subject premises with £120 on the balance of second floor.

**Written Submissions:**

A written submission was received on the 12th February, 1996 from Mr. Des Killen, FRICS FSCS IRRV, a Fellow of the Society of Chartered Surveyors and a Director of Donal O'Buachalla & Company Limited with 32 years experience as a valuer on behalf of the appellant.

In his written submission, Mr. Killen set out details of the valuation history and tenure of the subject premises. He said that the licence agreement as set out above had not been honoured and a variation was made by Power Corporation in an effort to get income from the hereditament as follows:-

8/8/94 to 4/10/94	£500 per week
4/10/94 to 1/3/95	£250 per week
1/3/95 to date	£100 per week

Rent invoiced:-

5/8/94 to 31/3/95	£17,166	Received	£6,488.38
1/4/95 to 6/2/95	£ 4,400	Received	£2,800.00

Mr. Killen observed from the above that the current rent of £100 per week was not sustainable. Mr. Killen commented that in general terms the Savoy Centre has traded poorly in recent years and he referred the Tribunal to its own decision in *VA95/3/001 - Quills Woollen Market v. Commissioner of Valuation* wherein this fact was recognised. Mr. Killen proposed that the valuation of the subject premises based on the rent should be as follows:-

£100 per week = £5,200 per annum = Rateable Valuation £30.

A written submission was received on the 9th February, 1996 from Mr. Tom Stapleton, a Valuer with over 30 years experience in the Valuation Office on behalf of the respondent.

In his written submission, Mr. Stapleton described the subject premises and its tenure as set out above. He gave details of the valuation history. Mr. Stapleton said that the valuation was assessed in accordance with the provisions of the Valuation Acts. He set out his calculation of rateable valuation as follows:-

**"Valuation**

Second floor (amusement centre)	4,854 sq.ft. @ £3.25 psf = £15,775
NAV	£16,000 (say) @ 0.63% = £100.80
RV	= £100.00"

Mr. Stapleton offered two comparisons details of which are set out below:-

**1) Hickeys Fabric Shop**

(mezz/1st floor) Units 9.10.11.  
3,895 sq.ft. @ £7.23 psf

Agreed with agent based on passing rent of £28,175.

**2) Balance of second floor**

Stores	13,677 sq.ft. @ £1.40 psf	=	£19,147
NAV		=	£19,147
RV	@ 0.63%	=	£120.00.

**3) Second floor**

offices/saloons/stores in Patrick Street vary between £4 to £6 psf.

**Oral Hearing:**

The oral hearing took place in Cork on the 20th day of February 1996. Mr. Des Killen of Messrs. Donal O'Buachalla & Company Limited appeared on behalf of the appellant. Also present was Mr. Billy O'Mahony, Cork Manager of the appellant company. The respondent was represented by Mr. Tom Stapleton of the Valuation Office.

In evidence, Mr. Killen stated that the subject premises formed part of the Savoy Centre which was not trading successfully and in this regard he pointed out that nine units on the ground floor in the centre were now vacant.

Mr. Killen referred to the fact that the subject property is now occupied at an extremely reduced rent and that even this rent which he said was in the order of £100 per week was in fact not being achieved. Mr. Killen said that it was contradictory of Mr. Stapleton to refer to the actual rent passing while at the same time justifying his estimate of net annual value per square foot at between £3.25 and £4.43.

Mr. Killen stressed that the centre had not gone downhill because of poor management but because of general market trends and because of nearby developments in what he described as the "golden mile" of Patrick Street.

He pointed out further that the subject property was not suitable as stores in view of its location on the second floor and its general inaccessibility.

Mr. O'Mahony gave evidence that the Savoy Theatre section of the Savoy Centre had been vacant for a long time and that there had been no offers. He confirmed that the appellant company was still not receiving even the reduced rent for the subject property and he confirmed that the subject had not been used for anything other than amusements. He also confirmed that the rent being sought for the subject property from the occupier was £100 per week.

In reply to Mr. Stapleton, Mr. O'Mahony stated that the biggest obstacle to letting or disposing of the subject property was its lack of accessibility. Referring to the comparison put forward by Mr. Stapleton namely, Leisureworld in McCurtain Street, Mr. O'Mahony said that it was very different from the subject in its accessibility, its location and in the fact that it was open for 24 hour periods.

Mr. Stapleton said that in his opinion if the subject property were properly managed and marketed it should realistically be able to achieve rents of between £3.50 and £4.00 per square foot. He referred to his comparisons, in particular to Hickey's fabric shop which was achieving rents of £7.23 per square foot located as it is on the mezzanine/first floor of the Savoy Centre. Mr. Stapleton stated that the rent of £100 per week represented £1.40 per square foot, which in his opinion was the equivalent letting value of poor stores and could not be compared to the subject which was in the centre of Cork city.

**Determination:**

The Tribunal notes that Mr. Stapleton accepts that the passing rent of the subject property is £100 per week.

While it is true that the property is situate in the centre of the city, the Tribunal has taken into account the evidence in relation to the market values and in particular to the disadvantages inherent in the subject property, namely, its inaccessibility, its second floor location and the fact that its usage is thereby severely limited.

In the circumstances and taking into account all of the evidence adduced the Tribunal is of the opinion that the correct rateable valuation of the subject is £56 and so determines.

