

Appeal No. VA96/2/016

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

**Mr. Con McCullagh, Con's Public House**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Map Ref: 18, Street: Lower Camden Street, Ward: St. Kevin's A, County Borough of Dublin

Quantum - Turnover method

**B E F O R E**

**Con Guiney**

**Barrister (Acting Chairman)**

**Patrick Riney**

**FSCS.FRICS.MIAVI**

**Barry Smyth**

**FRICS.FSCS**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 21ST DAY OF FEBRUARY, 1997**

By Notice of Appeal dated the 12th day of April 1996 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £165 on the above described hereditament.

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

"having regard to the trading and profitability potential of this public house the gross annual value implied by the RV is greatly excessive."

The property comprises a three storey licensed premises known as "Con's" with direct access from Camden Street and also from a narrow adjoining laneway.

The accommodation as described by the written submission presented on behalf of the Commissioner of Valuation is as follows:-

*Ground Floor*

Bar	1,065 sq.ft.
Toilets	-
Stores	344 sq.ft.

*First Floor*

Pool Room	434 sq.ft.
Kitchen	132 sq.ft.

*Second Floor*

Dilapidated

The relevant valuation history is that the subject property was inspected and revised in February 1995. On 10th May 1995 the valuation lists were issued and a rateable valuation was fixed at £175. On the 6th June 1995 an appeal against the revised valuation was lodged on behalf of the appellant. In January 1996 the appeal valuer inspected the property and had discussions with the agent for the appellant. On 25th March 1996 the Commissioner issued his decision reducing the valuation to £165.

A written submission prepared on behalf of the appellant by Mr. Donal ffrench O'Carroll FRICS of Allen & Townsend Associates Limited was received by the Tribunal on 29th November 1996. Mr. O'Carroll's written submission contained details of the location, description and turnover for the subject premises for the years ending 1992, 1993 and 1994. The written submission further dealt with the history of the purchase of the premises by the appellant and the type of trade carried on in the premises prior to the purchase.

The central argument of the written submission was that the appellant was an exceptionally skilled operator. Due to this skill the appellant had achieved a turnover of a range from 15% to 25% in excess of that achievable by "a normal competent operator". The submission argued the appellant should not be penalised for his exceptional skills and a deduction in terms of the foregoing range should be made from the turnover in calculating the rateable valuation.

The written submission states that the turnover for 1993 and 1994, namely the second and third year of the appellant's trade in the premises are the most reliable for evaluating normal trading. The figures approximate £298,000.

The submission reduces this figure for turnover by 15% to give a sustainable turnover by a competent operator in this instance of £253,000 for 1993/94.

The written submission then used an index prepared by the Central Statistics Office showing the increase in the price of beer and spirits between 1988 and 1994. The submission weighted the index in terms of 75% to beer and 25% to spirits. This produces a figure of 27% approximately in terms of an increase in prices between 1988 and 1994.

This index of 27% is applied to the notional turnover of £253,000 as of 1994, giving a figure of approximately £200,000 for 1988. The written submission further contends that 8.5% is an appropriate figure for the rental value of a premises of this type. Further the submission contends that notional open market rental value of the property in November 1988 was in the sum of £17,000 pa giving a rateable valuation of £107.

The written submission further referred to two Tribunal decisions. *VA92/4/022 - Maisie Teehan v. Commissioner of Valuation* and *VA93/4/005 - Charlie Chawke (Charjon Investments Limited) t/a The Goat v. Commissioner of Valuation*. Finally, the submission contained a list of competing public houses.

A written submission prepared by Mr. Tom Stapleton, a Valuer Grade 1 with over 30 years experience in the Valuation Office on behalf of the respondent was received on 29th November 1996 by the Tribunal.

Mr. Stapleton's submission contained *inter alia* comment on the applicant's grounds of appeal and a description of the property.

Mr. Stapleton's written submission contained two methods of arriving of a rateable valuation (a) from turnover and (b) from capital value.

**(a) Valuation from Turnover**

Sales	Year ended 31/3/92	£237,944
	Year ended 31/3/93	£297,725
	Year ended 31/3/94	£297,997
	Year ended 31/3/95	£339,398

Adjusting to 1995 turnover of £339,398 to November 1988 by reference to C.S.O.

Index gives £268,310.

Net Annual Value @ 9½% = £25,489

RV @ 0.63% = £160.58. Say RV £165.

**(b) Valuation from Capital Value**

Purchase price 1991	£350,000
Expenditure 1991	£ 17,000
Expenditure 1994	<u>£ 40,000</u>
Total	<u>£407,000</u>

Adjusting to November 1988 = £290,000

@ 10% = £ 29,000

@ 0.63% = £ 182.70. RV £180.

The written submission also contained a schedule containing five comparisons.

The oral hearing before the Tribunal took place on 13th December 1996. Mr. O'Carroll in his sworn testimony adopted his written submission as his evidence to the Tribunal. In further evidence he stated that he had only a nominal difference as to the area of the premises as described by the Commissioner and he was not making an issue of it.

He stated that beer was principally consumed on the premises and this was the reason for his choice of weighting in the C.S.O. derived index. He stated that the actual turnover of £262,845 in 1988 when compared with his notional turnover was due to the type of trade carried on in the premises in 1988. This was a "music" bar business which exploited anomalies in the way it traded.

Mr. McCullagh gave sworn testimony as to his long experience in public house business. He stated that as he had previously traded in Cassidy's public house nearby to the subject premises he knew the type of trading carried on there. It was a trade which featured a music venue.

He stated that he had paid £350,000 for the subject premises having previously valued the premises and agreed the finance with his bank manager and he started trading in April 1991. He stated that he had spent £40,000 and £17,000 on improvements on the premises.

Mr. Stapleton adopted his written submission as his testimony to the Tribunal in his sworn testimony. He stated that his rateable valuation derived from turnover is modest when compared with the rateable valuation he obtained using the capital value method. He submitted that Mr. O'Carroll had omitted the turnover in the year ending March 1995. This was a relevant year for two reasons (a) the function room developed in 1994 on the first floor had contributed significantly to turnover and (b) May 1995 was the effective date for valuation of the premises. Mr. Stapleton said he had used 9½% as a rental value of turnover because this was a low-margin house. He stated that in his preferred comparison Ryan's of 92 Lower Camden Street, a rate of 10% was applied.

Mr. Stapleton explained the use of his C.S.O. Index. It was the All Drinks Alcoholic Index which was used widely by valuers. He had used the time frame, February 1995 to November 1988 and this gave a figure of 21%.

Under cross examination by the respondent Mr. Stapleton stated that the main determinant in ascertaining valuation was turnover. He did not subsidise inefficient traders or penalise successful traders in making his valuation. In the case of the appellant he did not consider him to be overtrading, when a capital value method was used it gave a higher rateable valuation. Mr. Stapleton stated that the operator was not valued but valuation was based on the evidence disclosed in the accounts.

Finally, Mr. Stapleton referred to the two Tribunal decisions referred to in Mr. O'Carroll's written submission. He argued neither were relevant. The "Maisie Teehan" decision referred to a small public house in Shannonbridge, Co. Offaly with a population of 250. The trade there was seasonal and the premises was in bad condition. The "Goat" decision referred to a turnover, of which a major proportion was food. The net profit margin on food was less than on drink.

The Tribunal finds that the two Tribunal decisions referred to by Mr. O'Carroll are not of assistance in arriving at a decision in this matter.

The Tribunal further finds that the turnover method is the most appropriate for arriving at a rateable valuation here.

The Tribunal finds that the average of the 1994 and 1995 turnovers is the starting point for arriving at a rateable valuation here namely £318,697

Adjust to November 1988 C.S.O. Index of 21% = £251,770

Say = £252,000

Net Annual Value @ 9% = £ 22,680

Rateable Valuation @ 0.63% = £ 142.88. Say £145.

The Tribunal therefore determines that the rateable valuation of the subject premises is £145.