

Appeal No. VA97/6/062

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

**Tom Ryan (The Canal Bar)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed shop at Map Reference 4.5.6. Canal Place South, Usher's Quay, County Borough of Dublin  
Quantum

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Finian Brannigan - Solicitor**

**Member**

**George McDonnell - F.C.A.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 17TH DAY OF NOVEMBER, 1998**

By Notice of Appeal dated the 17th day of October 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £150 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the R.V. is excessive, inequitable and bad in law".

## **Valuation History**

The subject premises was revised in September 1996 when the R.V. was fixed at £160. This valuation was appealed but no agreement was reached with the Valuation Office. The Commissioner issued his decision in September 1997 and reduced the R.V. to £150.

The written submission prepared by Mr.Eamonn Halpin, B.Sc. (Surveying) A.S.C.S., A.R.I.C.S., M.I.A.V.I., an associate of the Society of Chartered Surveyors was received by the Tribunal on 3rd September 1998 and proposed three bases of valuation for the subject. The resulting rateable valuation proposed by the Profits Method and the Capital Value Method was £110. The rateable valuation based on the Comparative Method was £100.

The written submission prepared by Mr.Brian O'Flynn, District Valuer with twenty three years experience in the Valuation Office, was received by the Tribunal on 25 June 1998.

## **The Property**

The property comprises a licensed shop with a bar retail area which has been agreed between both parties at 1,613 sq. ft. In addition, there is a basement storage area of 1,065 sq. ft. The upper floors are not in use and do not form part of the current valuation. The premises is located approximately 1.5 miles from Dublin city centre, in a mixed residential/industrial area off James Street.

There is a travelling people's halting site opposite the property which accommodates twelve families. The entrance to this halting site is not on the same street as the subject property. While the bar area has been up-dated in recent years, the overall property could be described as plain and functional.

## **Hearing and Evidence**

The Appeal proceeded by way of an oral hearing which took place at the Tribunal Offices, in Dublin on 16 September 1998. The Appellant was represented by Mr. Eamonn Halpin and the Respondent was represented by Mr. Brian O'Flynn, District Valuer. In accordance with the rules of the Tribunal and following established practice the parties had, prior to the hearing, exchanged

their written submissions. At the oral hearing both valuers, having taken the oath, adopted their written submissions respectively as their evidence-in-chief.

At the outset, it was accepted by both parties that the only matter which was the subject of this hearing was the issue of quantum.

Mr. Halpin proceeded with his evidence and explained that the subject property is located in a difficult trading area with a number of drawbacks, including :

1. A tertiary location with little passing trade.
2. The subject is an old premises in moderate repair, thus leading to higher annual maintenance charges.
3. There is a travelling people's halting site a short distance from the property on the main approach road
4. The area has a declining local population due to the demolition of nearby local authority flat complexes and rehousing these occupiers in other suburbs of the city.

In Mr. Halpin's view, the Commissioner has failed to attach sufficient weight to the above matters in fixing the revised valuation. In support of his case, Mr. Halpin produced three comparisons - "O'Malley House" at 162 James Street, "The Robert Emmett" at 28 Thomas Street and "The Horse and Jockey" at 107 Emmett Road. All of these are licensed premises but are somewhat removed geographically from the subject. In cross-examination by Mr. O'Flynn, Mr. Halpin accepted the most relevant comparison was "The Brewery" licensed premises, Newport Street.

Mr. O'Flynn, in his sworn testimony on behalf of the Commissioner, explained that while a travelling people's halting site is situated opposite the subject, the entrance is not off the same

street. In addition, he was not aware of any negative impact which the halting site has had on the trading position of The Canal Bar. He stated that the site was well organised and efficiently managed. Mr. O’Flynn included six licensed premises as comparisons in his précis to support his case - “The Brewery” at Newport Street “O’Rourkes” in James Street, “The Barn Owl” also in James Street, “Authur G’s” in Canal Place North., “The Robert Emmett” in Thomas Street and “Kathleen O’Malley” in James Street.

As outlined earlier, it was agreed between the Appellant and Respondent that the most relevant comparison was The Brewery premises at 7/8/9 Newport Street. Accordingly, the other licensed premises mentioned are not being relied upon as comparative evidence.

The Brewery licensed premises was revised in 1993, with an R.V. of £80. It consists of 845 sq. ft. of retail area with a further 376 sq. ft. of cellar space. Using the fraction of 0.63 %, this devalues to an N.A.V. of £12,698. Based on the retail area of 845 sq. ft., this equates to £15.03 per square foot of net retail area. This compares with a figure of £14.76 per square foot of net retail area in respect of the subject. The Brewery is located quite close to the subject property. Accordingly, whatever impact the location of the subject may have in terms of its trading performance (close to travelling people’s halting site, declining local population, etc.), could be applied to this comparison.

Mr. Halpin mentioned that the subject property was sold in May 1998 for approximately £490,000 and this was not contested by Mr. O’Flynn. This devalues at approximately £304 per square foot of net retail space. However as no conclusive evidence was produced at the hearing with regard to the sale proceeds, such evidence is not being relied upon.

### **Findings and Determination**

The Tribunal has considered the submissions and the evidence submitted and matters raised at the oral hearing by both the Appellant and the Respondent. Both parties have relied substantially on comparative evidence and in particular both agreed that “The Brewery” licensed premises was the most reliable comparison available and the Tribunal has had regard to same.

In the opinion of the Tribunal, the most relevant basis for comparison is by reference to the N.A.V. based on rentalised floor area. While the Tribunal accepts that some impact may arise from the location of the subject, being in an area of declining population and the other facts as already outlined, nevertheless the determination of R.V. should be based by reference to the most reliable comparative evidence available. It is clear from the evidence presented by both parties that The Brewery licensed premises is the comparison to be relied upon.

Amongst the factors which the Tribunal have taken into consideration in arriving at its opinion, are the following:

1. The Brewery premises is relatively new, as it was substantially refurbished following a fire in mid 1988.
2. There is a new complex of flats opposite The Brewery premises.
3. The subject property is somewhat closer to the travelling people's halting site and this may have some marginal impact in terms of public perception.
4. Some allowance needs to be made for quantum in respect of the subject.

In the circumstances and in the light of the evidence provided, the Tribunal determines the R.V. of the subject property at £130, (which analyses, in accordance with the Valuation Office analysis of net retail area above page 4, at £13 p.s.f. on net retail space).

