

Appeal No. VA00/1/021

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

Mr. Brian Murphy t/a Murphys Bar Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed House at Lot No. 49 Main Street, Townland: Arklow, Arklow Urban, UD:
Arklow, Co. Wicklow.

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairman

Michael Coghlan - Solicitor

Member

John Kerr - MIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF DECEMBER, 2000

By Notice of Appeal dated the 20th day of April 2000, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £218 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the valuation is excessive, inequitable and bad in law. Additionally the quantum is excessive when compared with similar type properties in Arklow which were assessed on the existing tone prior to the 1998/4 revision".

The appeal proceeded by way of an oral hearing which took place on the 1st Day of December 2000, in the Tribunal Offices at Ormond Quay, Dublin. The Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying) A.S.C.S., A.R.I.C.S., M.I.A.V.I., and the Respondent was represented by Mr. Joseph McBride, District Valuer of the Valuation Office. Written submissions had been exchanged by the Valuers, and submitted to the Tribunal prior to the Hearing. Both parties adopted the written submissions with noted amendments as their evidence in chief given under oath at the hearing.

The Property

The property consists of a three storey licensed house with one and two storey sections to the rear on a large site. It has frontage to Main Street of 14.4 metres (47 feet) with side entrance to rear. The site has rear access from River Walk to a private car park.

The older buildings are constructed of rubble masonry walls with slate and felt roofs. The new extension is constructed with concrete pillars infilled with concrete block and glass walls with a slate roof.

The accommodation includes ground floor, bar, poolroom, lounge, off licence, ladies and gents wc's, kitchen and stores. The first floor includes restaurant (capacity for 60 people), function/meeting room, kitchen and ladies and gents wc's. The restaurant is accessed from a passageway at the end of the bar and from the rear via an external stairs.

The domestic accommodation includes first floor sitting room and hall, second floor, three bedrooms and bathroom.

There is a patio area to the rear of the site and a car park.

The net agreed areas are as follows:

Ground Floor	Bar/Lounge/poolroom	200.5 sq. metres (2158 sq. ft.)
	Off Licence	25.5 sq. metres (274 sq. ft.)
	Kitchen	20.0 sq. metres (215 sq. ft)
	Stores	81.8 sq. metres (880 sq. ft.)

First Floor	Restaurant	134.0 sq. metres (1442 sq. ft.)
	Kitchen	30.0 sq. metres (323 sq. ft.)
	Function/meeting room	93.4 sq. metres (1005 sq. ft.)
	Kitchen	7.0 sq. metres (75 sq. ft.)
	Domestic	154.0 sq. metres (1658 sq. ft.)

Valuation History

In 1986 first appeal the RV was assessed at £135.00 (Domestic £22.00). In 1996 the property was revised at the request of the occupier as being excessive. The Revising Valuer in his report was of the opinion that the premises could support a valuation of £150.00 and made no change to the valuation.

In 1998/4 revision the property was assessed at £218.00 (Domestic £18.00). No change was made on First Appeal.

Appellant's Case

Mr. Halpin described the subject property noting its considerable size, age, peculiar layout and location, comprising of a partly modernised three and two storey structure currently trading as a licensed premises and restaurant with a separate retail unit operating as an off-licence. The recently updated lounge bar with pool area he described as well fitted and the upper floors as being in moderate condition. He stated that the bar and pool area together with the off-licence had not been modernised. A new first floor restaurant and kitchens were added in 1997.

The floor areas of the various sections of the building were agreed between the Appellant and Respondent. He advised that the premises was designated under the Seaside Resort Scheme. He stated that the new restaurant had traded at a level less than expected by the owner since it opened and indeed mitigated against food sales in the bar. He advised that the property and business carried on within had been long established, well managed by the owner and in his opinion would have considerable goodwill value attributable to same.

Mr. Halpin summarised his approach to assessing the rateable valuation based on three methods as follows:

- a) Adopting an NAV per square foot for each of the areas within the building including the off-licence, bar and lounge, front bar and lounge, rear kitchen, store, first floor restaurant, first floor kitchen, first floor meeting rooms and kitchen and finally domestic, he estimated an RV of £138.00.
- b) Employing the established RV as revised in 1996/4 of £135.00 and adjusting for demolitions and reduction in domestic area and the additions of the new restaurant, kitchens, meeting rooms and stores, he estimated an RV of £153.00.
- c) Employing the turnover method, grouping drink and tobacco sales in the bar with food amounting to £405,683, discounting to 1988 levels using an inflation reduction factor of 30% and a yield of 8%, he calculated a potential RV of £168.00. Mr. Halpin submitted that the turnover figures for a licensed premises would not normally include tobacco sales and accordingly expressed the view that the foregoing figure of £168.00 should, in his view, be the upper limit of the RV.

Referring to his comparisons contained within his précis of evidence, he summarised the similarities as contained within them and the manner of calculation of their existing Rateable Valuations.

His comparison No. 1 was supported with certified trading figures for year ends 30th April, 1997 and 1998 for the Arklow Court Hotel which he advised had a substantial bar turnover figure. He offered his comparison No. 2, a shop at Lot 5, Foxmount Ltd., Main Street, Arklow, as a suitable reference or comparison to the subject restaurant acknowledging that this premises does not include a bar and has a slightly better location to the premises under appeal. His third comparison, being a licensed premises in Wicklow town, does not offer food sales, is smaller in area to the subject with a licensed turnover of £160,044 to year end March 1997. He indicated that the RV in this example was calculated using a yield of 9%. His next comparison, also a licensed premises, is close to and larger than the subject, and has declared trading figures in excess of the subject with an RV of £130 as of 1998/4 First Appeal. His comparison No. 5 he felt, with an RV of £210 and having consistently enjoyed higher trading levels than the subject

premises, offered strong proof that the Valuation Office had changed the tone of the list in Arklow based on the assessed RV on Murphy's Bar.

He summarised his presentation noting that an increase in the RV of 62% on the subject premises from £135 to £218 was excessive as demonstrated by the comparisons he adduced in Arklow and Wicklow.

Mr. Joseph McBride B.Agr.Sc., District Valuer in the Valuation Office, with almost twenty years experience, commenced his cross-examination of Mr. Halpin by firstly confirming that the cost of construction for the restaurant, stores and kitchens was £250,000. He questioned whether the zoning basis as employed by Mr. Halpin in his first method of valuation should be used for licensed properties. He asked Mr. Halpin why he had applied a yield of 8% to the turnover figure and why same had been applied to an amount which included tobacco sales. He questioned what percentage of the turnover applied to income generated by the night club in Mr. Halpin's comparison No. 1 and suggested that the response might be in the region of 75%. He stated that he considered comparison No. 1 as inappropriate as it is a hotel. He questioned how Mr. Halpin might consider his comparison No. 2 to be appropriate as it is a retail shop and cannot therefore be compared to a licensed premises.

Mr. McBride expressed the view that Mr. Halpin's comparison No. 3, being a property in Wicklow, was inappropriate for the purpose of comparison. With regards to comparison No. 4, he stated that this was the subject of a liquidation sale sold prior to auction. Mr. McBride questioned the reliability of the figures provided for in the submission of McGrath & Company, Chartered Accountants, letter dated 14th February, 2000, appended to Mr. Halpin's précis-of-evidence. Mr. McBride again also questioned the 30% reduction figure employed in Mr. Halpin's calculation applying to tobacco, food and drink sales and the 8% yield applied to the adjusted turnover. In reply to a question by Mr. McBride, Mr. Halpin indicated his view that 10% of the declared turnover figure in his first approach to valuation would apply to tobacco sales and that the 8% yield figure employed by him reflected an adjustment to allow for the inclusion of tobacco sales in the turnover figure.

Mr. McBride presenting his own evidence, noted that his own précis of evidence, contained an error on page 5, i.e. Profits Method, line 1 wherein the reduction factor of 25.75% should correctly read 28% resulting in an adjusted RV calculation of £228.00 and not the £232.85 as contained in his submission. Mr. McBride then summarised his submission outlining his main consideration when establishing the NAV of the subject premises.

- a) Construction cost was £250,000 on the extension works as noted above and such works qualified for tax relief under the Seaside Resort Scheme.
- b) He reviewed the valuation history as set out in page 3 of his précis-of-evidence and that though revised at the request of the occupier in 1996, the revising Valuer at that time made no change to the valuation.
- c) He questioned the reported turnover figures on the bar food and restaurant of the subject premises. His computations provided for an inflation discount of 28% and a yield of 9% to the turnover thereby reducing the RV by £4.00 to £228.00 as noted above. Mr. McBride also summarised his second and third approaches to value being the Comparative Method which yielded an RV of £218.00 (domestic element of £18.00) and achieved a similar result. His third method was the Investment Method. He summarised the comparisons outlined on pages 6, 7, 8 and 9 of his submission.

Questioned by Mr. Halpin, Mr. McBride confirmed that the turnover method was the most suitable approach to valuation to be employed in this particular circumstance. Mr. Halpin questioned why with relatively little substantial improvement works, the RV had been increased by the Valuation Office from £108.00 in 1992 to £218.00 in 1998.

In closing, Mr. Halpin acknowledged that the subject was considered to be at a good location on the main street in Arklow and the above mentioned funds had been spent on improvements in 1997 but affirmed his view, that the RV was excessive.

In closing, Mr. McBride suggested that the location and size of the premises should be carefully considered and that only suitable comparisons should be taken into account.

Determination

The Tribunal has considered all of the evidence submitted together with the supporting arguments of the Appellant and the Respondent. The comparisons offered by both parties were reviewed in detail as were the valuation methods employed by Mr. Halpin and Mr. McBride. It is felt that the comparisons offered by the Appellant were not helpful and in the circumstances the Tribunal prefers the evidence adduced by Mr. McBride.

The Tribunal is of the view that an inflation reduction factor of 28% and a yield of 9% should be applied to the certified turnover figure (agreed by the parties as being £405,683) generated in the bar and lounge area in order to determine the NAV attributed to the ground floor areas of the building. This gives an NAV figure of £26,288 whilst, the remainder of the premises should be valued by the comparative method as follows:

-Off Licence	24.45 sq. m.	@ £134.48/sq. m.	=	£3288
-1st Floor Restaurant	134 sq. m.	@ £53.82/sq. m.	=	£7212
-Kitchen 1st Floor	30.0 sq. m.	@ £43/sq. m.	=	£1290
-Function Room	93.4 sq. m.	@ £32.29/sq. m.	=	£3016
-Small Kitchen 1st Fl.	7 sq. m.	@ £32.29/sq. m.	=	£226
-Domestic	154 sq. m.	Say	=	£3000

Total: £44320

RV £44320 @ 0.5% = £221.60

Say £218.00

The Tribunal therefore affirms the assessment of the Commissioner of Valuation at £218.00 and so determines.