

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

John McLoughlin

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed shop at Map reference 48Ab Balleeghan Upper, Carthage, Inishowen, County Donegal

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Frank O'Donnell - B.Agr.Sc. FIAVI.

Member

Joseph Murray - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 6TH DAY OF JUNE, 2003

By Notice of Appeal dated the 25th October 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of p56 on the relevant property above described.

The Grounds of Appeal as set out in the said Notice of Appeal are that:

"The valuation is incorrect in comparison to other relevant properties in the same rating area".

oral hearing held in the Courthouse, Letterkenny on the 28th

At the hearing the appellant was represented by Mr. Patrick McCarroll MRICS FIAVI ASCS IRRV MCI Arb, and the respondent by Mr. John Kirwan B.Agr.Sc. Valuation Diploma, a Grade 1 Valuer with 36 years experience in the Valuation Office.

Prior to the hearing the Valuers exchanged written submissions and valuations which were forwarded to the Tribunal and subsequently received into evidence under oath at the oral hearing.

The Property

The subject property comprises a licensed premises known as the Fisherman's Inn located in a somewhat remote area almost 5 Kilometres from the village of Malin. The building is a two-storey structure with a part two-storey and part single-storey return. The agreed area of the licensed premises is as set out below:

Bar	85.70m ²
Billiard Room	39.20m ²
Kitchen	34.17m ²
Keg Store	42.00m ²
Toilets	

The first floor of the building is in residential use. The building is located on the roadside with some car parking spaces at the front and rear.

Rating History

At the 2000/2 revision the rateable valuation of the subject property was assessed at £65 which was reduced to £56 at the first appeal stage. The appellant being aggrieved lodged a further appeal to this Tribunal.

Mr. McCarroll having taken the oath adopted his written précis which had previously been received by the Tribunal as being his evidence in chief. In evidence Mr. McCarroll said the subject property had something of a chequered history in that a number of people had tried to run the premises over the last 10 years or so but with little success due to the low level of turnover achieved. In his opinion this was due to its somewhat remote location and the fact that it was not in an established tourist area. Mr. McCarroll also said that generally speaking Donegal tourism had suffered in recent years due to the foot and mouth outbreak and the lower level of U.S. visitors as a result of the events of September 11th. As a result the business depends upon local custom which is confined mainly to weekends and late evenings and a small level of tourist activity during the spring and summer months. Mr. McCarroll was of the opinion that the subject premises could only continue to trade at the levels of turnover achieved by virtue of the fact that it was a family run enterprise operated on a part-time basis only.

Mr. McCarroll contended for a rateable valuation of p41 calculated as set out below:

Turnover (Year Ending 31 st October 2001	=	p148,296
backdated to November 1988	=	p95,675
(Alcoholic Drink Index)		
Net Annual Value	@ 9%	= p8,180
Rateable Valuation	@ 0.5%	= p41

In support of his opinion of Net Annual Value Mr. McCarroll relied upon 4 comparisons as set out in Appendix 1 which forms part of this judgment. In particular Mr. McCarroll relied upon the licensed premises at Ardmalin Townland near Malin Head. This property he said occupied a better location than the subject and the turnover benefited from tourist activity during the summer months.

The Respondent’s Evidence

ted his written précis which had previously been received
chief. In his evidence Mr. Kirwan concurred with Mr.

McCarroll with regard to the description of the subject property but opined that there was indeed a tourist trade during the summer months. He did not however challenge the accounts introduced by Mr. McCarroll but was of the opinion that a hypothetical tenant would reasonably expect to achieve a higher turnover having regard to the size and facilities of the premises. In his opinion the area of the bar was a factor that the hypothetical tenant would take into account when arriving at his opinion of appropriate rental value as it would dictate the number of customers that could be accommodated in the premises at any one time.

Having regard to the above Mr. Kirwan contended for a rateable valuation of $\text{p}56$ calculated as set out below:

Blocks a + b

Bar and Entrance	85.17m ²	@	$\text{p}75.17/\text{m}^2 =$	$\text{p}6,442.07$
Billiard Room	39.2m ²	@	$\text{p}61.50/\text{m}^2 =$	$\text{p}2,410.00$
Block f (Entrance)	3.1m ²	@	$\text{p}75.17/\text{m}^2 =$	$\text{p}233.02$
Block c (Kitchen)	31.1m ²	@	$\text{p}34.17/\text{m}^2 =$	$\text{p}1,062.69$
Block G (Keg Room)	42.0m ²	@	$\text{p}27.33/\text{m}^2 =$	$\text{p}1,147.86$

Net Annual Value = $\text{p}11,296.48$

Rateable Valuation @ 0.5% = $\text{p}56.48$ say $\text{p}56$

In support of his opinion of net annual value Mr. Kirwan introduced nine comparisons details of which are set out in appendix 2 attached to this judgment. These comparisons comprise three licensed premises in Carndonagh two in Greencastle and one between Greencastle and Shruel. His other comparison was located at Ardmalin townland and was also used as a comparison by Mr. Mc Carroll. Five of these comparisons were valued by reference to turnover and the other four were valued on a square metre basis.

at whilst turnover was an important factor in determining the square metre basis of valuation. In his opinion whilst a hypothetical tenant would have regard to turnover he would also have regard to the size of the premises as this could dictate the level of achievable turnover.

Findings

1. In the subject appeal, the valuers have adopted different methods of valuation in order to arrive at their respective opinions of net annual value. Mr. Mc Carroll has relied upon the actual turnover whilst Mr. Kirwan has valued the premises by comparison with the assessments of other licensed premises on a square metre basis.
2. Over the past several years this Tribunal has dealt with a large number of appeals where the subject properties have been licensed premises. An examination of the judgments does not indicate a preference for any of the accepted methods of valuation and each case was determined on the basis of the evidence that was used at the hearing.
3. In the case *Nallob Ltd t/a O'Donoghues VA95/5/024* the Tribunal dealt in some detail with the various methods of valuing licensed premises for rating purposes. At paragraph six of the judgment thereof the Tribunal made the following observations.

6. Whilst entering the caveat that no one method is sacrosanct or conclusive, there is no doubt that in our opinion profits turnover etc. are hugely influential in the mind of a hypothetical tenant when determining the amount of rent which he is prepared to pay on an annual basis. Turnover seems to be more crucial than profit, this because it is the rent which is the measure of annual value and not profit. Knowledge of the existing turnover and the level at which the business is being conducted are vital elements in the calculation of any bid as is every other element which in either direction may affect the turnover. In considering this question of turnover one must be acutely conscious of the hereditament, which is being valued, in this instance it is the premises and not the business, though of course the latter is material in that the power to earn or increase profit can be an indication of value in respect of the said premises. Likewise good management should not be penalised and poor management be rewarded. Any quite

on, skill, character or other personal attributes, this
e or negative affect on the business must and should also
be disregarded. Three years accounts without any distortion during that period
are usually and should, on a confidential basis, be made available where possible.
Shorter periods may indeed suffice, as where there is a start-up situation or where
after major alterations/extensions, the nature and size of the operation is
significantly different. In the absence of such accounts the following
documentation may be proffered: An Auditors Certificate, the Profit and Loss
Account, the Trade Account, the breakdown of the turnover between food,
cigarettes and drink etc. and a copy of the Balance sheet. The breakdown as
between drink and food is of particular significance. So once these limitations are
observed and once it is appreciated that the actual turnover figure may and
frequently will have to be adjusted then this is a method, which in our view is a
forerunner in approaching the valuation of licensed premisesö.

4. This Tribunal fully agrees with the above findings that turnover is a primary factor in determining net annual value of a licensed premises. This is not to say that the physical characteristics of the premises should be totally disregarded. Indeed if the licensed area is too small it could in certain circumstances have the affect of limiting the level of business that a hypothetical tenant could reasonably expect to achieve.
5. Having carefully considered all the evidence adduced in this appeal the Tribunal accepts the appellant's evidence that the subject premises relies mainly on local based custom supplemented by some tourist business during the spring and summer months. The Tribunal also notes but does not necessarily fully accept the appellant's contention that tourism in the area has been adversely affected by the combination of unusual circumstances such as the Foot and Mouth outbreak and the events of September 11th.
6. Having regard to the above the Tribunal considers that the most appropriate method of valuation is to use the accounts/turnover basis as put forward by Mr. Mc Carroll. However having regard to the size of the premises, its location, the turnover and recent trading conditions the Tribunal has come to the conclusion that a hypothetical tenant in

l value would be prepared to apply a higher percentage of
d by Mr. Mc Carroll.

7. Accordingly therefore the Tribunal determines the net annual value of the subject premises to be as follows.

Annual turnover (year ended 31st October 2001) p148,296 backdated to

November 1988 say p96,000

Net annual value @ 10% = p9,600

Rateable Valuation @ 0.5% = p48. And the Tribunal so determines.