

Appeal No. VA08/1/009

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

Talara Taverns Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Shop, Restaurant/Cafe at Lot No. 111, Main Street, Castlebellingham,
Castlebellingham, Ardee 1, County Louth

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Michael F. Lyng - Valuer

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JULY, 2008

By Notice of Appeal dated the 10th day of March, 2008, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €134.00 on the above described relevant property.

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

"Restaurant is no longer trading since 14/12/07. Property is trading only as off licence & bar (no food) with current turnover difficult to maintain."

The appeal proceeded by way of an oral hearing in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 7th day of July, 2008. Mr. Keith Duffy, a Director of Talara Taverns Ltd. represented the appellant and Ms. Ciara Marron, a District Valuer in the Valuation Office, represented the respondent. At the hearing Ms. Marron, having taken the oath, adopted her précis as her evidence-in-chief. Mr. Duffy as a lay litigant, having taken the oath, delivered his oral evidence to the Tribunal.

Section 1.01 The Property

Section 1.02 The subject property, Talara Taverns Ltd., T/A McBride's Bar & Restaurant is located on Main Street, Castlebellingham Village, County Louth. The property is a distance of 4.2 kilometres from Annagassan, 2.9 kilometres from Dromiskin, 8.2 kilometres from Dunleer and 15.4 kilometres from Dundalk. The property is a two-storey building with the ground floor in use as an open plan bar/lounge. The first floor was in use as a restaurant on the valuation date. Both the ground floor and the first floor measurements are agreed between the parties as set out in Ms. Marron's précis of evidence.

Valuation History

The property was revised in 2007 and the Valuation Certificate was issued on 10th July, 2007 with a rateable valuation of €134.00. An Appeal to the Commissioner was lodged on 7th September, 2007 and issued unchanged at €134.00. The appellant appealed the Commissioner's decision to the Valuation Tribunal on the 14th March, 2008 on the issue of quantum.

Accounts

At the outset Ms. Marron told the Tribunal that the Accounts supplied by Mr. Duffy to the Valuation Office on Friday 4th July were not seen by her until the morning of the hearing and she had not had time to examine them. She noted, however, that they referred to 2006 and that no figures were supplied for 2007. The Tribunal had received the accounts immediately before the commencement of the hearing. Mr. Duffy explained that these were the only audited figures currently available to him from his accountants. The Tribunal, having adjourned briefly to consider the matter, decided with the agreement of the parties to proceed with the hearing of the appeal on the basis of a per square metre valuation based on comparisons rather than on a turnover basis.

Appellant's Case

Mr. Keith Duffy having taken the oath stated that the valuation adopted by the Commissioner of Valuation was too high and made the following submissions:

His company had purchased the premises in 2005 at an inflationary price. He agreed that the premises were to a very high standard and that the only addition carried out by them after the purchase was the relocation and improvement of the toilets in the premises.

He stated that there were 4 pubs, including the hotel, in the village which had a population of some 1,400 people. The one development that has taken place in the village consisted of 60 units of which 70% remain unsold. Section 23 advantages were available but did not improve the market. Planning Permission was granted for developments totalling some 300 units and a further one for 140 units. However neither of these Permissions was acted upon. He said that the village was not progressive, nor attractive and it was run down. Castlebellingham had made little or no progress or growth over the past 20 years. It is a one street town with vacant retail units.

Dromiskin Village, he said, had only 2 pubs with a similar population to that of Castlebellingham. Dromiskin has shown greater growth potential in recent years with a new supermarket and 3 separate residential developments totalling 200 units, all fully occupied. It also had a lot of 5-unit and 10-unit developments as well as a 12-pump filling station.

Mr. Duffy confirmed that the company was operating at a continuous loss in 2006 and 2007 with cash flow stretched to the limit. The restaurant when first opened had some 30 jobs with opening hours from 10am to 10pm each day. The restaurant closed in December, 2007 as it was not paying its way and it had failed to attract a tenant. The pub was now leased out for a nominal rent.

Mr. Duffy referred to the next door premises, P.J. Byrne Bar & Lounge, the leading and oldest pub in the village, as his nearest comparison. He said that although the exterior looked old, the interior and standard were similar in every respect to the subject property and it could cater for up to 180 patrons. Moreover, he said, it was a long-established premises.

Cross-examination

Under cross examination by Ms. Marron, Mr. Duffy said that the subject property was purchased in 2005 and opened for trading immediately on a continuous basis. However the bar was closed between July and December, 2006 to sort out the licence which resulted in a loss of business with no turnover for that period. He also referred to Ms. Marron's second comparison, Heritys Bar in Dromiskin, some 2.9 kilometres from Castlebellingham. He said this village has 2 pubs and the same population as Castlebellingham. The village has enjoyed 3 residential re-developments over the past 10 years with more than 200 units sold and occupied and there was a progressively growing population.

Respondent's Case

Ms. Ciara Marron, having taken the oath, adopted her précis as being her evidence-in-chief and assessed the rateable valuation of the subject property as follows:

Total NAV	€26,937.84
RV @ 0.5%	€134.69
RV Say	€134.00

Ms. Marron stated that the valuation adopted by the Commissioner of Valuation was in line with her comparisons and that the subject property was located in a central Main Street location in Castlebellingham Village. The accommodation consisted of a ground floor bar/lounge of 217.05 sq. metres, comprised of extended bar, lounge, toilets and pool area together with paved smoking area to rear. The first floor comprised a restaurant of 152.60 sq. metres, offices 26.19 sq. metres, cold room 5.23 sq. metres and toilets of 18.39 sq. metres, with its own entrance and the benefit of a seven day licence attached to the premises. Ms. Marron was aware that the first floor restaurant ceased trading on 14th December, 2007.

It was suggested by Ms. Marron that Mr. Duffy might consider having the property listed for revision and request that the valuation be divided into two separate valuations to reflect and help the present position. She said Mr. Duffy might also claim vacant relief from Louth County Council and possibly come to some arrangement with them in the interim. Ms. Marron continued to stress that the preferred method of valuation of licensed premises is the turnover method but this had not been possible in the case of the subject property. The property was valued therefore, on a comparative basis using the three comparisons offered by

Ms. Marron: Pat Byrne, Castlebellingham, Heritys Bar, Dromiskin and Paddy Watters, Collon.

Details of Ms. Marron's comparisons are at the Appendix hereto.

Cross-examination

Under cross examination by Mr. Duffy, Ms. Marron said that she regarded Dromiskin as a smaller village than Castlebellingham. She said that the valuation of her Comparison No. 1, Pat Byrne's pub adjacent to the subject property, dated from 1997 and that this should be taken into consideration.

Ms. Marron said that she had expected to be furnished with certified or audited accounts as the turnover method was the preferred method of valuation of licensed premises. She did accept that one had the option to assess on the alternative comparative method using a rate per square metre.

Findings

The Tribunal having carefully considered all the evidence and arguments adduced by the parties makes the following findings:

1. As the appellant's audited accounts were not seen by the respondent or by the Tribunal until the morning of the hearing the Tribunal decided, with the agreement of the parties, to proceed with the hearing and make a determination based on a comparative, square metre basis rather than on a turnover basis.
2. The growth and prosperity of Castlebellingham has shown little progress over the past twenty years.
3. The restaurant failed to be a financial success and ceased trading in December, 2007.
4. Dromiskin Village has only 2 pubs. It is 2.9 kilometres from Castlebellingham and has in recent years developed with a supermarket and a 12-pump petrol station. 3 residential developments of approximately 200 units were constructed and occupied over the past 3 years. The prosperity and population of the village have greatly increased as a result.
5. The licensed premises on the ground floor which was operating at a loss has been let out at a nominal rent and the restaurant has been closed since December, 2007 with a very poor potential rental figure offered as indicated to the Tribunal.

Determination

The Tribunal having regard to the foregoing determines the rateable valuation of the subject property to be as follows:

Bar	181.20 sq. metres	@ €73 per sq. metre	= €13,227.60
Toilets	35.87 sq. metres	@ €0 per sq. metre	= €0
Smoking area	28.65 sq. metres	@ €0 per sq. metre	= €0
First floor			
Restaurant	152.75 sq. metres	@ €48 per sq. metre	= €7,332.00
Kitchen	59.15 sq. metres	@ €40.99 per sq. metre	= €2,424.56
Cold Room	5.24 sq. metres	@ €40.99 per sq. metre	= €214.79
Offices	26.20 sq. metres	@ €40.99 per sq. metre	= €1,093.94
Toilets	18.40 sq. metres	@ €0 per sq. metre	= €0
Total NAV			= €24,292.89
RV @ 0.5%			= €121.46
RV Say			€121

And the Tribunal so determines.