

Appeal No. VA11/3/012

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

Glow Wise Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 588097, Licensed Shop at Lot. No. 31 - Flr 0 & Flr 1, Village of Chapelizod, Chapelizod, Chapelizod, County Borough of Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Frank O'Donnell - FRICS, B Agr Sc, MIREF

Member

Damian Wallace - QFA, Grad Dip

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF DECEMBER, 2011

By Notice of Appeal dated the 13th day of July, 2011 the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €180 on the above described relevant property.

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

"Sales reduction and property value reduction due to DCC works in village. 2nd floor refurbishment which has never traded due to DCC works."

The appeal proceeded by way of an oral hearing held in the Offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on 25th October 2011. At the hearing the appellant was represented by Mr. Eamonn Halpin, Eamonn Halpin & Company and Ms. Angelina Scanlon a valuer in the Valuation Office appeared on behalf of the respondent. Each representative having taken the oath adopted his/her précis and valuation, which had previously been received by the Tribunal and exchanged with the other party, as his/her evidence-in-chief.

Location

The subject property is located on Main Street, Chapelizod, Dublin 20 and is situated in the centre of Chapelizod village. Chapelizod village is approximately 6 km west of Dublin city centre and is bounded by Phoenix Park to the north and the N4 Chapelizod bypass to the south.

The Property

The subject property is comprised of a ground floor bar, lounge, stores and toilets. The first floor comprises a lounge/private room, kitchen and toilets, the property also has a basement stores/cellar.

The agreed areas are:

Bar	79.50 sq. metres
1 st Floor Lounge/Private area	57.35 sq. metres
Ground Floor Store	3.33 sq. metres
Ground Floor WC's	11.97 sq. metres
Smoking Area	28 sq. metres
1 st Floor Kitchen	5.51 sq. metres
1 st Floor WC's	5.6 sq. metres
Mezz. Store	17.55 sq. metres
Cellar	17 sq. metres

At Issue

Quantum

Valuation History

The subject property was revised by the Valuation Office in 1993 and a rateable value of €146.02 was applied to the property. In January 2010 the occupier applied for a revision of the valuation of the property. On 6th October 2010 a draft certificate, proposing a rateable valuation of €180, was issued. Representations were made to the Commissioner of Valuation. Following no change to the valuation, an appeal was submitted to the Commissioner of Valuation in December 2010. Following consideration of this appeal the valuation remained unchanged. On 13th July 2011 the appellant appealed the Commissioner's decision to the Valuation Tribunal.

Appellant's Evidence

Mr Halpin, having taken the oath, adopted his written précis as his evidence in chief. He confirmed that the areas had been agreed with the Valuation Office and outlined details of the history of the valuation of the premises. He confirmed that even in 1983 there seemed to be different views of the relative value of the subject property, as the property was revised by the Valuation Office at £75 while the valuer's original estimate was actually £56 rounded to £60. In 1993 the property was revised by the Valuation Office at a value of £115 and it was significant that there was no appeal. Mr Halpin said that the occupier is seeking a downward revision of the rateable value of the subject property and rs Scanlon had increased the valuation as she has categorised the upstairs of the property as a lounge.

Mr Halpin outlined details of the location and description of the property confirming that the village of Chapelizod had been bypassed and the redevelopment of the village had a detrimental effect on trade because parking had been removed and the village was closed off for a while. Mr Halpin said that the plan was originally intended to bring new business to the town but was poorly conceived and had the opposite effect, due to the large scale curtailment of parking in the village. Mr Halpin then outlined details of the accommodation and confirmed that the property comprises of a ground floor public house and first floor lounge/private room which has rarely been used and has not contributed in a meaningful way to the business of the pub. The property also has a small amount of stores and a traditional brick vaulted cellar, accessed externally via a ladder from the rear section of the pub.

Mr Halpin then made the following key points in support of his case:

1. The basis of the NAV proposed by the revision officer is deeply flawed. It seeks to rely on the subject yet disregards the Commissioner's own values as indicated in 1993, at the time it was formed when last revised (as part of the local tone, values which are still unaltered).
2. The Commissioner has failed to accept that there are no changes on the ground floor pub that would lead to a change in value. The ground floor was originally assessed by the Commissioner at €136.70/m² but the current revision officer has assessed it at €291.54/m² inclusive of stores, wcs and licence. This still reflects an effective doubling of the levels applied for the unchanged ground floor.
3. The revision officer's analysis of the Bridge Inn, her comparison No. 1, formerly the Chapelizod Inn, a superior premises in a much more high profile location, is completely wrong and this has led to a complete over assessment of the subject.
4. The Commissioner has completely changed his opinion of the historic 1988 value on the subject's ground floor and added the 1st floor portion of the building. The occupier has built up considerable goodwill within the Community; however, even with this it is not practical to operate the 1st floor area on more than a few occasions in a given year. The hypothetical tenant would undoubtedly recognise this in their bid and offer a small additional rent for the 1st floor over what he might bid for the ground floor only.
5. It is unsustainable to suggest that the hypothetical tenant would pay more for this bar (€291.54/m²) than for the comparisons (such as the Mullingar Inn, ground floor bar @ €105.11/m² overall; The Bridge Inn, ground floor bar @ 150.84/m² overall; The Horse and Jockey @ €136.70/m² overall). Local retail units also have historically moderate NAV's - see comparison No. 4.
6. The Commissioner's approach has failed to take account of the negative impact of the redevelopment of Chapelizod which has failed to bring any significant new business to the pub and has actually impacted negatively upon the existing businesses in the village due to the elimination of much of the parking in the village.

7. The Commissioner's approach in this case is unfair when all the evidence is taken into account. It is totally inequitable to double the level applied to the existing ground floor which was fixed when the other local comparisons 'The Bridge Inn' and Mullingar House' were assessed. Both these premises are much more significant, high profile properties in superior locations on busy main roads with the benefit of significant passing trade. They are unchanged and form the local tone of the list.
8. The appellants seek to have their assessments reduced to more fairly reflect their unit's relative value taking into account their actual location, together with the level applied to other units in the area, as shown by the comparisons.

Comparisons

In support of his valuation Mr. Halpin introduced 4 comparisons, details of which are set out in Appendix 1 to this judgment.

Mr Halpin referred the Tribunal to the map in his précis to show the location of his comparisons and he said that comparison 1 is located in a very high-profile location and referring to the Valuation Office 1991 revision, Mr Halpin said that the significant point is that the property was valued at that time at £12 per square foot for the front bar and £6 per square foot for the rear. Mr Halpin added that The Bridge Inn is a landmark property while The Mullingar Inn is also very high-profile, much higher profile than the subject property. Mr Halpin referred to the historic valuation reports for the various comparisons, included in his précis, to support his assertions on the relative value of the subject property.

Mr Halpin added that Mr Gorvan's (the occupier) view is that the improvement works in the village, carried out by Dublin City Council had devalued the property and the elimination of parking is a significant factor. Mr Halpin confirmed that the upstairs lounge was previously residential and is now only occasionally used, mainly for private events. Mr Halpin added that it is noteworthy that both the 1983 and 1993 revisions of the property noted that this is a quiet location and Mr Halpin contends that this has not changed too much.

Valuation

Mr Halpin concluded his evidence by setting out details of his valuation as follows:

Estimated NAV 1988 Basis:

Bar	79.50m ² @ €123/m ²	= €9,778.50
1 st Floor private area	57.35m ² @ €41/m ²	= €2,351.35
Ground Floor Stores	3.33m ² @ €27.34/m ²	= € 91.04
1 st Floor Kitchen	5.51m ² @ €27.34/m ²	= € 150.64
Mezz. Stores	17.55m ² @ €20.50/m ²	= € 359.77
Cellar	17m ² @ €13.67/m ²	= € 232.39
Licence	@ €5,078.95	= €5,078.95

€18,042.64

@ 0.63% = 113.67

Say RV €110*

* to allow for negative impact of loss of parking in the village.

Cross-examination

Under cross-examination Mr Halpin confirmed that the previous revaluation of the property occurred in 1993 and that since then there were only minor works to the ground floor bar area, that the area to the rear has been reconfigured and the ladies toilet has changed but that there has been no change to the bar area. Mr Halpin also confirmed that the first floor area has been converted to a lounge since the last valuation and that he had valued the property slightly lower than comparison 1 and 2 due to its quiet location.

Respondent's Evidence

Ms Scanlon, having taken the oath commenced her evidence by adopting her written précis as her evidence in chief and confirmed that she had valued the property in accordance with section 49 (1) of the Valuation Act, in line with the other two bars in the immediate area. Mrs Scanlon said that there was no difference in the valuation levels applied to Mullingar House and the subject property, just that they were analysed on a different basis. She said that the last time that the subject property was valued there was only ground floor accommodation

and that she had taken the NAV as it was prior to revision and added a value of one third of the ground floor for the upstairs portion.

Ms Scanlon suggested that Mr Halpin was not comparing like with like in his assertion that she had valued the property at €291.54 per square metre and she reaffirmed her position that the trading area had increased and had to be taken account of. She added that the rateable value on the subject is still considerably lower than the other licensed premises in Chapelizod.

Ms Scanlon then introduced details of her 4 comparisons, details of which are set out in Appendix 2 to this judgment. Ms Scanlan said that comparisons 2 and 3 were common comparisons and that all of her comparisons were valued in the early nineties and that she had considered the valuations and analysed them differently but that she had not changed the NAV.

Cross-examination

Mr Halpin raised a number of queries under cross examination and Ms Scanlon confirmed that she had not meant to mislead the Tribunal in her analysis of the valuations but that the trading area of the subject property had increased and it was appropriate to value the first floor area at one third of what the valuation devalues at. She confirmed that there is pay parking in the vicinity but that she is not aware of the local parking regulations.

Ms Scanlon concluded her evidence by contending for a valuation of €180 as follows:

Valuation

Trading

<u>Trading Area</u>	<u>SQM</u>		<u>NAV</u>	<u>Total NAV</u>
Ground Floor Bar	79.5	@	€291.54	€23,177.43
First Floor Lounge	57.33	@	€7.18	€5,571.33
TOTAL	136.33			€28,748.76

Rateable Valuation = Total NAV €28,748.76 X 0.0063 = €181.11

SAY RV €180

Findings

The Tribunal has carefully considered all the evidence introduced and submissions made by the parties and finds as set out below. In arriving at its findings the Tribunal has also had regard to the comparison evidence introduced by both parties.

1. It is common case that the only change in the property concerned since it was last revised in 1993 is the addition of a lounge and kitchen area at first floor level.
2. The appellant's contended that the street development works in the village have had a negative impact on the value of the property due to a reduction of on street car parking in the village. Furthermore, the addition of the lounge at first floor level had *"not contributed in a meaningful way to the business of the pub"*.
3. Mr. Halpin's valuation of the property concerned contains a slight mis-statement of the areas of the stores at ground floor and mezzanine levels as set down in the 1993 valuation report. In any event his valuation of the property concerned gives rise to a reduction in the 1993 rateable valuation from €146 to €10 (i.e. 25%) despite the fact that the premises have been extended. The Tribunal notes that Mr. Halpin valued the bar area at €123 per sq. metres and the lounge at first floor level at €41 per sq. metre – i.e. 1/3 of the sq. metre rate attributable to the bar area. The Tribunal also notes that the bar area at the 1993 revision was valued at €136 per sq. metre.
4. Ms. Scanlan in arriving at her estimate of net annual value took as her starting point the valuation of the premises as decided at the 1993 revision and added on to this figure her estimation of the value of the additional space at first floor level. For some inexplicable reason, Ms. Scanlan analysed the 1993 valuation to arrive at €291.54 per sq. metre for the ground floor bar area only. Having carried out this exercise she valued the new lounge space at 1/3 of the €291.54 sq. metre rate to €97.18. The Tribunal notes that this ratio is the same as that employed by Mr. Halpin.
5. In principle the Tribunal prefers Ms. Scanlan's valuation approach but does not accept her analysis of the 1993 valuation. The Tribunal is of the opinion that Mr. Halpin's concerns regarding the effects of the reduction in car parking within the village are over-stated.

6. The Tribunal in arriving at its estimate of net annual value takes as its starting point the 1993 valuation and the rate per sq. metre of €136 applied to the bar area of 79.50 sq. metres. The Tribunal proposes to value the lounge area at 1/3 of the above figure i.e. €45 as employed by both valuers.

Determination

Having regard to the above the Tribunal determines the valuation of the property concerned to be as set out below:

Ground Floor bar and ancillary space as per 1993 revision			€23,177
First Floor Lounge	57.33 sq. metres	@ €45 per sq. metre =	€2,580
Kitchen	5.51 sq. metres	@ €27.34 per sq. metre=	<u>€150</u>
		Net Annual Value =	€25,900

RV @ 0.63% say = €163

And the Tribunal so determines.