

Appeal No. VA88/0/013

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

Mullarkey & Rowley

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Premises , Showroom, Store & Yard, situate at Teeling Street, Tobercurry, Co. Sligo

B E F O R E

Hugh J O'Flaherty

S.C. Chairman

Paul Butler

Barrister

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF NOVEMBER, 1988

By notice of appeal dated 9th day of August, 1988, the appellants appealed against the decision of the respondent fixing the rateable valuation of the above mentioned hereditaments at £75.

Mr. Patrick J Nerney BE Chtd. Eng. MIEI. MIAVI., rateable valuation consultant, valuer and auctioneer of 13 Mountdown Road, Dublin 12, presented a written submission on behalf of the appellants dated the 25th October, 1988. Mr John Smiley, who is a valuer with 13 years experience in the Valuation Office, presented his submission on behalf of the respondent on the 27th October, 1988.

The premises comprise a public house with secondhand furniture showroom and store on the first floor over.

They are located in Teeling Street, Tobercurry, some distance from the town centre and Square.

The site included the former barrack building and was bought for £9,000 in 1976.

The old buildings were demolished and new premises were erected between 1979/82 at a cost of, the Tribunal were informed, £50,000.

Main building is two storey, of rectangular shape, plain construction and finish.

Front entrance hallway is single storey.

An enclosed access stairway to first floor is located on one side of the main building.

A separate lean-to building in rear yard comprises a store and boiler house.

Site slopes towards the street.

Access to the premises is via a flight of steps.

Accommodation:

Ground Floor

Entrance, bar, lounge, kitchen cum office, taproom, toilets.

First Floor

Open area for sale of secondhand furniture - walls not plastered and no ceiling.

The valuation history is as follows:-

Garda station here for many years up to 1967. During 1967 revision, the description was changed to "Clubhouse, offs. and yard", with a rateable valuation of £20.00. When next revised in 1984, the buildings had been demolished and the valuation was deleted.

Next revised 1984. Occupiers Mullarkey and Rowley. Description licensed premises, showroom, stores and yard, with a rateable valuation of £75.00.

Listed again 1987. No change was made. Following an appeal to the Commissioner Mr Smiley was instructed to inspect and report and resulting on this the respondent made no change to the rateable valuation of £75.00.

In the course of his written submissions Mr Nerney made the point that the rateable valuation of £75.00 was based on the size of the premises and on this basis corresponds fairly well foot for foot with many of the other licensed premises in Tobercurry.

Mr Nerney said that he understood that the appellants' turnover in 1987 was in the region of £500 a week and that this was very low even for a small public house. In a large premises, such as the appealed premises, with its company hire out, maintenance, heating, lighting, furnishing and insurance, for example, the profit element was whittled down to a greater degree than in a smaller premises doing a similar volume of trade.

The point was made that the economic outlook was bright when the building was commenced in 1979 and that the numbers of people employed in local industry was high and this was a prime consideration for the location of the premises.

Employment in the said industries (namely viz Basta and Tool and Gauge) had fallen. Emigration had been on the increase and it was submitted that this was one of the matters which fall to be taken into account in determining the valuations.

Mr Nerney thought that the valuation of £75.00 was based on those of other public houses in proportion to the area of the appellants' relative to the others which in turn were fixed in the mid to late 1970s when trade in the businesses generally was much better than in more recent years.

Mr Nerney thought that the net annual value of the premises would not be more than £4,000 and that a fair valuation would be £30. The figure of £30 was broken down by him as follows:-

Entrance, kitchen, hallways,	
toilets (off bar)	40 sq m @ 6p = £ 3
Bar	65 sq m @ 15p = 10
Lounge	185 sq m)
Hallways & toilets (off lounge)	24 sq m) @ say = 10
First floor	322 sq m @ say = 5

Store & boiler house	32 sq m @ 5p	= <u>2</u>
		£30

Mr Smiley, for his part, thought the net annual value was in the region of £15,000 and was calculated as follows:-

Front Lounge	937 sq ft @ 4.00 =	£3,748
Music Lounge (at rere)	1065 sq ft @ 3.50 =	3,727
Bar	720 sq ft @ 3.75 =	2,700
Hall	140 sq ft @ 1.00 =	140
Wcs	291 sq ft @ 2.00 =	582
Office and kitchen	108 sq ft @ 2.00 =	216
Taproom	43 sq ft @ 1.50 =	65
Passage	75 sq ft @ 0.75 =	56
1st floor showroom	3390 sq ft @ 0.50 =	1,695
Bottle store in yard	425 sq ft @ 0.35 =	158
Addition for licence		<u>2,000</u>
		15,087
	Say	£15,000
Rateable valuation £15,000 x 0.5% = £75.00		

Mr Nerney gave 18 comparables (reproduced in Appendix A to this Judgment) of which 13 had a rateable valuation of £30.00 or less.

Mr Smiley set forth 2 comparables 1, namely, Teeling Street, Tobercurry, also featured on Mr Nerney's list. The other one was from the town of Castlerea, Co. Roscommon.

The appellants relied on the decision of the High Court in Rosses Point Hotel Co Ltd v. the Commissioner of Valuation (1987) ILRM 512 in which Mr Justice Barron said that the profit earning ability was the basic element in determining the net annual value. "It is based not on actual profits but on what the prospective tenant would anticipate would be his profits."

The oral procedure took place on the 4th November, 1988.

Mr Kieran Mullarkey and Mr Nerney gave evidence and Mr Smiley elaborated on his submission.

It was common case that the appealed premises were the biggest non-residential licensed premises in Tobercurry. The Tribunal is satisfied that the premises were re-constructed in more prosperous times when there were some thriving industries in the town and, indeed, in the immediate vicinity of the appealed premises. That has now changed and the area, like many other rural areas, has been badly affected by emigration. If one were to place a valuation on the premises by reference to area alone, then the valuation could stand. But that is not the only criterion because if customers do not come to the premises in sufficient numbers, area is of no additional value and, as has been pointed out is a disadvantage because there are bigger overheads.

The parties are agreed on the percentage of N.A.V. at 0.5% but whereas Mr Smiley said it should be £15,000 N.A.V., Mr Nerney thought it should be £4,000 N.A.V.

The Tribunal has come to the conclusion that the correct N.A.V. is nearer £8,000 per annum and this would give a rateable valuation of £40.00. The Tribunal has also had regard to the comparables already referred to and set out in the Appendix A and thinks the proposed rateable valuation of £40.00 is in synchronisation with the comparables.