

Appeal No. VA88/0/024

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

Olive O'Donovan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Building containing a shop and residential accommodation at The Square, Blarney, Co. Cork

B E F O R E

Hugh J O'Flaherty

S.C. Chairman

Paul Butler

Barrister

Mary Devins

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF NOVEMBER, 1988

By Notice of Appeal dated 9th day of August, 1988, the Appellant appealed against the decision of the Respondent fixing the Rateable Valuation of the above entitled hereditaments at £27. Gerard McCarthy and Co., 30 Washington Street, Cork, Solicitors for the Appellant, presented a written submission dated the 20th October, 1988 and Mr Shay Aylward B. Comm., a valuer with fourteen years experience in the Valuation Office presented a written submission dated 11th October, 1988.

The Valuation history of the premises is as follows:

- (1) Prior to 1987, the building was valued as a private house, being described in the Valuation Lists as "House and yard". It had a rateable valuation of £2.00.

- (2) In 1987 the property was listed by the Local Authority for revision of valuation to "value shop and extensions and revise as necessary".
- (3) On revision the rateable valuation was increased to £27.00 to take account of reconstruction, shop and extensions. The description in the valuation lists was amended to "House, shop and yard".

An appeal was lodged against this revised valuation, Mr. Aylward was deputed to inspect the property and the respondent, having considered that report, confirmed the valuation at £27.00.

In the course of their written submissions, the solicitors for the appellant made the point that the appellant's premises comprised a small shop and residential quarters and that it was engaged in selling souvenirs and tourist items.

They set out three comparative premises in which they said the valuations were respectively £10.50; £16 and £13.

They said that the trade in which the appellant was engaged suffers from two particular disadvantages. Firstly, the seasonal nature of the business and secondly they say that near the appellants premises there is a very large store occupied by Messrs Blarney Woollen Mills which because of its much larger number of customers on much better terms in the detriment of the appellant.

They say that the appellant's level of profit is extremely low and they submitted accounts in support of this and relied upon the decision of the High Court in the case of **Rosses Point Hotel Co. Ltd v. the Commissioner of Valuation** (1987) I.L.R.M. 512.

They suggested that the increase imposed was arbitrary and excessive and urged that it should be reduced to a figure in accordance with one of the comparisons at £13.

Mr. Aylward, in the course of his written submissions, said that the rateable valuation devalued as follows:-

Shop (G.F.)	50.4 m sq. @ 40p = £20.16
Residential (G.F. + 1st F.)	96 m sq. @ 7p = <u>£ 6.72</u>
	£26.88
	R.V. £27.00

He set forth three comparisons.

The one described as Lot 23 The Square, Blarney, was adjacent to the subject premises and the rateable valuation was £25.00. This had been subject to an appeal, but the appeal had been withdrawn.

The oral hearing took place on October 21st, 1988; the Appellant was asked to be excused attendance and was prepared to rely on the written submission put in on her behalf by her solicitors.

Mr. Aylward appeared before the Tribunal and elaborated upon his written submissions. He agreed that the volume of business done by his chief comparable would, most likely, be greater than that done by the appellant because these proprietors would have better potential profit margins through various contacts and so forth.

The Tribunal, of course, accepts the decision of Mr. Justice Barron in the Rosses Point Hotel case that profit earning ability is the basic element in determining the net annual value and that it is based not on actual profit but on what the prospective tenant would anticipate would be his profit.

The Tribunal was struck by the fact that the increase in this case was very steep, from £2.00 to £27.00 and also keeps in the forefront of its decision the fact that the trade done is a seasonal one and that the profit margin would appear to be on the small side.

In all the circumstances, the Tribunal thinks that a fair rateable valuation would be £21.00 and this figure will be substituted for the figure of £27.00.