

Appeal No. VA90/3/005

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

Ballymun House Ltd. t/a Martins

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Shop, Stores and yard at Lot No. 122 Ballygall Road West, Finglas North,
County Borough of Dublin

B E F O R E

Padraig Connellan

Solicitor (Acting Chairman)

Brian O'Farrell

Valuer

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF APRIL, 1991

By notice of appeal dated 18th September 1990, the appellants appealed against the determination of the Commissioner of Valuation in fixing the Rateable Valuation on the above described hereditament at £300.00.

The grounds of appeal as set out in the notice of appeal are that the valuation is excessive and inequitable.

THE PROPERTY

The property comprises a licensed premises consisting of a ground floor lounge with toilet facilities to the rear and overhead accommodation consisting of stores, taproom and a small kitchen area. It is situated on the northside of Ballygall Road West immediately west of its intersection with Grove Road. The premises was refurbished in 1988 at a cost of approximately £190,000. The property is held in freehold.

VALUATION HISTORY

The rateable valuation was fixed at £105.00 in 1956. This was increased to £175.00 in 1975 following the addition of a lounge at rear. The property was revised in 1989 and increased to £300.00, this was appealed initially to the Commissioner of Valuation who made no change and it is against this sum that the appellant now appeals to the Tribunal.

WRITTEN SUBMISSIONS

A written submission was received on the 4th of February 1991 from Mr Brian Clarke, Dip Est. Man. ARICS, of Harrington Bannon, Chartered Valuation Surveyors, 40 Fitzwilliam Place, Dublin 2 on behalf of the appellant. In this Mr Clarke says that the property in general is in a good state of repair and condition having regard to its age, construction and use. He said that the accounts for the subject premises reveal the following turnover figures :

Year Ending	31st March 1986	£354,840
Year Ending	31st March 1987	£366,293
Year Ending	31st March 1988	£305,762
Year Ending	31st March 1989	£383,723

Mr Clarke outlined a number of factors affecting the rateable valuation as follows:-

Situation

The property is poorly situated in terms of potential customers. There is a licensed premises situated opposite the subject property and there are six licensed premises within a one mile radius and a total of nineteen in the Finglas area as a whole. All these premises are competing for the same market which has not increased over the last few years and has no potential to increase.

Design and Layout

The subject property occupies a cramped corner site between two commercial buildings and consequently is awkwardly shaped. Due to its size and layout it is too small to have separate bar and lounge and does not have sufficient room at first floor level to accommodate a lounge where separate functions can be run. The premises does not have any parking facilities for its customers.

Trading Potential

The subject property is situated in a low income level area. Trade is essentially night time only and is made up chiefly from Friday, Saturday, and Sunday nights. The appellant carried out a scheme of refurbishment which consisted of a front extension of approximately 62 sq. ft, conversion of store to lounge area which increased the overall floor area by approximately 86 sq. ft, relocation and upgrading of w.c's, removal of stairway front entrance to a new position, and an upgrading of the lounge facilities to include new carpets and recovering of seats. He said that this work was aimed at putting the property back into a proper state of repair. He said that the Revenue Commissioners have accepted that out of a total of £192,864 spent on upgrading the premises only £35,000 represented an improvement. He said that the rateable valuation subject premises had been increased from £175.00 to £300.00, and increase of 72%. However, he said, that the property has only been extended by some 150 sq. ft. and turnover has increased from £366,293 in 1987 before repairs to £383,000 in 1989 after repairs.

Using the turnover as a means of calculating rateable valuation Mr Clarke arrived at a rateable valuation of £180.00 for the premises. By using the profit method he calculated that the rateable valuation on the subject premises should be £141.00.

Mr Clarke attached comparisons to show that the rental value of licensed premises as compared to turnover is normally in the range of 6% to 10% and that rateable valuation as a percentage of turnover is in the region of .05%.

A written precis from Mr Brian O'Flynn, Valuer in the Valuation Office was received on the 1st February 1990, on behalf of the respondent. In this Mr Flynn outlined details of the accommodation and the valuation history. He said that the valuation is based on an estimate of the capital value and that this is based in turn on the sale price of the "Fingal House" at £830,000 which is the adjacent premises. He said that this was sold on the 9th of May 1989 in need of refurbishment. He said that the net annual value relationship to area was £20.57 per sq. ft. in the subject premises as compared to £25.00 per sq. ft. in the nearby "Fingal House". Mr Flynn made the following points;-

1. The area is price sensitive.
2. The owners attention is divided between three licensed premises.
3. Between 1987 and 1989 the gross margin increased from 38.7% to 41.4%.
4. The turnover per sq. ft. was £145.00 in the subject premises compared to £220.00 in the "Fingal House" premises.

He concluded that the subject property is not trading to capacity. By analysing the capital value of the "Fingal House" on a sq. ft. basis and applying this to the subject premises he concluded that the existing rateable valuation of £300.00 reflected a low turnover. Mr Flynn attached details of the following comparisons;-

1. "Ailesbury Inn"
2. "Fingal House"

3. "Sir Arthur Conan Doyle"
4. "Brian Boru House"
5. "Maguires"
6. "Autobahn"
7. "The Willows"

ORAL HEARING

The oral hearing took place in Dublin on the 8th of February 1991. Mr Brian Clarke, Dip Est. Man. ARICS, of Messrs Harrington Bannon represented the Appellants and Mr Brian O'Flynn represented the respondent.

Mr Clarke made the following points:

- (1) The area of the ground floor is 2240 sq. ft. and the first floor 610 sq. ft. the latter being used as a store, tap room and small kitchen. The ground floor comprises one large open area and because of its shape and relatively small trading area would not accommodate a separate lounge and bar.
- (2) The property is situated in a fully matured and developed area which is already "oversaturated" with licensed premises. The appellants are the owners of another such premises in the immediate vicinity and there are a further 18 licensed houses in the Finglas area with one located directly opposite. This number excludes the clubs in the area each with a licence to sell intoxicating liquor to its members.
- (3) The trade carried on in the subject premises does not enjoy a lunch trade but the turnover has been fully exploited the owners having spent £198,000.00 in upgrading and improving the premises thereby improving the turnover by 17%,

this improvement, because of competition in the area and other factors beyond the control of the appellants, represented a very poor return on investment.

- (4) The property does not enjoy a carpark of its own and does not have the use of one. The small yard at the rear forms part of an adjoining premises and cannot therefore be used.
- (5) The average turnover over a four year period is £360,000.00 and the normal and recognised method of arriving at the N.A.V. of any licensed premises would be a percentage thereof.
- (6) The increase in R.V. of 70%, following refurbishment, relative to increased turnover is unjustified and inequitable.
- (7) That in comparing neighbouring premises regard should not only be had to turnover but to other salient factors such as parking, size and competition.

Mr Flynn stressed that the premises is located in a "mature" area explaining that children were grown up, mortgages repaid and consequently more spending money was available to be captured by better management. He contended, that by comparison to other competing premises, such as "Fingal House" located opposite, the enterprise is not trading to capacity when turnovers are compared. Further that because the appellant is the owner of "The Willows", a short distance away, the attention of management may be divided and that there may be an element of one competing against the other, thus explaining the existing average turnover. He emphasised that "Fingal House" was sold in 1989 for £830,000.00 showing an average turnover over three years of £735,646.00 or £220. thereof per sq. ft. This compares to the subject premises turnover during a like period of £360,000.00 or £145. thereof per sq. ft.

Mr Flynn pointed out and handed into the Tribunal photographs to illustrate that there is some limited car parking outside the premises but admitted the existence of double yellow lines at the road edge.

FINDING

The Tribunal is conscious that there is a parking problem and that the size of the premises may be less favourable to trade than other like enterprises in the Finglas area and having taken into consideration the submissions, written and oral, trading turnovers, size and everything pertinent determines that the proper rateable valuation of the premises is £260.00