

Appeal No. VA90/3/014

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

**Trustees of Kinsale Yacht Club**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Marina at Lot No. Adjacent Town Pier, Townland: Adjacent Town Pier, U.D. Kinsale, Co. Cork

**B E F O R E**

**Paul Butler**

**S.C. (Acting Chairman)**

**Patrick Riney**

**F.R.I.C.S. M.I.A.V.I.**

**Joe Carey**

**P.C. M.I.A.V.I.**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 16TH DAY OF DECEMBER, 1994**

By Notice of Appeal dated the 18th of September, 1990 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £60.00 on the above described hereditament.

The grounds of appeal are that:-

- "(1) The valuation is excessive and inequitable.
- (2) The hereditament comprises non-rateable categories of fixed property.
- (3) The valuation is bad in law."

The Valuation Tribunal in its judgment delivered on the 31st day of May, 1991 determined that the rateable valuation on the subject hereditament described above be reduced from £60.00 to £2.50. Following an appeal by way of Case Stated to the High Court and further to the Supreme Court the decision of the Valuation Tribunal was overturned and by order of the Supreme Court the matter was remitted to the Valuation Tribunal to enter upon a hearing of the appeal with regard to the quantum issue as to the rateable valuation of the subject hereditament. The matter before the Valuation Tribunal today therefore concerns the quantum of the valuation on the subject hereditament.

### **The Property**

The property is a portion comprising one third of a 117 berth marina in Kinsale Harbour.

### **Valuation History**

The valuation history was set out in detail in the Tribunal's previous judgement ref.: VA90/3/014 delivered on the 31st May, 1991.

### **Written Submissions**

Mr. Des Killen F.R.I.C.S., I.R.R.V. of Donal O'Buachalla & Company Limited, Valuers, Rating and Property Consultants relied on his written submission delivered to the Tribunal on the 24th April, 1991 in connection with the original appeal. In that submission, Mr. Killen set out his calculation of the rateable valuation on the subject on the Contractor's Basis as follows:-

- (a) On the assumption that the complete Marina is rateable.

Construction Cost 1979	£150,873
Estimated Cost 1988 x 2	£301,746
Allow for depreciation say 20%	<u>£ 60,349</u>
Estimated Capital Value 1988	£241,397

@ 7½%

Est. N.A.V.	£18,104
R.V. (N.A.V. @ 0.5%)	£90
Valuation of one third Marina (within U.D.)	£30

Mr. Terry Dineen a Valuer with 17 years experience in the Valuation Office submitted an additional written submission to the Tribunal on the 3rd November, 1994 in connection with

this appeal. Mr. Dineen relied therefore on his original submission delivered on the 24th April, 1991 and his supplemental submission for the purposes of this appeal.

In the original submission, Mr. Dineen suggested that a valuation of £1.50 per berth was not unreasonable on the basis of it being 0.63% of £250. In the additional submission presented to the Tribunal, Mr. Dineen based his valuation on the rent which a hypothetical tenant would consider adequate before becoming involved in such a venture. To assess the potential rent, Mr. Dineen compared the subject marina to the new Kinsale Marina known as Castlepark built in 1992. Mr. Dineen said that in Castlepark, which in his view was in a much less desirable location than the subject premises, the potential gross income was £68,400. In Kinsale Yacht Club marina the corresponding figure calculated on the same basis for 120 berths would, he said, be £102,000. Mr. Dineen said that it was arguable when comparing with the Northern Ireland, Welsh and Scottish contexts that the Kinsale Yacht Club berths could command an even higher rent and in which case gross income would be nearer £130,000. The contention was that if the marina was run as a commercial operation to maximise revenues and profits in a manner that met the rating hypothesis, gross revenues of the above order would be achieved.

Estimated potential 1993 Gross Revenue	£130,000
Corrected to November, 1988 (Less 20%)	<u>£ 26,000</u>
	£104,000

In the context of these figures he said it was not unreasonable to put forward £36,000 N.A.V. for the full marina in November, 1988. In his submission Mr. Dineen gave comparisons of leases in marinas around the country and in the U.K. and these are attached to this judgement as Appendix A.

### **Oral Hearing**

The oral hearing took place in Cork on the 9th November, 1994. Sean O'Leary, Barrister-at-Law, instructed by Clifford O'Donnell of Messrs. Guest Lane, Williams & Company, Solicitors, appeared on behalf of the appellant. Aindrias O'Caoimh S.C., instructed by the Chief State Solicitor, appeared on behalf of the respondent. Evidence was given on behalf of the appellant by Mr. Des Killen of Messrs. Donal O'Buachalla & Company Limited and Mr. Gerry O'Driscoll, Commodore of the appellant club. Mr. Terry Dineen gave evidence on behalf of the respondent.

The evidence given on behalf of the appellant was in accordance with the written submission. Both Mr. Killen and Mr. O'Driscoll disagreed with the proposition that there should not be a separate allowance for depreciation. Mr. Killen suggested an allowance of 20% under this heading and he said that he arrived at this figure, not from comparisons, but from his general qualification and experience as a Valuer. He said that the site was held at rent of £14,000 per annum.

Mr. O'Driscoll said that the reality was that letting was for a six month period as most of the boats were taken up ashore for the winter. He said that there was no waiting list for membership of the club and there were currently four people waiting for berths.

Mr. Dineen referred in detail to his written submission and gave as comparisons the Castlepark, Kinsale and Kilrush Creek Marinas.

### **Determination**

The Tribunal is not satisfied that Castlepark which is located in Kinsale but at an inferior site to the subject hereditament, is yet a valid comparison as it is a new enterprise and there is no evidence as to whether it is succeeding or not. Neither is the Tribunal satisfied that there is, at this time, a generally accepted method of arriving at Net Annual Value in dealing with marinas. The Tribunal has decided to work on the basis of the valuation of £60.00 arrived at by the respondent. That valuation, on the agreed fraction of 0.5%, would give a Net Annual Value of £12,000.

The Tribunal is satisfied that some allowance should be made in respect of depreciation and, conscious of the fact that there is no scientific evidence available, arrives at a figure of 10%. In addition, some allowance should be made for the fact that the berths are simply not occupied fully on a 12 month basis and a 25% allowance should be made on this basis.

These deductions give a Net Annual Value of £8,100 giving a rateable valuation of £40.50 (say £40.00).

The Tribunal therefore determines rateable valuation at £40.00.

