

Appeal No. VA90/3/040

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

**Collin O'Ceallaigh (Celtic Furniture)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop (1st Floor) at Lot No. 14/Unit 10 Townparks (St. Nicholas), Lower Dominick Street, Claddagh, County Borough of Galway

**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 14TH DAY OF MARCH, 1991**

By notice of appeal dated the 25th day of September, 1990, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £30 on the above described hereditament.

The grounds of appeal as set out in the notice of appeal are that being located on the 1st floor with under 40% of persons entering the building climbing up stairs (building has no elevator), that being a furniture shop there is great difficulty having large pieces being brought up the narrow 40", 20 step, split stairway through three fire door openings.

### **The Property**

The subject property comprises a retail outlet known as "Celtic Furniture" and is situated at the first floor in the premises known as "Bridge Mills" - a restored Mill premises at Lower Dominick Street, Galway. The property stocks a range of household furniture, plus a small selection of gift ware with a wooden theme. The premises is approached by a timber staircase leading from the ground floor level and it has a small frontage of 8 ft. to the first floor landing. The premises has a net lettable area of 815 sq. ft.

### **Valuation History**

Prior to the 1989 revision of rateable valuations the old rateable valuation of £15 referred to "Mill, store and yard (disused)". Following the 1989 revision each of the units in the refurbished "Bridge Mills" complex were separately assessed. The subject premises were separately assessed at R.V. £37. A first appeal to the Commissioner of Valuation against this rateable valuation was lodged by the landlord, Mr Frank Heneghan, and discussions took place with his solicitors F.M. Fitzgerald & Co. following which the rateable valuation was reduced to an agreed figure of £30. It is against this rateable valuation that the appellant, the occupier of the premises, now has lodged his appeal with the Tribunal.

### **Written submissions**

A written submission was received from the appellant, Mr Coilin O'Ceallaigh on the 4th March, 1991. In this Mr O'Ceallaigh said that the premises are a recently converted Mill House situated over O'Brien's Bridge On Mill Street and Dominick Street. He said that until the recent renovation works the premises were long disused and derelict. They are comprised of two floors over a ground floor and basement and renovation works were carried out in 1988 retaining the complete outer structure of the original Mill House and retaining much of the inner detail of the premises. He said that the premises are not served by a lift. Mr O'Ceallaigh said that Dominick

Street is traditionally one of the poorest commercial streets in the city of Galway and with the exception of Celtic House in Salthill there are no retail/office blocks of any note located west of the Corrib. Mr O'Ceallaigh said that the owner of the Bridge Mills complex has been unable to let the premises on 35 year leases as the location has proved so unfavourable that potential lessees are unwilling to take premises on such leases. Because of this, he says, that the units in the complex have been let on short term leases. Mr O'Ceallaigh said that since the date of appeal two units have become unoccupied and that there is now 1,710 sq. ft. of unoccupied space in the building. He said that the owner rather than having the space unoccupied now operates this particular premises as a cafe. He said that the premises are not served by a lift and, as it is a renovated Mill, it does not enjoy any of the facilities normally available from architectural designed modern retail/office blocks. He said that because of the unusual nature of the leases to the premises in so far as they are both short term and have no maintenance charge, the rents paid are not an accurate reflection of the annual value of the building and he submitted that a proper comparison could only be made between the Bridge Mills and other premises on the basis of rateable valuation per square foot. With regard to his own particular business, Mr O'Ceallaigh said that the only other business adjoining Celtic Furniture is an Art Gallery featuring most of its business at night time. He said that upstairs is occupied by a weavers work shop and a publishers office and that the large unit directly above his premises is vacant. He said that his unit has 4 small windows on the front and two in the back with no display facility to the public. He said that the only stairway leading into the unit is split half way at 180 degrees making it almost impossible to stock large items, such as large tables, sideboards, dressers, corner cabinets etc. and that this leaves him with the situation of being only able to feature a minimum of his range. He said that the 20 step stairway is only 39" wide often causing items to be damaged. Mr O'Ceallaigh submitted photographs supporting all the above. He said that there is no on/off loading zone outside the Mill to facilitate removal of furniture and it is constantly a public hazard unloading in all types of weather. Mr O'Ceallaigh said that many of the furniture facilities both in the city centre and the outskirts have an unfair advantage over him. He said that certain units

in the outskirts are rated as warehouses while the in town units are operating in rate free zones. Mr O'Ceallaigh supplied photographs of two comparisons, the House of James, Castle Street and Strawbridge, Buttermilk Lane. He said that both of these have easy access to their shops, are centrally located and have large front window displays. He said they both enjoy a 7 to 10 year rate free status respectively, with a smaller rent remission status.

A written submission was received from Mr Michael F. Keogh, a district valuer in the Valuation Office on behalf of the respondent on the 19th February, 1991. In this Mr Keogh outlined the valuation history of the premises and said that the points raised in this appeal and several others raised by the landlord and his agent at first appeal stage have been taken into account in arriving at the reduced determination of £30. Mr Keogh said that he understood that Mr O'Ceallaigh holds the premises from Mr Frank Heneghan on a short term letting which commenced on the 1st July, 1989. He said that he also understood that the tenant pays a rent of £6,240 per annum and that the tenant is also liable for rates and fire insurance premiums. Mr Keogh then outlined how he calculated the rateable valuation of £30 as follows:-

Rent reserved	£6,240
Adjust for all repairs and maintenance (20%)	<u>£1,248</u>
	£4,992

Rent on the basis of a full repairing and insuring letting = £4,990

Net annual value £4,900 @ 0.63% = £30.87 **R.V. £30**

Alternatively

Net lettable area 815 sq. ft. @ £6.00 = £4,890

Net annual value £4,900 @ 0.63% = £30.87 **R.V. £30**

Mr Keogh attached a list of 13 comparisons all at the "Bridge Mills" complex in Galway, the details of which are attached in Appendix "A".

### **Oral Hearing**

At the oral hearing which took place in Galway on the 12th March, 1991 Mr Colin O'Ceallaigh represented himself and Mr Michael Keogh represented the respondent.

Mr O'Ceallaigh in evidence said that the premises is located on the 1st floor and that there is great difficulty in gaining access because of 3 foot wide, 180 degree split stairway. He also said that because of these problems only about 40% of potential customers visiting the building arrive in his shop. He stated that his present rent is £6,240 p.a. and that he is hoping to reduce that to £5,200 p.a. He stressed the difficulty in getting goods into the premises because of the stairs already mentioned and because there is no loading area in the street. He submitted that the House of James in Castle Street and Strawbridge in Buttermilk Lane, both have easy access to their shops, are centrally located and have large display windows with 7-10 year rate free status and a smaller rent remission thus, producing an unfair competitive disadvantage to him and making it very difficult for him to maintain his business.

Mr Keogh, in dealing with these two properties said that Strawbridge devalues at about £16 per square foot and the House of James devalues at £22 per square foot. He said that both properties were revised recently and agrees that they are better located than the subject property. He had negotiations with the landlord's agent, Mr Fitzgerald, Solicitor and reached agreement in relation to all units. He submitted that this agreement is binding on the appellant and referred to the Tribunal's previous decisions in Horgan Meats v. Commissioner of Valuation and Master Credit v. Commissioner of Valuation.

**Findings**

Having considered the written submissions, the oral evidence and having taken everything into consideration the Tribunal finds as follows:-

- (a) the previous decisions of the Tribunal as cited by Mr Keogh are not apposite because in this case Mr O'Ceallaigh was a complete stranger to the agreement made between Mr Fitzgerald, Solicitor for the landlord and Mr Keogh, valuer for the Commissioner of Valuation. Under Section 3 subsection 5 of the Valuation Act, 1988 Mr O'Ceallaigh as owner/occupier has the right to appeal to the Tribunal.
- (b) that the Tribunal determines that the rateable valuation be reduced from £30 to £25.