

Appeal No. VA92/1/016

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

**Justin Brady**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: House, Restaurant and Garden at Lot No. 60.62 Main Street, Ballybofey, Stranorlar, Co. Donegal  
Quantum

**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 20TH DAY OF MAY, 1992**

By notice of appeal dated the 12th day of February, 1992 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £57.00 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

- (a) the valuation is excessive and inequitable.
- (b) the valuation is bad in law.
- (c) no account has been taken of the Net Annual Value as on the 30th November, 1988 in determining the Rateable Valuation assessment.
- (d)
  - (i) The valuation is bad in law as a fraction of 0.63% being applied to the agreed Net Annual Value is excessive and does not comply with the requirements of Section 5 of the Valuation Act 1986.
  - (ii) The valuation is bad in law as a different fraction is being applied in rural and urban districts in Co. Donegal.
  - (iii) The valuation is bad in law as a fraction that is being applied is not in agreement with the fraction that is being applied in similar rating authority function areas which is necessary to provide "...One uniform valuation of lands and tenements in Ireland".  
(Preamble to Valuation (Ireland) Act, 1852)

### **THE PROPERTY**

The property consists of an end-of-terrace two storey building with a one storey return to the rear. The main building is of stone construction with slated roof and the extension has concrete walls in a timber frame roof with mineralised felt cladding. The premises is used as a Chip Shop/Restaurant with residential accommodation at first floor level. The agreed floor area of the portion of the building under review, that is the shop and kitchen, is shop 506 square feet and kitchen 172 square feet. The residential balance amounts to 2090 square feet.

### **VALUATION HISTORY**

Prior to 1990 the premises was valued as two private houses. Lot number 60 with a rateable valuation of £6.25 and Lot number 62 with a rateable valuation of £3.50. At the 1990 revision following upon the rebuilding and enlargement both lots were amalgamated and the rateable valuation of the total increased from £9.75 to £63. Following first appeal this rateable valuation was reduced to £57 and it is against this determination of the Commissioner of Valuation that the appeal now lies with the Tribunal.

### **WRITTEN SUBMISSIONS**

A written submission was received on the 7th May, 1992 from Mr. Patrick Mc Carroll, Chartered Surveyor Auctioneer and Estate Agent of Market Place, Carndonagh, Co. Donegal on behalf of the appellant. In this Mr. Mc Carroll outlined the description and the location of the premises and said that the accommodation consisted of a shop of 506 square feet, kitchen area 172 square feet, 4 bedrooms, bathroom, sittingroom. He said that the property was purchased in 1988 for £33,000 and following purchase £30,000 was spent on renovations. He said that the Net Annual Value arrived at from the purchase price given 8 years purchase was £4,125 which applying a percentage of .5% yielded a Rateable Valuation of £20. He proffered two comparisons namely;-

- (1) Brian Mc Dermott, Main Street, Ballybofey. Chip Shop. Rateable Valuation  
£18.00

(2) Unit 3d/11, Main Street, Ballybofey. Rateable Valuation £26.00.

Mr. Mc Carroll said that valuing the subject within the provisions of the Valuation (Ireland) Act 1852, and Section 11 and Section 5 of the Valuation Act 1986 as at the 30th November, 1988 in his opinion the Rateable Valuation on the subject should be £27 which he devalued as follows:-

Shop	506 ft <sup>2</sup> @	£7.00 p.s.f.	£3,542
Store	172 ft <sup>2</sup> @	£3.00 p.s.f.	£ 516
House	£25 per week		<u>£1,300</u>
			£5,358

£5,358 x 0.5% = £26.79

Say £27.00

A written submission was received on the 12th May, 1992 from Mr. Jim Gormley, Chartered Surveyor and District Valuer in the Valuation Office on behalf of the respondent. In this Mr. Gormley commented on the appellants grounds of appeal and outlined the recent valuation history and description of the premises. Mr. Gormley then outlined his calculation of the Rateable Valuation as follows:-

$$678 \text{ ft}^2 \times £13.00/\text{ft}^2 = £8,814$$

Residential Accommodation:

$$\begin{aligned} & \times £50 \text{ per week} = \underline{£2,600} \\ & \hspace{10em} £11,414 \end{aligned}$$

x 0.5%

$$= £57 \text{ R.V.}$$

Mr. Gormley attached details of comparisons Lot No. 64,66/Unit 1, Lot No. 64,66/Unit 2 and analysed them under details of floor area, Net Annual Value, Rateable Valuation and the

relationship between Net Annual Value and Rateable Valuation. He said that all three properties are comparable, are of similar function, in a similar location and all were revised on the same date. He proffered three other comparisons in the Town of Ballybofey which have been recently revised as follows:-

- (1) Mc Elhinneys, 41, Main Street. R.V. £680
- (2) Francis Reid, 29a, Main Street, R.V. £17
- (3) Cathal Mc Hugh, 78a, Main Street, R.V. £38

### **ORAL HEARING**

The oral hearing took place in Letterkenny on 19th May, 1992. Mr. Patrick Mc Carroll, A.R.I.C.S. M.I.A.V.I. represented the appellant and Mr. Jim Gormley, Chartered Surveyor and District Valuer represented the Commissioner of Valuation.

Mr. Mc Carroll outlined the description and location of the property and discussed the valuation history of the subject premises.

Mr. Mc Carroll relied on the "rebus sic stantibus" rule and arrived at his valuation from devaluing the purchase price of the property in 1988.

Mr. Gormley in his evidence relied on the adjoining Units 1 & 2 which were let in 1990 & 1991. Unit 1 is let at £5,434 per annum and comprises 408 ft<sup>2</sup> which is equal to £13.31 per square foot. Unit 2 comprises 455 ft<sup>2</sup> and is also let at £5,434 per annum which is equal to circa £12 per square foot.

Mr. Gormley in his evidence stated that the total residential area of the premises is 2,090 ft<sup>2</sup> and the shop and kitchen 678 ft<sup>2</sup>. Mr. Gormley also offered evidence of 19, Main Street, Stranolar, a

2,000 ft<sup>2</sup> residential building divided into 4 flats and let at £15 per week per flat. This building has a total R.V. of £20.

Mr. Mc Carroll pointed out to the Tribunal that Units 1 & 2 adjacent to the subject premises are let on short term leases and that an allowance of 10% should be taken into account. He felt that there should be an allowance of 5% to allow for insurance and external repairs and a further 20% to make relevant to 1988.

### **FINDINGS**

The Tribunal has come to the conclusion that a rent of £11 per square foot for the relevant date is appropriate, which would give an N.A.V. of £7,458 to the shop.

The Tribunal also finds that a rent of £50 per week for the residential portion of the property is appropriate. This would give a total N.A.V. of £10,058 per annum.

Taking all of this into consideration the Tribunal finds that the total R.V. for the property is in the sum of £50.