

Appeal No. VA92/4/009

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

**Conlyn Holdings Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed Shop at Lot No. 1B/18, Bayside Square, E.D. Sutton, Co. Dublin  
Quantum

**B E F O R E**  
**Henry Abbott**

**S.C. Chairman**

**Paul Butler**

**S.C.**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 10TH DAY OF NOVEMBER, 1992**

By Notice of Appeal dated the 23rd day of June, 1992, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation on the above described hereditaments at £450.

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

"the R.V. is excessive and inequitable on the grounds of comparisons with other licensed premises recently revised by the Commissioner, the external dimensions were not and cannot be increased, the drinking area has not been increased, or toilets or storage, the only change has been the provision of a Cooling Plant instead of a store, and other reasons."

**The Property:**

The premises is located at Bayside Square, Sutton at the centre of an extensive residential development and about 300 yards from the Howth Road. The premises was erected in 1975 and was refurbished in 1990. It consists of a bar and lounge with ancillary storage facilities. All public services are connected and there is car parking space in the vicinity. The floor areas are as follows:-

Bar/lounge	3682ft <sup>2</sup>
Stores	703ft <sup>2</sup>

**Valuation History:**

The premises was first valued on 1976 revision at £180. In 1990 the premises was listed by the local authority as part of a general listing of commercial property in the Bayside and Sutton area. The premises was revised by the Commissioner of Valuation and the valuation increased from £180 to £300. This figure was appealed to the Commissioner and at first appeal the valuation was increased from £300 to £450 based on a Net Annual Value of £72,000. It is against this valuation that this appeal lies with the Tribunal.

**Written Submissions:**

A written submission was received on the 14th of October, 1992 from Mr. Tony Brooks of Tony Brooks & Company, Valuation, Rating & Property Consultants on behalf of the Appellant. In the submission Mr. Brooks set out details of the premises, accommodation and services attaching to it and the valuation history. He also set out reasons why the rateable valuation should be reduced which included the fact that the premises is situated in the Bayside Estate which has a small neighbourhood shopping centre and that it has no passing trade. The premises is also subjected to vandalism and the large lounge does not open until after 7.30pm due to lack of business. There is also competition from The Foxhound Inn, The Elphin, The Racecourse Inn and Baldoyle House which are all in the vicinity. The premises does not provide any bar food as it proved to be a loss making venture. Mr. Brooks set out details of his estimate of the N.A.V. on the subject premises of £46,500 and indicated his calculation of the figure as follows:-

Retail Area - 3,150 sq.ft. @ £10psf =	£31,500
Stores etc. - 979 sq.ft. @ £ 3psf =	£ 2,937
Fixtures & Fittings - say £120,000 over 12 years =	£10,000
Licence - say £40,000 over 15 years =	<u>£ 2,500</u>
	£46,937

Say £46,500

R.V. £290

In the written submission Mr. Brooks set out details of five comparisons and these are set out below:-

- 1) The Elphin - L'icd Premises - Baldoye Road, Dublin 13 - R.V. £375 - Much larger premises together with upstairs lounge.
- 2) The Foxhound Inn - Tesco Shopping Centre, Kilbarrack, Dublin 5 - R.V. £335 - This is a two storey over basement premises much larger than appellants.
- 3) Graingers - Baldoye House, Baldoye, Dublin 13 -R.V. £215 - This premises is situated in the village of Baldoye and is a more substantial premises than that of appellants.
- 4) The Racecourse Inn (Baldoye) Ltd. - Racecourse Shopping Centre, Grange Road, Dublin 13 - R.V. £540 - Very substantial premises.
- 5) The Beachcomber - Howth Road, Killester - R.V. £470 - Much larger premises.

A written submission was also received on the 15th of October, 1992 from Mr. Jim Gormley, B.Agr.Sc. District Valuer and Chartered Valuation Surveyor, with the Valuation Office on behalf of the Respondent. In the written submission Mr. Gormley set out details of the property and the valuation history on the same lines as Mr. Brooks. Commenting on the grounds of appeal Mr. Gormley stated that the premises was a modern and purpose built premises in an established residential and commercial location, that in 1990 the premises had been newly furnished, carpeted and decorated, that the bar area was increased by the incorporation of part of an existing store. The valuation of £450 was fair and equitable when compared with valuations of recently revised licensed premises in the Dublin area. Mr. Gormley set out his method of calculating the R.V. on the premises as follows:-

- (1) Estimated Capital Value at November, 1988

£900,000 x 8% = £72,000 (N.A.V.)

x 0.63% = £453

Say £450

Mr. Gormley said that his assessment of Capital Value is reasonable in light of the sale price of the pub and leisure centre in April 1991 for £1.9 million.

He said that allowing 35% growth in capital value from November 1988 to April 1991 would give a capital value for the entire of £1.4 million at November 1988. He apportioned this between the licensed house and leisure centre as follows:-

Licensed house - £950,000

Leisure centre - £450,000

(2) Estimated Rental Value

Bar/lounge 3682ft<sup>2</sup> x £18/ft<sup>2</sup> = £66,276

Store 702ft<sup>2</sup> x £ 5/ft<sup>2</sup> = £ 3,510

Licence £50,000 x 8% = £ 4,000

£73,786

x 0.63%

= £464 Say £450

Mr. Gormley also provided details of comparisons as follows:-

- 1) The Beachcomber  
Ground floor etc - 3078ft<sup>2</sup>  
First floor lounge - 1593ft<sup>2</sup>  
R.V. £470
  
- 2) The Elphin - Located on Baldoyle Road just off Howth Road  
Ground floor bar & lounge - 2190ft<sup>2</sup>  
First floor lounge - 990ft<sup>2</sup>  
R.V. £375
  
- 3) "Quinns" (formerly McGoverns)  
Ground floor bar & lounge - 4855ft<sup>2</sup>  
First floor restaurant - 1044ft<sup>2</sup>  
R.V. £600

**Oral Hearing:**

The oral hearing took place in Dublin on the 21st of October, 1992. Mr. Binchy of Messrs. Smith-Foy & Partners, Solicitors, appeared on behalf of the appellant. Evidence was given

on behalf of the appellant by Mr. Tony Brooks of Messrs. Tony Brooks and Company, Valuation, Rating and Property Consultants, by Mr. Martin Kinsella of Mr. Frank McHugh and Company, Auditors and by Mr. Sean Lynch, Proprietor of the appellant company.

Mr. Jim Gormley, B.Agr.Sc., District Valuer and Chartered Valuation Surveyor, appeared and gave evidence on behalf of the respondent.

At the outset Mr. Binchy submitted that the sale price of £1.9 million of the premises (including leisure centre) referred to in the submissions was entirely unrealistic. There were only two basic bidders at the auction, each of whom owned 50% of the company and the auction was an exercise to value the shares of the company because the partnership was splitting up. The sale was effected by transfer of shares.

At this stage Mr. Gormley, on behalf of the appellant, indicated his basic agreement with the foregoing proposition and pointed out that he had made quite a considerable allowance for this at first appeal and had, in fact, taken a valuation of the premises in his written submission at the date of sale thereof at £900,000. Mr. Binchy indicated that the appellant's former valuer, Mr. Kelly, maintains that he had put in a notice withdrawing the appeal. He, Mr. Binchy, however accepted that the same was never received. He indicated a willingness of the appellant to withdraw the first appeal at this stage. Mr. Gormley gave no indication that he was willing to consent to this course of action.

By way of further introduction Mr. Binchy indicated that he had found it difficult to find the premises. He went there on a Monday afternoon and there were no customers on the premises. The other comparative premises were doing a steady daytime trade that day.

Mr. Brooks referred in detail to his written submission and to the comparisons therein. He expressed the view that the first three of his comparisons, namely The Elphin, The Foxhound Inn and Graingers would be in direct competition with the Appellant. The nearest of these premises to the Appellants was The Elphin.

Mr. Brooks said that The Elphin is in a better location, is a bigger pub and has an upstairs lounge and substantial stores. He said that The Foxhound Inn was a substantial premises in a working class area adjacent to a dole office (later, in the course of Mr. Gormley's evidence it emerged that the dole office had not been built on the valuation date). He said that Graingers

is a substantial premises in a far better location but he did accept that the rateable valuation appeared to be rather low because it is a 1980/82 figure.

The comparisons would have a substantial passing trade whereas the subject premises was in Bayside, a residential area.

Mr. Kinsella in evidence said that the average annual turnover of the subject premises was £620,000 (this figure was agreed by Mr. Gormley). He said that the gross margin was in or about 38.5%. He said that the appellant had recently incurred substantial bank borrowings as a result of which it was likely that profits would decrease. Mr. Kinsella said that £900,000 for both premises at the time of the sale would be a reasonable figure. It should be noted that both Mr. Brooks and Mr. Lynch disagreed with this. Mr. Brooks would have thought that the premises were worth £600,000 and Mr. Lynch thought a figure of £240,000 at the time of sale more appropriate.

Mr. Gormley (as previously noted) referring to The Foxhound Inn said that the dole office was not there on the date of appeal (1989 1st Appeal).

He disputed Mr. Brook's measurements, and produced a plan to the Tribunal which he explained.

Mr. Gormley in referring to The Beachcomber Inn said that the estimated turnover was £800,000 and that the premises compared on a square footage basis rather well with the subject premises. Mr. Gormley went on to refer in detail to the other matters raised in his submission.

**Determination:**

The Tribunal has the benefit in this case of comparisons which were recently revised and of a similar function. It is satisfied that the best comparisons offered were those of The Elphin and The Beachcomber. On this basis and having regard to the submissions made the Tribunal determines that the rateable valuation of the subject premises should be £390.

