

Appeal No. VA92/4/020

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

Sean English (The Paddock Bar)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed House Stores & Land at Lot No. 55.56 Main Street, Poplar Square, E.D. Naas
Urban Volume C, Urban District of Naas, Co. Kildare
Quantum

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Mary Devins

Solicitor

Joe Carey

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

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF DECEMBER, 1992

By notice of appeal dated the 7th day of July, 1992, Mr. Patrick J. Nerney of 13 Moundown Road, Dublin 12 appealed on behalf of the appellant against the determination of the Commissioner of Valuation in fixing a rateable valuation of £165 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is excessive, inequitable and bad in law".

The Property

The property is a licensed premises situated on Poplar Square on the north or Dublin end of Naas. The property comprises a two storey building to front with single storeyed extensions to rear. The ground floor contains a lounge/bar with dining area, kitchen, toilets and store. The first floor is residential. The accommodation is as follows:-

| <u>GROUND FLOOR:</u> | <u>M²</u> | <u>FT²</u> |
|----------------------------------|-----------------------------|------------------------------|
| Front Lounge Bar | 98 | 1054 |
| Rear Lounge Bar inc. Dining Area | 111 | 1194 |
| Kitchen | 11 | 117 |
| Cold Room & Toilets | 21 | 226 |

FIRST FLOOR:

Domestic, with 3 bedrooms, kitchen, sitting room, bath/wc.

Tenure

Held under a long lease at nominal rent.

Valuation History

In 1974 revision following renovations the valuation was fixed at £70. In 1987 revision following alterations and changes the valuation was increased to £85. There was no change in the R.V. on 1987 first appeal. In 1990 revision following changes the valuation was increased to £165. There was no change to the R.V. on 1990 first appeal.

Written Submissions

A written submission was received on the 23rd November, 1992 from Mr. Patrick J. Nerney, Rateable Valuation Consultant, Valuer and Auctioneer on behalf of the appellant. In the written

submission Mr. Nerney set out details of the improvements made to the subject premises. He said that the appellant acquired the premises in the early 70's and had carried out modernisation works at that time. Subsequently, he had carried out improvements in 1987 which included internal renovations and updating and conversion of an existing store to a beer garden with translucent sheet covering. Further alterations in 1990 included conversion of part of store to kitchen and incorporating former kitchen and beer garden into the lounge. A new roof had been fitted on the beer garden section and an addition made to toilets. The expenditure incurred on improvements was approximately £40,000. Mr. Nerney submitted that there was very little change made to the premises between '87 and 1990. He stated that the former beer garden was now a different style as part of the lounge/bar but the purpose for which it is used could not be regarded as vastly different to that which previously obtained.

Mr. Nerney supplied turnover figures for 1989, 1990 and 1991. He suggested that turnover had peaked in 1988 and declined in subsequent years. Mr. Nerney submitted that the value of the premises had not been enhanced to the extent of almost 100% as suggested by the Commissioner as a result of the works carried out. He also stated that neither the potential for profit nor actual profits achieved have doubled and Mr. Nerney suggested that the enhancement of value was not more than 20%.

Mr. Nerney set out his calculation of Net Annual Value on the subject premises as follows:-

"Net Annual Value:

Licd House at £400 per week X 52 weeks = £20,800

R.V.:

N.A.V. £20,800 @ 0.5% = £104 "

Mr. Nerney stated that there were a number of factors which adversely affected the premises which included the fact that the site was confined and almost fully built on which allowed little scope for any further additions. He stated that the neighbouring premises was a slaughterhouse and that the drains were subject to frequent blockages. He said that there was competition in the town of Naas for licensed premises in that there were 24 in the town itself. He said that passing trade had fallen since the completion of the bypass as had the volume of trade due to the reduced number of construction workers in the locality.

A written submission was received on the 19th November, 1992 from Mr. Malachy Oakes a valuer with nineteen years experience in the Valuation Office on behalf of the respondent. In the written submission Mr. Oakes described the property and the valuation history attaching to it. Mr. Oakes set out his calculation of the valuation on the property as follows:-

| | |
|-------------------------|----------------|
| "Average turnover | 429,515 |
| Gross profit 32% | 137,449 |
| Net Profit say | 68,722 |
| Available for rent | 34,361 |
| Add domestic - say | <u>2,500</u> |
| Net Annual Value | £36,861 |
| R.V. @ .5% = | £184 " |

Mr. Oakes also provided three comparisons within the village of Naas:-

- (1) The Five Lamps, 23 Main Street. R.V. £135 on 1990 revision.
- (2) Haydens, 61 Main Street. R.V. £110 on 1990 revision.
- (3) Finans, 36, 37, 37a New Row. R.V. £100 on 1988 First Appeal.

Mr. Oakes stated that the valuation on the subject property has been fixed on the same basis as recently revised properties with a similar function in Naas.

Oral Hearing

At the oral hearing which took place on the 25th November, 1992 the appellant was represented by Mr. Patrick J. Nerney, Rateable Valuation Consultant. Mr. Malachy Oakes, Valuation Surveyor, appeared on behalf of the Respondent.

Mr. Nerney stated that since the property had last been valued in 1987 at £85 R.V., the basic layout of the interior of the premises had in fact changed very little. The alterations which had been carried out in 1990 at a cost of £40,000, had merely incorporated a former kitchen and 'beer garden' into the main lounge area and had converted part of an existing store into a new kitchen.

Mr. Nerney said that turnover peaked in 1988, which would suggest that the property after the 1987 alterations was capable of generating more business than after the improvements of 1990.

He submitted that the value of the property had not been enhanced to the extent of almost 100%, as suggested by the 1990 revision figure, in the period between 1987 and 1990.

Mr. Oakes submitted that he had endeavoured to assess N.A.V. on several bases, including the evidence of a licensed premises in the vicinity, which had been let at 8.6% of turnover for a term of 5 years. The said premises, however, had since been converted to two shops.

In the main, Mr. Oakes seemed to rely heavily on the comparisons referred to in his written submission, particularly No.s 1 and 2, viz; "The Five Lamps" and "Haydens". In both of these comparisons, N.A.V. had been calculated on the basis of .5% of turnover, which, in both instances, was an estimated figure.

Findings

The Tribunal accepts the difficulty of assessing the N.A.V. of licensed premises in the absence of comparative letting values.

There appears to be no dispute between the parties as to the figures furnished in respect of turnover for the subject premises. The Tribunal notes, however, that the figures adduced by the Respondent in relation to the turnover of the comparable licensed premises, are merely estimates, and therefore, necessarily, of somewhat qualified benefit in assessing N.A.V.

The Tribunal accepts, in principle, the appellant's contention that the alteration works carried out in 1990, while apparently improvements, were not such as to change the fundamental layout of the subject premises. Neither, in the Tribunal's opinion, were they such as would result in an almost 100% increase in valuation.

Taking all of the above into account and having regard to the rent a prospective tenant would be likely to pay for the property, the Tribunal is of the opinion that the correct R.V. of the subject hereditament is £130 and so determines.