

Appeal No. VA92/6/036

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

**Jerome Breen**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed House and Shop at Lot No: 126, Main Street, Caherciveen, Townland of Caherciveen, E.D. Caher, Co. Kerry

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 21ST DAY OF APRIL, 1993**

By Notice of Appeal dated the 27th day of October, 1992 the appellant appealed against the Determination of the Commissioner of Valuation in fixing a rateable valuation of £25 on the above described hereditament.

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

The floor area of the shop was 280 square feet and that the remainder of the house was used solely for domestic purposes.

Although the premises have a 6 day liquor licence it was only used for limited off-licences sales. The appellant stated that the licence was only maintained in case one of his children wished to continue the shop.

There are no ground floor toilets and only one upstairs for domestic use.

**THE PROPERTY:**

The property is situated in the centre of Caherciveen town on the Main Street. It consists of a 3-storey terraced building with a small grocery/meat shop, on the ground floor and domestic accommodation to the rear and overhead. It is constructed of rubble and masonry walls with a slated roof. There is a six day full licence attached to the property. The property is around 100 years old.

**ACCOMMODATION:**

The accommodation consists of:-

Ground Floor Shop	301sq.ft Frontage 16½ feet
Domestic Area on ground floor, 1st floor and 2nd floor	2,798sq.ft.
Rere out offices	1,173sq.ft.

**VALUATION HISTORY:**

The property was revised in 1952. The rateable valuation was then £22.50 and the description was Licensed House. In 1987 it was revised and at First Appeal a rateable valuation of £39 was put on the premises with a description Licensed Shop and House. In 1990 the property was listed by Kerry County Council for revision as the occupier considered the R.V. excessive. The R.V. was reduced from £39 to £25 on 1990 First Appeal. It is against this decision that the appeal lies to the Tribunal.

**WRITTEN SUBMISSIONS:**

A written submission was received on the 7th April, 1993 from Mr. Frank O'Connor, a Valuer with 13 years experience in the Valuation Office, on behalf of the respondent. In the written submission Mr. O'Connor set out details of the property and valuation history as set out above. Commenting on the grounds of appeal of the appellant Mr. O'Connor stated that the R.V. here

was in line with other recently revised R.V.'s in Caherciveen and in County Kerry. It is .5% of the estimated N.A.V. as of November 1988. Mr. O'Connor contended that due allowance had been made for the points made by the appellant at First Appeal Stage in reducing the R.V. from £35 to £25.

Mr. O'Connor set out his calculation of the rateable valuation on the subject premises as follows:-

**Valuation:**

Shop	301sq.ft.	@ £8/sq.ft	=	£2,409
Add 6 day full licence	=			£ 500 per annum
Domestic House	2,798sq.ft.}			
Out offices	1,173sq.ft.}			<u>£2,000 per annum</u>
				£4,908 N.A.V.
£4,908	@ .5%	=		£24.54
R.V.	£25 (Domestic £10.00)			

He set out details of comparative rental evidence for shops in the area and these are summarised below:-

- a) Lot 12a Main Street - a fish shop opposite the subject
 

Accommodation: 194 sq.ft. @ £13.50 p.s.f. = £2,600 N.A.V.

£2,600 @ .5% = £13 R.V. 1990 Revision
- b) Lot 2b Main Street - a pound shop
 

237 sq.ft. @ £11 p.s.f. = £2,600 N.A.V.

£2,600 @ .5% = £13 R.V. 1990 Revision
- c) Lot In 1 Main Street - Occupier: South Kerry Florists Limited

563 sq.ft. @ £5.50 p.s.f. = £3,000 N.A.V.

£3,000 @ .5% = £15 R.V. 1990 Revision

In conclusion Mr. O'Connor stated that there was little rental evidence available in Caherciveen. He said that what had been available for the 1990 Revision and First Appeal has since been supplemented by further rental details as a result of the 1991 and 1992 Revisions. Those rental details were broadly in line with the comparisons above. Furthermore, the appellant has a substantial area of domestic accommodation together with his 6-day licence and his shop unlike the comparisons quoted.

#### **ORAL HEARING:**

The oral hearing took place in The Courthouse, Tralee, Co. Kerry on the 20th April, 1993. The appellant was present and was represented by Mr. P.G. McMahon, Solicitor, of Newcastlewest, and the respondent was represented by Mr. Frank O'Connor, A.R.I.C.S., B.Sc (Surveying) a Valuer with 13 years experience in the Valuation Office.

No written submission had been presented by the appellant but Mr. O'Connor indicated that he had no objection to the hearing going ahead in the absence of same.

Mr. Jerome Breen gave evidence of comparable premises. He indicated from the outset that there was general agreement in relation to the dimensions of the retail space of the subject. He cited two premises in the vicinity with considerably lower valuations. The first was King's Clothes Boutique next door which was approximately 1½ times the size of the subject retail space with a frontage of 1½ times the width of the subject. The valuation of the boutique was £9.50. The second comparison offered was the The Anchor Bar, a premises six or seven doors back down the street with a bar as large and possibly larger than the retail space of the subject with a valuation of £8.50. At this stage the Chairman inquired if the comparisons related to valuations which had been recently fixed, and the appellant was not in a position to offer

evidence as to whether they were recent or otherwise. Mr. O'Connor was not in a position to assist in relation to the matter.

Mr. Mc Mahon indicated that there were other premises such as that of John B. O'Connor which similarly had lower valuations. The appellant indicated that he was carrying on a very small business and could not compete with Spar and Londis. He produced his accounts which showed losses in 1991 and 1992. The overall receipts of the business were so low that the Tribunal was prompted to inquire as to the trading methods of the appellant. It transpired in his response that he was a farmer, and was merely "marking time" to ensure the premises would be available to be inherited or taken over by some of his children. The premises was not always open during business hours and access could be got to shopping facilities by knocking the door.

### **FINDINGS:**

In the absence of evidence that the valuation comparisons offered by the appellant are of recent origin, the Tribunal finds it difficult to accept same, and, hence the Tribunal accepts the comparisons offered by Mr. O'Connor on behalf of the respondent and confirmed by him in evidence. Neither can the Tribunal reduce the valuation on the basis that the appellant is a farmer and merely "marking time", for there is no gain saying that if the appellant opened the doors to the premises and remained ready to serve, the possible income from the premises would be significantly increased. However, the Tribunal did get a fair indication from both parties that Caherciveen had a sluggish economy, being dependent on a short summer flush of tourist business followed by a long depressed winter with no significant agricultural hinterland to allay the gloom of recession.

The Tribunal has been primarily moved by the validity of Mr. O'Connor's comparisons which are based on passing rents, (except for the pound shop, Comparison No. 2, which has closed down).

Nevertheless, in view of the lack of buoyancy, the Tribunal is disposed to reducing the R.V. from £24.54 to £23.54 in respect of the retail area getting the benefit of the reduction and to round down the figures in ease of the appellant to £23. The resultant figure is a rateable valuation of £23 with domestic at £10 being part of such figure and remaining as determined before the appeal to the Tribunal.