

Appeal No. VA92/6/043

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

**Margaret Foley**

**and**

**APPELLANT**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed Guesthouse and Restaurant at Lot No: 28.29, Henry Street, Town of Kenmare,  
E.D. Kenmare, Co. Kerry  
Quantum

**B E F O R E**

**Henry Abbott**

**S.C. Chairman**

**Padraig Connellan**

**Solicitor**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 22ND DAY OF JULY, 1993**

By Notice of Appeal dated the 29th day of October, 1992 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £110 on the above described hereditament.

The grounds of appeal were set out in a memorandum attached to the Notice of Appeal and this memorandum is attached to the judgment. The grounds of appeal are summarised below:-

- 1) The premises have no yard or open space to the rear for parking.
- 2) Comparable premises have lower valuations, i.e.
  - (a) The Coachmans Hotel with a valuation of £37.
  - (b) The Wander Inn Hotel with a valuation of £52.
  - (c) The Commercial Arms Guesthouse with a valuation of £50.
  - (d) The Landsdowne Arms Hotel with a valuation of £90 with a yard to

the rear and a function room on the premises.

- (e) The Bank House restaurant on Main Street having a valuation of £50.
- (f) The Riversdale House Hotel in Kenmare having a valuation of £385, situated on 3 acres in a scenic location on the shore of Kenmare Bay and having parking accommodation for some 200 cars and providing tennis, boating, disco, etc. - the only one of the four hotels enumerated which has a greater valuation than Foley's Shamrock Restaurant and Guesthouse.

### **The Property**

The property is situated in the centre of Kenmare on the main trading street, Henry Street. It consists of a large licensed guesthouse and restaurant constructed of brick, stone and slate. On the ground floor is a lounge bar with a capacity of around 50 seats, restaurant with a capacity of around 50 seats, together with kitchen, w.c.'s and stores. On the first and second floors are 10 en suite bedrooms, T.V. room, laundry room. The occupier has the use of some guest rooms for domestic purposes. There is oil fired central heating throughout. It is registered as a Grade B\* Guesthouse. Modernisation and extension to the premises cost £107,000 in the year 1989 - 90.

### **Tenure**

The tenure is freehold. The total gross area is stated to be 7,134 square feet comprising of ground floor, first floor and second floor.

### **Valuation History**

Lot 28 was last revised in 1981 with R.V. of £12

Lot 29 was last revised in 1967 with R.V. of £24

In 1990 the property was listed by Kerry County Council to "value guesthouse and other improvements to these lots". On 1991 Revision both lots were amalgamated and the R.V. assessed at £110. There was no change at First Appeal.

### **Written Submissions**

A written submission was received from Mr. Tony Brooks of Tony Brooks & Company, Valuation, Rating & Property Consultants on behalf of the appellant. Mr. Brooks in his written submission described the premises. He said that it was situated on Henry Street in a one-way traffic system which runs northwards and there was limited on-street parking. He said that car

parking facilities were available in a site adjacent to the church and also in the square. He said that the entire of the ground floor was around 2836 square foot (gross) or around 2500 square foot (net).

Mr. Brooks submitted that the R.V. should be reduced because *inter alia* the nature of the business was seasonal and there was no room for further development or expansion on the site. There was little on-street parking and no off-street parking. He said that there was no major industry in Kenmare with a total dependency on tourism, that there was a small population with poor agricultural hinterland. He said that the business was a family run business and was operated by the eldest son whose remuneration was shown in the accounts as £7,000 per annum. He said that there was a downturn in tourism in this area according to the Cork/Kerry Tourism Report in 1992. Mr. Brook submitted an estimate of N.A.V. as follows:-

Ground Floor N.A.V.	Say	£10,000
1st Floor N.A.V.	Say	£ 4,000
2nd Floor N.A.V.	Say	<u>£ 2,000</u>
	N.A.V.	£16,000
	R.V.	£80

**Or Alternatively**

50% of Net Profit for 1991	£17,405
50% of Net Profit for 1992	£17,193
50% of Net Profit for 1993	£15,406
Average N.A.V.	£16,668
R.V. £83 Say £80	

The N.A.V. of £16,668 represents a weekly rent of £320.

In conclusion, Mr. Brooks said that in his opinion nobody would be prepared to pay in excess of £320 per week for this type of business in Kenmare when all the adverse factors were taken into account.

Mr. Brooks offered three comparisons:-

(1) **The Wander Inn Hotel.**

Located at Henry Street across the road from the subject premises.

He said that this comparison was at a good vantage point, close to the square for parking facilities and central to all streets. It has both on and

off-street parking at the rear in a private car park. The rateable valuation on this premises was £62, £22 for the public bar and £40 for the restaurant and guesthouse.

(2) **The Coachmans Hotel.**

Located at Henry Street. This property has both on and off-street parking at the rear in a private car park and also has a function room. He said that it was located on a large site with development potential and had a rateable valuation of £37.

(3) **Lansdowne Arms Hotel.**

Located at the junction of Main Street and Shelbourne Street. He said that due to the introduction of the one-way traffic system the Lansdowne Arms was one of the few properties to be serviced by two main roads. He said that it had parking facilities both on and off-street and a conference facility. He said that it had development potential for a leisure centre or an extension of the hotel and it had a rateable valuation of £90.

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 the valuation history as set out above. Commenting on the appellants grounds of appeal Mr. O'Connor stated that the R.V. here was in line with other recently revised R.V.'s since 1988 in the town and throughout County Kerry. He stated that since last revision in 1967 for Lot 29 and 1981 for Lot 28 the property had been extensively modernised and extended at a cost of £107,000 and was probably, in his opinion, the best licensed premises and guesthouse in town.

An analysis of the six comparisons quoted by the appellant indicated that few of them had been revised in recent years. For example:

- 1) The Coachmans Hotel with an R.V. of £37 was last revised in 1959
- 2) The Commercial Arms was last revised in 1988
- 3) The Lansdowne Arms Hotel was last revised in 1966
- 4) Bank House was revised in 1990
- 5) Riversdale House with an R.V. of £385 was last revised in 1986

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

(1) On accounts basis

Turnover for: year ending 30/4/89 = £132,615 Nett of V.A.T.

Turnover for: year ending 30/4/90 = £145,848 Nett of V.A.T.

Turnover for: year ending 30/4/91 = £244,063 Nett of V.A.T.

Reduce to 1988 base by consumer price index for alcoholic drink.

$$30/4/89 - £132,615 \times \frac{135}{141} = £127,000$$

$$30/4/90 - £145,848 \times \frac{135}{145} = £136,000$$

$$30/4/91 - £244,063 \times \frac{135}{147} = £224,000$$

The turnover in 1988 terms after improvements = £224,000pa

(1) £224,000 @ 44% = £98,560 - Average Gross Profit (1989-91)

£ 98,560 @ 45% = £44,352 - Net Profit

£ 44,352 @ .50% = £22,176 pa N.A.V.

£ 22,176 @ .5% = £110.00 R.V.

(2) Estimated capital value 11/88

£250,000 @ 9% yield £225,000 N.A.V.

£225,000 @ .5% = £110.00

(3) Valuation on price\ft.sq. basis

Lounge bar 720ft.sq. @ £8.00\ft.sq. = £ 5,720

Restaurant 1,001ft.sq. @ £6.00\ft.sq. = £ 6,006

Kitchen\store 600ft.sq. @ £4.00\ft.sq. = £ 2,400

Licence £ 1,000

1st & 2nd floors 1,814ft.sq. @ £1.75\ft.sq. = £ 6,675

£21,841

£21,841 @ .5% = £110.00 R.V.

In relation to comparative evidence Mr. O'Connor stated that there were no properties of this type and size rented in Kenmare. He said that any rental evidence related to small shops and office units in the town. He gave examples of some recently revised comparables:-

(1) Lot 11 Henry Street, Description: Licensed House.

Rateable valuation £70 of which £20 was domestic

Mr. O'Connor stated that it was owned by the appellant and opposite the property under appeal.

(2) Lot 29/35 William Street, Description: Licensed shop and restaurant.

Rateable valuation £45 - All on the ground floor and in good condition.

In conclusion Mr. O'Connor stated that the large sum spent on improvements and the substantial turnover gave a good indication as to capital and therefore rental value of the property.

Appended to the written submission were statements of accounts for the year ended 30th April, 1989, 1990 and 1991.

### **Oral Hearing**

The oral hearing took place in Tralee Urban District Council, Tralee, Co. Kerry on the 21st July, 1993. Mr. Tony Brooks of Tony Brooks and Company, Valuation, Rating and Property Consultant appeared for the Appellants and Mr. Frank O'Connor appeared for the Respondent.

Evidence was given by all the parties in accordance with the precis of evidence submitted and the debate centred around the accounts which were submitted by Mr. Walker, Accountant. It transpired that the wages allowed for Patrick Foley who is in a strong management position at £7,000 under estimated by £10,000 at least the value of his work to the business. In addition, from time to time, there was an input from other young adult members of family and no wages at all were allowed in respect of Margaret Foley. It was pointed out by Mr. Walker that in a corporate situation Margaret Foley would have a wage in place for her contribution and this would depreciate profits even further. On page 12 of Mr. O'Connors precis the treatment of the accounts at a notional level of percentages for gross profit and net profit were discussed in detail. The deduction of approximately £54,000 made notionally by Mr. O'Connor compared with a deduction in actual terms in respect of the 1991 accounts by Mr. Walker of approximately £59,000 after adjustment of bank interest.. Mr. Jeremiah Foley Jnr. expressed the view that the accounts produced by Mr. Walker did not reflect a 45% net profit figure and suggested a 30%

figure as being more realistic. Mr. Walker also agreed with this view. The Tribunal is of the view that some adjustment would have to be made in respect of the under estimation of Patrick Foley's input into the business in terms of wage cost at the very least and would in view of the fact that the other businesses in a provincial location are probably run by sole traders in the same position as Mrs. Margaret Foley, hesitate to go as far as suggesting a deduction in respect of her wage input into the business. The Tribunal is of the view that if Patrick Foley's true cost to the business is taken into account, then the N.A.V. resulting points towards the base figure suggested by Mr. Brooks. However, Mr. O'Connor argued on behalf of the Respondent that a significant investment has been put into this business in the recent past and that this indicates that his figures should be accepted anyway regardless of how the accounts would be analysed and that an N.A.V. of £22,500 ought to be accepted on that basis.

Mr. Timothy O'Donoghue, Solicitor further expressed the opinion which had been adverted to by Mr. Brooks in his precis that the location and potential of the premises was not favourable. In addition there is the under lying consideration of the extreme seasonality of the business of the premises which does not have the advantage of a function room which would invite wedding and function trade. The comparisons offered by Mr. Brooks in relation to the premises do not assist the appellant very much and while the Tribunal regrets that the comparisons in provincial locations are not recently revised, the Tribunal is of the view that the terms of reference set out by the 1986 Act indicate that it is not to be ruled from the past in relation to comparables. However, it might regret that a tone of the list is not immediately apparent through a good supply of recently revised premises being available for comparison purposes. The Tribunal accordingly determines the rateable valuation to be £90 in respect of the premises and so fixes same.