

Appeal No. VA93/4/029

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

**The Everyman Palace Theatre**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Theatre at Map Reference: 12 - 15ab, Townland: MacCurtain Street, Ward: St. Patrick's,  
County Borough of Cork

Quantum - Valuation method, comparisons,

**B E F O R E**

**Henry Abbott**

**S.C. Chairman**

**Paul Butler**

**S.C.**

**Mary Devins**

**Solicitor**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 15TH DAY OF JUNE, 1994**

By Notice of Appeal dated the 4th day of November, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £150 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal were that the property should be exempt from rates or that the valuation should be reduced on the basis of the following:-

that there was a change of use from 1,200 seat cinema to 630 seat theatre, from commercial use to artistic and non-profit making use, substantial portion of the building closed due to fire regulations, former public foyer bar closed. The business is being run by guarantee company on a charitable non profit making basis. Neither members or board members are allowed any fees.

**The Property:**

The premises is known as The Everyman Palace Theatre and is located in MacCurtain Street close to the Metropole Hotel. The property has street frontage and incorporates at rear 14 and 15 St. Patrick's Quay. MacCurtain Street is a one way street with restricted parking.

The property was refurbished at a cost of £½ million. Improvements included new seating, rewiring, new central heating system and roof repairs. For these repairs financial assistance was obtained from the Arts Council, £75,000, and Cork Corporation £25,000 public subscription etc..

There is no access to the upper floors which were closed by the Fire Officer. The theatre was opened in March 1990 with a capacity of 630 seats.

Accommodation comprises a shop, foyer, offices, bar (capacity 60), toilets and 630 seats. The theatre opens 7 days per week. Admission varies from £8.00 to £0.50. Five full time staff (salaried), attendants voluntary.

**Title:**

The premises is held on a 99 year lease from 4th June 1988. Rent £50 per annum with tenant liable for all outgoings.

Purchase price of interest is £120,000 payable over 12 years.

**Valuation History:**

At 1961 First Appeal valuation fixed at £385 - Capacity 950 seats. At 1966 First Appeal this figure was reduced to £325. At 1984 First Appeal this figure was reduced to £185. At 1992 First Appeal this figure was reduced to £150. It is against this figure that an appeal now lies to the Tribunal.

**Written Submissions:**

A written submission was received on the 8th June, 1994 from Philip W. Bass & Company, Solicitors, on behalf of the appellant.

In the written submission it was stated that the subject premises is now used as a theatre rather than a cinema for cultural and artistic activities. It was further stated that the rateable

valuation was based on its commercial use as a cinema not as a theatre and that, therefore, the rateable valuation should be revised.

It was stated that there was a prohibition in the lease against its use as a cinema. It was stated that there was a large voluntary input into the operation of the premises which was run by a guarantee company.

Furthermore, a substantial part of the building had been closed by the Fire Officer and seating reduced to 50% of its capacity. The roof of the subject premises was in need of repair.

It was stated that the premises had no commercial value or letting value.

A written submission was received on the 9th June, 1994 from Mr. Kevin Allman on behalf of the respondent.

In the written submission details of the subject premises and its valuation history were set out. Mr. Allman set out the calculation of the rateable valuation on the subject premises as follows:-

<b>Seat Basis</b>	(335 stalls & 295 balcony)	630 seats @ 24p	= £151.20
		R.V.	= £150.00
<b>1961 Basis</b>	950 seats. R.V. £385 devalues @ 40.5p per seat (Balcony 328 stalls 235 + 387)		
<b>1984 Basis</b>	Cinema:	280 seats (gr.fl) @ 0.55p	= £154.00
		313 seats (Balcony only in use 3 weeks per year) @ 10p	= <u>£ 31.30</u>
		R.V.	= £185.00

Mr. Allman offered comparisons as follows:-

- 1) **Cork Opera House**  
(also supported by Art Council)  
1966 First Appeal  
Stalls 610

Dress Aisle	164	
Upper Aisle	<u>224</u>	
	988 @ 32.50p	R.V. = £325

**2) I.T.W.U. Theatre**

(Part of office block on Lapp Quay)

1977 First Appeal

Theatre 811 seat taken @ 55p per seat

Part of R.V. = £940

**3) Capital Cinema**

(only cinema in city)

1990 First Appeal

833 seats @ 48p

R.V. £400

**4) Old Classic Cinema - demolished**

(Washington Street)

Stalls 166 @ £0.75p

Balcony 91 @ £1.00

R.V. £185

**5) The Old Coliseum - demolished**

(1964)

480 seats @ 30p

**Dublin:**

**Abbey Theatre** 628 seats @ £1.20 R.V. £750

**Gate Theatre** 413 seats @ £0.50 R.V. £200

**Peacock Theatre** 157 seats @ £0.50 R.V. £ 75

**Oral Hearing:**

The oral hearing took place herein in the City Hall, Cork on the 15th June, 1994. Mr. M.J. O'Kane of Philip William Bass & Company appeared for the appellant and Mr. Kevin Allman of the Valuation Office appeared for the respondent.

While Mr. Allman claimed that the accounts showed a surplus of income over expenditure in the latest accounts the Tribunal was not satisfied that this surplus indicated a healthy box office or rental situation. Much of the money in the income could be deemed to be capital money towards the tremendous cost of bringing the subject up to acceptable minimum standards. Even though considerable monies have been expended on the premises much of the premises is beyond and out of bounds by reason of fire officer requirements. The bar facility has not been able to generate significant income notwithstanding that the bar very often reflects more income for high class performances than the box office.

Mr. O'Kane explained that this is because popular stars usually take the theatre for the period of the performance at a flat rate and take the box office receipts themselves.

From enquiry by the Tribunal as to what criteria were used in ascertaining the price of 24p per seat Mr. Allman indicated that the Capital Cinema, Comparison No: 3, was taken as a base at 48p per seat.

It emerged that the Capital Cinema was fully refurbished and fully operational as a six unit commercial cinema.

The Tribunal suggested that *Appeal No: VA92/5/015 - Firkin Crane Development Limited* might be relevant to show the approach of the Tribunal to a price per seat. It emerged that the valuation per seat in that case approached 60p or so. However, the Tribunal did indicate that the valuation in the Firkin Crane case could be confirmed without being in any way a precedent. The Tribunal is, therefore, constrained to consider the Capital Cinema case as a guide. The Tribunal notes that a rule of thumb of 50% was applied to the Capital Cinema rate to arrive at the subject rate.

The Tribunal is of the opinion that the discount may not have been generous enough having regard to the seasonal trading pattern and general disadvantage of the subject premises and finds that a valuation of 20p per seat might be more appropriate in the circumstances. On this basis the valuation of the premises ought to be £125 and the Tribunal so finds.

