

Appeal No. VA94/3/005

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

**Rhona Teehan**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed restaurant (ground floor & basement) at Map Ref: 47, William Street South,  
Ward: Royal Exchange B, County Borough of Dublin  
Quantum - Location, two leases, tone of the list

**B E F O R E**

**Henry Abbott**

**S.C. Chairman**

**Veronica Gates**

**Barrister**

**Fred Devlin**

**F.R.I.C.S. A.C.I. Arb.**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF OCTOBER, 1995**

By Notice of Appeal dated the 17th day of October, 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £220.00 on the above described hereditament.

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

"(1) The valuation is excessive and inequitable.

(2) The valuation is bad in law."

**The Property:**

The property comprises a licensed restaurant on ground floor, first floor and basement known as the "Cafe Caruso".

The property is situated in a good location with parking facilities nearby. The property has the benefit of a full restaurant licence.

The internal decor reflects the amount of money spent on refurbishment of the property. The original building was old and in need of substantial structural changes.

**Valuation History:**

Prior to revision the rateable valuation was £120. Following a request from Dublin Corporation at 93/94 Revision the valuation was increased to £220. At First Appeal no change was made to the rateable valuation. It is against this determination of the Commissioner of Valuation that an appeal now lies to the Tribunal.

**Written Submissions:**

A written submission was received on the 28th April 1995 from Ms. Sheelagh O'Buachalla, BA and an Associate of the Society of Chartered Surveyors, of Donal O'Buachalla & Company Limited on behalf of the appellant. In her written submission Ms. O'Buachalla set out a brief background description of the property, its location and valuation history.

Commenting on the respondent's valuation Ms. O'Buachalla stated that, in her opinion, the Commissioner of Valuation was not entitled to amalgamate the valuations into a single hereditament where two separate titles/leases existed. She said that the area separately demised under both leases is physically separate with access only possible via a stairway, common also to the remainder of the building.

Ms. O'Buachalla submitted that the premises must be valued as two separate hereditaments comprising:-

- (1) Ground floor and Basement
- (2) First Floor

Ms. O'Buachalla also commented on the actual demand for accommodation on the street and said that it was quite poor and that currently no less than five ground floor units were available.

In relation to the subject property, Ms. O'Buachalla stated that, in her opinion:-

- (a) The property lacks any prominence.
- (b) The location is secondary, traffic is one way and on-street parking is limited and prohibited at certain times.
- (c) The entrance to the premises is not under the exclusive control of the appellant, and is set back from the edge of the pavement and approached by a short flight of steps.
- (d) There is no rear access and all kitchen deliveries are via a stairway in the basement well or at ground floor level through the restaurant.
- (e) The first floor accommodation is very basic.

Having regard to the above factors, Ms. O'Buachalla set out her estimate of the rateable valuation on the subject property as follows:-

"(1) **Ground Floor and Basement:-**

**Ground Floor** 1,404 sq.ft @ £8.00 = £11,232

**Basement:**

Kitchen 436 sq.ft. @ £4.00 = £ 1,744

Wine Store/Store 219 sq.ft. @ £2.00 = £ 438

NAV = £13,414

RV @ 0.63% = £85.00

(2) **First Floor:-**

Rooms 584 sq.ft. @ £4.00 = £2,336

NAV = £2,336

RV @ 0.63% = £15"

A written submission was received on the 28th April 1995 from Mr. Patrick Deegan, Barrister-at-Law and Valuer with over 19 years experience in the Valuation Office on behalf of the respondent. In his written submission Mr. Deegan set out the description of the property and its valuation history as outlined above.

Mr. Deegan said that, in his opinion, the restaurant was one of Dublin's upmarket eating and drinking places. He said that the restaurant was now open for lunch and dinner and that this indicated how successful the restaurant had become and that it was one of Dublin's success stories.

Mr. Deegan set out his estimate of the rateable valuation on the subject property as follows:-

"Ground Floor:	1,404 sq.ft.	@	£20.00 =	£28,080
First Floor:	584 sq.ft.	@	£ 6.00 =	£ 3,504
Basement:	1,083 sq.ft.	@	£ 3.50 =	<u>£ 3,790</u>
				£35,374
			Say =	£35,000
Est. NAV:	£35,000	x	0.63% =	£220.00
			RV =	£220.00"

Mr. Deegan said that rates of £20.00, £6.00 and £3.50 were in line with the 'Tone of the List' for William Street South.

Mr. Deegan also set out, in his written précis, the details of three comparisons which are appended to the judgement as Appendix A. One of which is currently under appeal to the Tribunal.

### **Oral Hearing:**

The oral hearing took place in Dublin on the 5th day of May 1995. Ms. Sheelagh O'Buachalla appeared with the appellant Ms. Rhona Teehan and Mr. Patrick Deegan appeared for the respondent.

The appellant gave evidence. Ms. O'Buachalla and the appellant emphasised the secondary nature of the location, the one way traffic and the limited on-street parking. Mr. Deegan emphasised the fact that the restaurant is a success and the extent of the success of the location and worth thereof may be judged by the success of the business carried on therein. He argued against taking a zoned approach to decrease the value of the ground floor restaurant having regard to the fact that it comprised 1,404 sq.ft. and some of the restaurant comparisons were considerably smaller. He argued that a fair 'Tone of the List' had been established and that all recent revisions had a reasonable and fair relationship with each other. He submitted that the Tribunal was obliged to bear in mind the level of recently fixed

valuations in the vicinity of the property. Ms. O'Buachalla emphasised that there were two lease holdings in the property.

The respondent submitted other information on South William Street of which Cookes Restaurant of 14 South William Street was one with a ground floor of 656 square feet at £16. This also appears to be a reasonably successful restaurant. The only premises for which £20psf was estimated by Mr. Deegan was 45 South William Street. In that case ground floor showrooms concerned measured only 217 square feet.

**Findings:**

- (1) The Tribunal finds that Mr. Deegan's approach to the valuation in attempting to establish a fair 'Tone of the List' is a reasonable one and the Tribunal is guided by that approach.
- (2) While being so guided the Tribunal must be careful that the undoubted success of the appellant personally to establish a good clientele does not impinge on an objective assessment of the rates.
- (3) Having regard to the necessity for caution the Tribunal carefully considered the top of the market in ground floor restaurant space shown by Mr. Deegan's comparisons and this appeared to be £16-£18. The Tribunal concludes that this should be a tempering influence in reaching a decision on the net annual value of the subject.

The undoubted success of the trading in the subject premises may in large measure be in spite of and not because of the location.

On the basis of *Switzer & Company Limited* the Tribunal considers that the argument that the two hereditaments ought to be separately rated may be upheld and it would seem that this approach is justified by the poor access from one part of the premises to the other.

Having regard to the foregoing and bearing in mind all the evidence and comparisons offered the Tribunal fixes a valuation on the ground floor and basement as described by Ms. O'Buachalla at £172 and the valuation of the property described by Ms. O'Buachalla as the first floor at £22. The parties may apply subsequent to delivery of this judgement in relation to how the properties would be described and listed so that a final order may be made by the Tribunal regarding that detail.

