

Appeal No. VA94/3/023

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

Marspel Limited t/a The Kings Inn

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Shop at Map Ref: 45b.46b, Castle Street, E.D. Dalkey Hill, R.D. Dun Laoghaire-Rathdown, Co. Dublin

Quantum - Analysis of capital value to get NAV

B E F O R E
Mary Devins

Solicitor (Acting Chairman)

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

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JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF APRIL, 1995

By Notice of Appeal dated the 27th day of October 1994, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £250 on the above described hereditament.

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

"the valuation is excessive and inequitable having regard to the provisions of the Valuation Acts, and on other grounds."

The Property:

The property comprises a modern lounge bar on the ground floor of a two storey building. Accommodation includes:

Lounge bar	1,216 square feet
Store	506 square feet
Food preparation	53 square feet
Toilets/hall	370 square feet

All main services are connected to the property.

Valuation History:

The property underwent major reconstruction in 1966 and the valuation was increased from £48 to £120. This figure was reduced to £95 on first appeal. The valuation was next revised in 1974 to take account of extensive alterations to the first floor and the valuation was increased to £130. The property was listed for revision in 1991 to take account of major reconstruction and refurbishment and the valuation was increased to £210. The property was listed for revision in 1992 to value subdivision of the property. Following this revision, the property was divided into three separate hereditaments comprising a licensed shop, a shop and a first floor apartment. The valuation of the licensed house was fixed at £250. The appellant appealed to the Commissioner of Valuation, no change was made at first appeal. It is against this determination of £250 that an appeal lies to the Tribunal.

Written Submissions:

A written submission was received on the 22nd February 1995 from Mr. Eamonn O'Kennedy, Principal of O'Kennedy & Company, Valuation & Rating Consultants, on behalf of the appellant. In his written submission, Mr. O'Kennedy described the property as a small compact licensed premises in good structural condition. He said that the premises had been refurbished in 1989, but that the refurbishment had led to a decline rather than an increase in business. He said that the premises were put on the market in 1991. He said that the new owners had been optimistic that they would reverse the decline and increase the turnover. This had proved to be an over optimistic view. Mr. O'Kennedy set out his opinion of the rateable valuation on the subject premises on two basis:

- (a) Accounts Basis
- (b) Capital Value Basis as follows:

(a) Accounts Basis		
1992 Turnover		£273,676
Adjusted to November 1988		£240,000
(allow 15% for drink price increases from 1988 to 1992)		
Estimated N.A.V. @ 8% of 1988 Turnover =		£ 19,200
(b) Capital Value Basis		
1991 Sale price		£660,000
Less Non-Rateable items		<u>£ 60,000</u>
(Furniture, Carpets, etc.)		
		£600,000
Adjusted to November 1988		
(Allow 50% for increase in market value of		
Lic'd premises from 1988 to 1992) =		£400,000
Estimated N.A.V. @ 7% yield =		£ 27,000
Average N.A.V. using Accounts and Capital Value Basis		
(a) Estimated N.A.V. Accounts Basis		£ 19,200
(b) Estimate N.A.V. Capital Value Basis		<u>£ 27,000</u>
Average N.A.V.		£ 23,000
SAY	£25,000	
R.V. @ .63 of 1% of £25,000	=	£ 150

Mr. O'Kennedy gave a number of comparisons on both accounts and capital value basis, in addition to comparisons of licensed premises listed for revision and not increased by the Commissioner of Valuation, because no alteration had taken place since last revised. These comparisons are attached to this judgment as Appendix A.

A written submission was received on the 16th February 1995 from Mr. Tom Cuddihy, District Valuer with 27 years experience in the Valuation Office on behalf of the respondent. Mr. Cuddihy described the property and its valuation history as set out above. He said that he understood that the property was held freehold. Mr. Cuddihy said that this was a modern, attractive lounge bar in a central location in Dalkey, which had been renovated and fitted out to a very high standard. He set out his opinion of the rateable valuation on the subject premises as follows:

Rateable Valuation and Net Annual Value

In arriving at the rateable valuation particular regard was had to the relationship of RV's to rental levels for recently revised properties.

Valuation Basis

Purchase Price - September 1991	=	£660,000
Adjust to November 1988 Say	=	£528,000
@ 10% yield	=	£ 52,800
Est. N.A.V. = £50,000 x 0.63%	=	£ 315.00

Mr. Cuddihy set out details of nine comparisons within the area, these are attached to this judgment as Appendix B.

Concluding, Mr. Cuddihy said that an examination of the comparative evidence showed that the appellant's R.V. compares favourable with R.V.'s of similar premises in the area.

Oral Hearing:

At the oral hearing which took place in Dublin on 3rd March 1995 the appellant was represented by Mr. Eamonn O'Kennedy of Messrs. O'Kennedy & Company. Mr. Tom Cuddihy of the Valuation Office represented the respondent.

Mr. O'Kennedy submitted that the prices paid for public houses in or around 1991 were exceptionally inflated and accordingly that the purchase price of £660,000 paid for the subject premises in 1991 should not be properly considered when assessing rateable valuation.

In any event he said that the 7% yield to capital value which he attributed to the subject was reasonable in these circumstances.

Mr. O'Kennedy went on to point out that since the 1991 revision the subject property had not been changed in any way, and he referred the Tribunal to an earlier decision of its own, namely *VA89/0/024 - North Kerry Milk Products Limited*, which suggested that valuations should remain in place for an appreciable length of time, which the Tribunal regarded as not less than five years, unless circumstances changed.

Mr. Cuddihy referred to his written submission and stated that it was a general rule of thumb that the purchase price equates to turnover. In this case however, while the purchase price in

1991 was £660,000, the appellant's turnover figures for 1992 were given as only £250,000. Mr. Cuddihy explained that the 1991 R.V. assessment was based merely on an estimate by the Valuer at that time, as accounts for the previous three years were not furnished in spite of being requested. Mr. Cuddihy submitted therefore, that the R.V. as assessed in 1991 was not a valid comparison.

Determination:

The Tribunal is faced with its usual problem in attempting to assess the R.V. of licensed premises in the absence of comparable market rental values.

In this case, too, it does not have the benefit of trading accounts for the previous few years. While the Tribunal may not and cannot ignore the purchase price paid for the premises in 1991, however, it does not seem to the Tribunal that sufficiently compellable evidence has been put forward by either party to support a change in the R.V. as assessed in 1991.

The Tribunal therefore, determines that the correct rateable valuation of the subject premises is £210.