Appeal No. VA95/1/095

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Armada Centre Limited t/a The Black Bush **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Nightclub and licensed shop at Map Ref: 116,117, Townland: Cork, Oliver Plunkett Street, Ward: Centre A East, County Borough of Cork
Quantum - Turnover, trading figures after valuation date

B E F O R E

Mary Devins	**Solicitor (Acting Chairman)**
Marie Connellan	**Solicitor**
Joe Carey	**PC.DDSc.DBAdm.MIAVI**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF JUNE, 1996

By Notice of Appeal dated the 25th day of April 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £365 on the above described hereditament.

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

"**1)** the valuation is excessive in comparison to similar properties
2) the rateable valuation is excessive having regard to the net annual value as at November 1988."

The Property:

The property is situated on the corner of Oliver Plunkett Street and Caroline Street in Cork city centre. The premises consists of two storeys with smooth rendered painted walls and new corner shop front. The accommodation comprises:

Ground floor		***sq.ft.***	***sq.m.***
	Bar	3,239	301
	Stores (3)	570	53
	Ladies, Gents, Lobby & Stairs	3,809	354
First floor		***sq.ft.***	***sq.m.***
	Night-club	3,665	341
	Kitchen	366	34
	Office	161	15
	Cloakroom	107	10
	Gents, Ladies		
	Total nett usable floor space	**4,303**	**399**

Valuation History:

At 1974 revision premises was valued as a night-club and restaurant, rateable valuation fixed at £200 reduced at First Appeal to £170. In 1994 revision the property was revised following completion of extensions, improvements and acquisition of 7 day licence. The rateable valuation was increased to £365 with description shown in the Valuation Lists as "licensed shop and night-club". No change was made to this determination at First Appeal. It is against this decision of the Commissioner of Valuation that an appeal lies to the Tribunal.

Written Submissions:

A written submission was received on the 7th day of February 1996 from Kenneally McAuliffe, Surveyors, Rating Consultants, Valuers and Estate Agents on behalf of the appellant.

In the written submission the property was described and its accommodation set out. The property was described as being purchased in February 1990 for £425,000 after which a capital sum in the region of £140,000 was expended by the owners to renovate the property.

The work carried out on the property included a new roof, new ceilings and floors and complete redecoration and fit out.

In determining net annual value it was stated that a number of factors had to be considered:-

1) Turnover and nature of business

It was stated in the written submission that although it was accepted that the turnover had increased, this was unlikely to continue at this level owing to the fickle nature of the core business and the constant threat of new and more attractive alternative venues. The costs associated with this type of business were also considerably higher than a normal licensed premises and therefore the profit margin is reduced.

2) Location of the property

The property is located at the less popular end of the street with only a limited frontage to Oliver Plunkett Street. The main hub of activity is centred towards the western end of Oliver Plunkett Street at the junction with the Grand Parade.

3) Physical Layout

The premises has a large capacity and unless full, is cold and uninviting. The subject premises requires a consistently large crowd to provide an attraction as a late night venue.

4) Tone of the list

The tone of the list, it was argued was not maintained and a number of comparisons were set out in the written précis as evidence of this fact. These comparisons are summarised below. Kenneally and McAuliffe offered the following opinion of rateable valuation on the subject premises.

a) Capital value basis

Estimated capital value as at 31st January 1994	£650,000
NAV @ 7%	£ 45,500
NAV 1988 (reduced by 15%)	£ 38,675

RV @ 0.63%	Say	£	244.

b) Turnover basis

Year ended 31st January 1994 (nett of VAT) T/O		£852,953
Year ended 31st January 1993 (nett of VAT) T/O		£435,655
Average T/O for 2 year period		£644,304
Nett profit @ 15%		£96,645.60
NAV @ 50%		£48,322.80
NAV @ 1988 (reduced by 15%)		£41,074.30
RV @ 0.63%		£ 258.76
	Say	£ 259.00.

In conclusion, it was stated that, taking into account the location of the premises, its large capacity and costs of running this type of operation, the rateable valuation on the premises should be £252.

Comparisons

1) Westimers Bar
Night-club and restaurant, 23 Sullivan's Quay, Cork. RV £350. 1991/4 Revision.

2) The Angel Bar
Douglas Street, Cork. RV £250. 1994/4 Revision.

3) Paddy the Farmers
RV £190. 1990/4 Revision.

4) Counihans
3, Pembroke Street, Cork. RV £200. Revised 1988. Appeal 1989.

5) The Old Oak
RV £362. 1994/2 Revision.

6) Cubins
Bar and night-club, 4-19 Hanover Street, Cork. RV £300. 1994/4 Revision.

A written submission was received on the 13th day of February 1996 from Mr. Tom Stapleton, a Valuer with over 30 years experience in the Valuation Office, on behalf of the respondent.

In his written submission, Mr. Stapleton described the subject premises and its valuation history as set out above. He set out his calculation of rateable valuation on three bases as set out below.

Valuation

(a) Year ended 31/1/94

Turnover	=	£852,953
Adjusted to 1988 say	=	£680,000
NAV @ 10%	=	£ 68,000
RV @ 0.63%	=	£ 428
RV	=	£ 365.

(b) Ground floor:

Bar	3,543 sq.ft. @ £10	=	£35,430
Stores	650 sq.ft. @ £ 5		
Lobby	133 sq.ft. @ £ 5	=	£ 3,915
Toilets			

First floor:

Night-club (2 bars)	3,665 sq.ft. @ £ 5	=	£18,325
Office	163 sq.ft. @ £ 5	=	£ 815
Kitchen	365 sq.ft. @ £ 3		
Store	112 sq.ft. @ £ 3	=	£ 1,431
Toilets			
			£59,916
NAV (say) £58,000 @ 0.63%		=	£365.

(c) Capital value

Purchase price, February 1990	=	£425,000
Add expenditure (say)	=	<u>£225,000</u>
		<u>£650,000</u>

Adjust to 1988	=	£580,000
@ 10%	=	£ 58,000
@ 0.63%	=	£ 365.

Mr. Stapleton said that the current rateable valuation of £365 had been valued only slightly above 8% of turnover (allowance made for honeymoon period) which having regard to comparisons, modern design, structure and location of premises was fair and reasonable.

Mr. Stapleton offered five comparisons which are summarised below.

1) **Clancy's Bar**
15.16 Princess Street incl. 29 to 31 Marlboro Street
1991 First Appeal. RV £495.

2) **Kay Star Limited**
24, 25, 25B Washington Street.
1993 First Appeal. RV £325.

3) **Kay Star Limited**
Upper floors of No. 2 comparison.
1989 First Appeal. RV £400.

4) **Mardyke Tavern**
20, Sheares Street.
1993/2 First Appeal. RV £195.

5) **Westimer**
23 (part) Sullivan's Quay
1991 First Appeal. RV £350.

Oral Hearing:

The oral hearing took place in Cork on the 20th day of February 1996 and was resumed in Dublin on the 17th day of May 1996. Mr. Nicholas McAuliffe, of Messrs. Kenneally McAuliffe appeared on behalf of the appellant. The respondent was represented by Mr. Thomas Stapleton of the Valuation Office.

Mr. McAuliffe gave evidence that the subject property is located in an area not well known for night-clubs, located as it is towards the far end of Oliver Plunkett Street and with its main frontage onto Caroline Street which he said is very definitely a tertiary street.

In relation to the size of the property, Mr. McAuliffe said that the space is only necessary at peak times i.e. Friday and Saturday, but not during the rest of the week.

Referring to Mr. Stapleton's calculations based on capital value, Mr. McAuliffe said that no licensed premises were bought on a square foot basis but that their market values were assessed on the basis of turnover and location.

Mr. McAuliffe said that in his opinion the property known as Westimers, put forward as a comparison by Mr. Stapleton, was one of the top three premises of this nature in Cork, that the restaurant in this property was now trading exceptionally well and that he found it difficult to accept the turnover figures produced by Mr. Stapleton.

While Mr. McAuliffe did produce turnover figures for the years subsequent to 1994 he submitted that evidence in relation to turnover figures relating to any period after the valuation date should not be taken into account and in support of his contention he cited the decision of the Valuation Tribunal in the case of **VA95/2/002 - North Dublin Cold Stores v. Commissioner of Valuation.**

Mr. McAuliffe disputed Mr. Stapleton's estimate of expenditure and confirmed his own figure of £140,000 in respect of expenditure, which information, he said, had been supplied by his client, but was unsupported by documentary evidence.

Mr. Stapleton in evidence said that he disagreed with Mr. McAuliffe when he said that the subject property is in an inferior location. In his opinion it is in a prominent location as evidenced by its original usage as an ESB showroom.
Mr. Stapleton said that in 1993 the first floor area had been increased from 936 square feet to 4,300 square feet. He said that the property had a street frontage of 130 feet, 40 feet of which was onto Oliver Plunkett Street, the remainder onto Caroline Street.

Referring to the turnover figures in relation to the subject property, Mr. Stapleton said that in applying a percentage of 10% to the average turnover figure he had been fair and reasonable and referred to a decision of the Tribunal **VA95/1/066 - William & Kay Napier v. Commissioner of Valuation** in which the Tribunal held that a figure of 9% might be applied to turnover. He explained that his adjustment by 20% to arrive at turnover figures for 1988 was based on indexed figures for the drinks industry.

Mr. Stapleton said that his calculations based on turnover resulted in a figure of £436 for rateable valuation and that therefore in the circumstances his estimate of rateable valuation at £365 was extremely reasonable.

Determination:

The Tribunal accepts that the common approach to assessing rateable valuations of licensed premises is based on turnover and location, backed up by evidence in relation to capital values. It does not seem appropriate to arrive at a valuation based on devaluations per square foot.

It does seem that the subject property is located at the less favoured end of Oliver Plunkett Street but the turnover figures supplied indicate that the location is not an obvious deterrent to the customers.

The Tribunal notes Mr. McAuliffe's objections to consideration of trading figures for the period after the valuation date. These figures are however, important if an overall picture of trading is to be obtained and if an equitable rateable valuation is to be assessed.

It would seem from the figures furnished that if the subject property is indeed experiencing a "honeymoon period" of success as described by Mr. McAuliffe, the honeymoon is indeed a prolonged one.

In the circumstances, the Tribunal cannot ignore the evidence in relation to turnover, and therefore affirms the decision of the respondent.