

Appeal No. VA95/1/117

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

**Proinnsias O'Tighearnaigh, Cumann Luthchleas Gael Teo**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Office, stands and grounds at Map Ref: 25a 41-61, Jones's Road, Ward: Ballybough B,  
County Borough of Dublin  
Quantum - Rateable occupation

**B E F O R E**  
**Mary Devins**

**Solicitor (Acting Chairman)**

**Fred Devlin**

**FRICS.ACI Arb.**

**Patrick Riney**

**FRICS.MIAVI**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 2ND DAY OF NOVEMBER, 1995**

By Notice of Appeal dated the 25th day of April 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £2,000 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. Valuation also includes an assessment on the old Cusack Stand which was demolished at the date of valuation."

**The Property:**

The subject hereditment comprises the new Cusack Stand of Pairc an Chrochaigh (Croke Park) which is owned by An Cumann Luthchleas Gael.

On 21st August 1938 the first Cusack Stand was opened. In September/October 1993 the old Cusack Stand was demolished and work subsequently commenced on the new Cusack Stand. At the statutory date in May 1994 the Cusack Stand was in process of being rebuilt. On 31st July 1994 the bottom deck of the new Cusack Stand was used for the first time. On 20th and 25th January 1995 work was still in progress when inspected by Mr. Conboy of the Valuation Office on behalf of the Commissioner of Valuation.

**Valuation History:**

The rateable valuation of £2,000 was fixed at 1982 First Appeal. No change was made at 1989 Revision following the redevelopment of Hill 16. In 1994 the hereditment was again the subject of an annual revision request by Dublin Corporation to 'revise to take account of demolition of Cusack Stand and redevelopment'. In May 1994 the valuation lists were issued and no change had been made to the existing rateable valuation on the subject hereditment. In June 1994 an appeal was lodged on behalf of the appellant. No change was made to the existing valuation at First Appeal. It is against this decision of the Commissioner of Valuation that an appeal now lies to the Tribunal.

**Written Submissions:**

A written submission was received on the 25th day of September, 1995 from Mr. Eamonn O'Kennedy of Messrs. O'Kennedy & Company, Valuation and Rating Consultants on behalf of the appellant.

In his written submission, Mr. O'Kennedy described the subject premises. Commenting on the actual premises, Mr. O'Kennedy said that this was a major sports centre which staged the All-Ireland Hurling & Football semi-finals and finals each year and in fact staged most National League, Leinster Hurling and Football finals. He said that the stadium had seen many changes during its history with the construction of the Nally, Cusack and Hogan Stands and the demolition of the old Cusack Stand in October 1993.

Commenting on the rateable valuation of the subject premises Mr. O'Kennedy stated that the valuation on the old Cusack Stand should be struck out therefore reducing the overall rateable valuation for the following reasons:-

- (a) the old Cusack Stand was not in the course of redevelopment in May 1994 as it had only been demolished in October 1993.
- (b) the building in progress in May 1994 was being erected on a different site to the old Cusack Stand and on an entirely different structure to the demolished stand and therefore the structure was incapable of beneficial occupation at that date and should only be described as work in progress.

A written submission was received on the 20th day of September 1995 from Mr. Paschal Conboy, a Valuer with 14 years experience in the Valuation Office on behalf of the respondent.

In his written submission, Mr. Conboy set out details of the property, relevant dates for the Cusack Stand and its valuation history as outlined above.

Commenting on the appellant's grounds of appeal, Mr. Conboy stated that the Commissioner of Valuation considered the valuation neither excessive nor inequitable at £2,000. The appellant was seeking to have the rateable valuation reduced to take account of the demolition of the old Cusack Stand which would be a reduction of £610.

**Oral Hearing:**

The oral hearing took place in Dublin on the 4th day of October 1995. The appellant was represented by George Brady S.C., instructed by Messrs. Reddy Charlton McKnight, Solicitors and Aindrias O'Caomh S.C., instructed by the Chief State Solicitor appeared on behalf of the respondent.

Mr. Eamonn O'Kennedy gave evidence that at the relevant valuation date the old Cusack Stand had been totally demolished and that the main part of the site of the old stand was being used for construction of the new Cusack Stand. In reply to questions from Mr. O'Caomh, Mr. O'Kennedy agreed that the site had not simply been cleared and left barren, but he stated that what was on the site at the relevant date was not in his opinion capable of occupation.

Mr. Frank Tierney, Financial Controller of GAA said in evidence that the total capacity of Croke Park prior to demolition of the old Cusack Stand was approximately 65,000 of which 15,269 was attributable to the old Cusack Stand. He said that by the end of January 1994 the site had been totally cleared for construction of the new Cusack Stand which was built on a line some 30 to 40 feet back from the site of the old stand.

Mr. Tierney said that as of the 10th day of May 1994 the new construction had begun and that the lower deck of the stand was substantially complete in that ten of the twelve bays or sections were complete at that stage. He said however, that the structure was totally unusable. He said that the site at that stage was a quagmire and that the capacity of Croke Park generally had been reduced to 48,000 approximately.

He gave evidence that at the relevant date the structure was not safe for use by the general public.

Mr. Tierney gave evidence that as a result of the demolition of the old Cusack Stand and the on-going works in relation to construction of the new Cusack Stand the total capacity of Croke Park was reduced by almost one third.

In response to cross examination by Mr. O'Caomh, Mr. Tierney agreed that the usage of the full capacity of Croke Park was limited to the Gaelic football season and even more particularly to the major games of that season. He confirmed that by July 1994 the lower stand of the new Cusack Stand was in use for the Leinster Final, with a capacity of 11,000. On re-examination by Mr. Brady, Mr. Tierney gave evidence that in April 1994 the Director General of the GAA warned the membership that it was likely that no part of the new Cusack Stand might be available for that season.

Mr. Paschal Conboy in evidence said that the premises at no stage had been vacated by the appellant. He said that the construction work on the new Cusack Stand did not affect the letting value at the relevant date and further that the works may well have ultimately enhanced the letting value.

In reply to a question from the Tribunal, Mr. Paschal Conboy said that he had some difficulty in giving his estimate of rateable valuation of the site of the old Cusack Stand in its actual state as of 10th May 1994.

Replying to Mr. Brady in cross-examination, Mr. Conboy agreed that the rateable valuation of £2,000 mainly referred to the buildings in the subject hereditament. He also seemed to concede in cross-examination that the portion of the hereditament which had previously comprised the old Cusack Stand was on the 10th May 1994 incapable of occupation.

**Submissions:**

Mr. Brady submitted that the subject case should be distinguished from the *Harper Stores Case [1968] IR 166* in that it was clear that the subject premises could not be used at all. He went on further to submit that renovation and reconstruction were totally different from total demolition.

Referring also to the judgement of the Valuation Tribunal in *VA94/3/028 - Temple Bar Properties Limited v. Commissioner of Valuation* Mr. Brady said that that case referred also to premises which were being renovated whereas in the instant case a part of the premises had been totally demolished.

Mr. Brady concluded that a clearly identifiable part of the subject premises had been demolished at the relevant valuation date and was therefore incapable of beneficial occupation.

Mr. O'Caoimh submitted that all relevant times the GAA were in beneficial occupation of the entire hereditament. He stressed that the hereditament must be valued as a whole and that the reduction contended for by Mr. O'Kennedy could only be accepted if one were to ignore the potentiality of the entire hereditament as of the relevant valuation date.

Mr. O'Caoimh said that the evidence in relation to capacity as of the valuation date was such that the original rateable valuation on the subject should not be significantly reduced and that while the respondent accepted that there was some diminution of capacity that diminution was only relevant to certain major fixtures none of which took place at the relevant time.

Referring to the *Wyeth Medica Ireland (For Polaroid Ireland Limited) Case (VA94/2/006)* Mr. O'Caoimh submitted that in that case there had been a very long period of reconstruction, whereas in this case the lower section of the new Cusack Stand had been made ready for occupation within a comparatively short time.

Mr. O'Caoimh also stressed that a large part of the subject premises had at all times been in use.

Concluding, Mr. O'Caoimh submitted that at the relevant date the appellant was in occupation of a substantially completed lower portion of the new Cusack Stand as well as the rest of the subject hereditament.

**Determination:**

The Tribunal accepts Mr. O'Caomh's contention that the subject hereditament had been valued as a whole and that the Tribunal must arrive at its determination on the same basis.

Accepting that the old Cusack Stand had been entirely demolished the Tribunal also accepts that at the relevant valuation date works had begun on construction of the new Cusack Stand. The Tribunal is satisfied that the appellant was in beneficial occupation of the subject hereditament at the relevant date.

It does seem however, that the net annual value of the subject was at that date considerably reduced by the demolition of the old Cusack Stand and the general effect on the total capacity of the on-going building works.

While allowing for the value of the moneys invested in the demolition of the old stand and those expended on the unfinished works, to a potential tenant, the Tribunal is of the opinion that the correct rateable valuation of the subject premises is £1,650 and so determines.