Appeal No. VA95/1/119

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Sean McDermott, Morrissey's Licensed Premises **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Licensed house and yard at Map Ref: 81, Cork Street, Ward: Ushers Quay C, County Borough of Dublin
Quantum - Turnover to be considered with location and property potential

B E F O R E

Mary Devins	**Solicitor (Acting Chairman)**
Con Guiney	**Barrister**
Barry Smyth	**FRICS.FSCS**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF MARCH, 1996

By Notice of Appeal dated the 24th day of April 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £190 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 double fronted licensed house located on Cork Street near to the Coombe Hospital. The accommodation comprises:-

Ground Floor:

Bar & Lounge	1176ft^2
Store	378ft^2
WC's	264ft^2

First Floor:

Darts Room	430ft^2
Stores & Bedroom	481ft^2

Valuation History:

The property was valued in 1914 at £47. At 1993 revision the rateable valuation on the premises was increased to £135. At 1993 First Appeal following inspection of the premises and discussions with accountants on behalf of the appellant, the rateable valuation was increased from £135 to £190. It is against this determination of the Commissioner of Valuation that an appeal lies to the Tribunal.

Written Submissions:

A written submission was received on the 15th February, 1996 from Mr. Eamonn O'Kennedy, Principal of Eamonn O'Kennedy & Company, Valuation and Rating Consultants on behalf of the appellant.

In his written submission, Mr. O'Kennedy described the premises as an old premises in poor structural and decorative condition. He said that it was constructed with rubble masonry and concrete block walls, solid and timber floors and natural slate roof. Internally the walls and ceilings have a mainly plastered finish. Mr. O'Kennedy said that the roof was in very poor condition requiring immediate attention, and that there was evidence of dry rot and rising damp in the upper floor. He said that the ground floor bar and lounge had a plain finish well below modern standards for the licensed trade. Mr. O'Kennedy said that the premises derived its business from the surrounding residential area. He said that Cork Street is one of Dublin's most neglected areas with a large number of properties in a derelict condition.

Mr. O'Kennedy gave his opinion of rateable valuation on the subject premises based on the open market rental value. He said that the premises were purchased in 1988 for £180,000 (amended to £164,000 at hearing). £54,000 was expended on the premises in 1992, of this, Mr. O'Kennedy said a large amount of the expenditure applied to non-rateable items such as seating, tables, chairs, carpets, curtains, etc. Allowing for the improved state he estimated the value of the property at November, 1988 at £200,000.

Estimated net annual value at November, 1988 was £200,000 at 8% which is £16,000, giving a rateable valuation of £115.

Mr. O'Kennedy gave details of five comparisons in the immediate area and three the subject of recent revision which are set out in Appendix 1 to this judgement.

A written submission was received on the 19th February, 1996 from Mr. Jim Gormley, Staff Valuer in the Valuation Office on behalf of the respondent. In his written submission, Mr. Gormley set out the valuation history of the subject premises as set out above. Commenting on the grounds of appeal, Mr. Gormley said that the valuation was fair and reasonable having regard to similar type properties in similar locations recently revised. Mr. Gormley said that the premises was trading very well and had shown a steady increase in turnover since 1991. Mr. Gormley set out his calculation of the rateable valuation based on the profits method at £198. He also set out a valuation on the rental basis as follows:-

"Rental Basis:-

Ground Floor (excl. wcs)	1176ft^2	x	£15/ft^2	=	£17,640
	378ft^2	x	£8/ft^2	=	£ 3,024
Annual Value of Licence					£ 5,000
First Floor	911ft^2				
		x	£5	=	£ 4,555
					£30,219
		x .63%		=	£190.38
			Say	=	£190"

Mr. Gormley gave details of three comparisons, details of which are set out in Appendix 2 to this judgement.

Oral Hearing:

The oral hearing took place in Dublin on the 26th day of February, 1996. The appellant was represented by Mr. Eamonn O'Kennedy and Mr. Jim Gormley appeared on behalf of the respondent. Also present was Mr. Sean McDermott, owner of the subject licensed premises.

At the outset, Mr. O'Kennedy submitted that in all his years of experience as a valuer with particular knowledge of licensed premises he had never come across a 200% increase in rateable valuation as a result of revision and first appeal, as in the instant case.

Mr. O'Kennedy accepted that inaccurate figures for turnover were produced at revision stage and subsequently that the correct figures were produced at first appeal stage. He contended nonetheless that turnover figures alone were not a sufficient basis on which to assess net annual values. He stressed that various other factors should be taken into account in conjunction with turnover viz.; location, condition of the property and potential.

Referring to the respondent's comparison, "The Stork", only a few doors away from the subject, Mr. O'Kennedy submitted that the valuation of £190 on that property was an old valuation which in fact should have been revised downwards at the 1993 revision and was not therefore a true comparison.

Mr. McDermott gave evidence of the inherent disadvantages of the subject premises because of its inner city location in what might be described as a disadvantaged area. He explained that the upper floor was closed as they could not afford the alterations that would be necessary to conform to fire safety regulations. He explained that for the last two to three years the property was insured for fire only as he could not afford the very high premiums of public liability insurance.

Mr. McDermott gave evidence in relation to the frequency of burglaries and of what he described as "jump overs" where intruders, usually masked, literally jump over the bar counter to demand money with menaces.

Mr. Gormley strenuously refuted Mr. O'Kennedy's suggestion that his estimate of net annual value was based on turnover alone. He submitted that he had taken all other relevant factors into consideration, alongside turnover in arriving at his estimate of net annual value and rateable valuation.

Mr. Gormley submitted that he had to look to the nearest comparison, i.e. "The Stork" which was revised in 1993 at the same time as 313 other licensed premises in the Dublin area. In reply to a question from the Tribunal Mr. Gormley confirmed that the original valuation of £190 on "The Stork" was affirmed at revision based on estimated figures for turnover as actual figures were not provided by the occupier.

Mr. Gormley referred to the increases in turnover in the subject property for the years 1991 to 1993 and pointed out that they had beaten the CPI figures by a good margin.

In reply to a further question from the Tribunal, Mr. Gormley stated that his estimate of capital market value of the subject property would mirror turnover figures.

Determination:

The Tribunal is satisfied that both parties accept the theory that an assessment of net annual value based on turnover figures alone is insufficient. Location, potential and general structural condition must also be considered in arriving at capital values and net annual values. A licensed property, for example in the Coombe area of Dublin might well have the same turnover as a licensed property off Grafton Street but the market value of one is not comparable to the other.

The Tribunal agrees that Mr. Gormley had to look to the nearest, recently revised comparison, i.e. "The Stork". It notes, however, that the rateable valuation on that property was based on estimated turnover figures. It seems to the Tribunal therefore that an estimate of net annual value on a neighbouring property, while it may be persuasive, is not compelling, either by reference to relevant legislation or to the judgement of Mr. Justice Barron in the case of ***Irish Management Institute v. Commissioner of Valuation [1990] 2IR 409***.

In the circumstances and in light of all of the evidence adduced the Tribunal determines that the correct rateable valuation of the subject hereditament is £150.