

Appeal No. VA95/1/120

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

**Ted Spendlove, IPSALA t/a The Wicklow Arms**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed House at Map Ref: 28A, Townland: Delgany, E.D. Delgany, R.D. Rathdown 2,  
Co. Wicklow

Quantum - Turnover method queried

**B E F O R E**

**Veronica Gates**

**Barrister (Acting Chairman)**

**Brid Mimmagh**

**Solicitor**

**Fred Devlin**

**FRICS.ACI Arb.**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 11TH DAY OF DECEMBER, 1995**

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 £400 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 is located in the village of Delgany about two miles from Greystones. The premises consists of an old house which has been extended and refurbished in recent years to provide the following accommodation:-

**Ground Floor**

Lounge/Bar	2,250 sq.ft.
Cellar Bar	603 sq.ft.
Restaurant	613 sq.ft.
Kitchens	1,819 sq.ft.
Stores	753 sq.ft.

**First Floor**

Lounge/Snug	1,496 sq.ft.
Functions Room	969 sq.ft.
Kitchens	366 sq.ft.
Bridal Suite	344 sq.ft.
Store	398 sq.ft.
Stockroom	452 sq.ft.

**Tenure:**

The premises is held on a 35 year lease from 1993 at a rent of £78,000pa with 5 yearly rent reviews.

**Services:**

All main services with the exception of gas are connected to the property.

**Recent Valuation History:**

1987 Revision - Valued as ' Licensed ho, restaurant, yard and garden' at rateable valuation £120 - No change made at First Appeal.

1993 Revision - Valued as 'Licensed shop' at rateable valuation £400. No change made at First Appeal. Appeal lodged with Tribunal.

**Written Submissions:**

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

In the written submission, Mr. O'Kennedy described the premises. He said that it was an old licensed premises which had been altered and extended over a number of years and was now primarily used as a restaurant. He said that approximately two thirds of the turnover of the premises was accounted for by food sales and in addition approximately two thirds of the drink turnover was related to wines and other drinks consumed in the restaurant.

In conclusion, Mr. O'Kennedy said that the premises is removed from any densely populated areas and as a result depends on its entire trade travelling to the premises.

Mr. O'Kennedy set out his estimate of the rental value of the premises as follows:-

"	<b>1990</b>	<b>1991</b>	<b>1992</b>
Drink Turnover	£255,231	£256,863	£311,690
Adjusted to Nov '88	£229,708	£220,334	£264,350
Average adjusted Net Drink Turnover		£245,150	
£245,150 @ 9%		£22,000 Rental Value	
	<b>1990</b>	<b>1991</b>	<b>1992</b>
Food Turnover	£473,051	£529,499	£664,434
Adjusted to Nov '88	£425,746	£450,948	£565,370
Average adjusted Net Food Turnover	£480,150		
£480,150 @ 5%		£24,000 Rental Value	
<b>Total Rental Value</b>		<b>£46,000."</b>	

Mr. O'Kennedy set out details of five comparisons, all of which had been the subject of a sale and revaluation in recent years, as follows:-

- (1) **The Wishing Well, Blackrock. (RV £390)**  
1992 Tribunal decision - VA94/2/020. Sold 1991 for £1,260,000.  
Market value of the premises in 1991 - £600,000. Rateable valuation by comparison = £200.
- (2) **Glesson's, Deansgrange. (RV £450)**  
1992 Revision. Sold 1992 for £1,650,000.  
Market value of the premises in 1992 - £650,000. Rateable valuation by comparison = £200.
- (3) **Bridget Burke's, Tallaght. (RV £350)**

1991 Appeal. Sold 1991 for £1,250,000.  
Market value of the premises in 1991 - £600,000.

**(4) Tolka House, Glasnevin. (RV £450)**

1991 Appeal. Sold 1991 for £1,575,000.  
Market value of the premises in 1991 - £600,000. Rateable valuation by comparison = £200.

**(5) The Eagle House, Terenure. (RV £270)**

1991 Revision. Sold 1991 for £1,050,000.  
Market value of the premises in 1991 - £600,000. Rateable valuation by comparison = £200.

Mr. O'Kennedy also gave details of a further two comparisons, namely:-

**(1) Johnny Foxes, Glencullen.**

(RV £240) - 1991 Revision.

**(2) The Step Inn, Stepside.**

(RV £310) - 1991 First Appeal.

A written submission was received on the 21st day of September 1995 from Mr. Peter Walsh, B.Sc., an Associate of the Society of Chartered Surveyors in Ireland and Valuer with 9 years experience in the Valuation Office on behalf of the respondent.

In the written submission, Mr. Walsh set out the description, location, accommodation and valuation history as outlined above.

Commenting on the premises, Mr. Walsh said that the premises was well situated close to the growing urban centres of Greystones and Bray.

Mr. Walsh set out his estimate of the rateable valuation as follows:-

<b>"Turnover Figures</b>	<b>1990</b>	<b>1991</b>	<b>1992</b>
Bar	£255,231	£256,863	£311,690
Food	£473,051	£529,499	£664,434
Total	£728,282	£786,362	£976,124
Gross Profit	£386,813	£418,430	£550,275
Gross Profit (as % of T/O)	53%	53%	56%

Take T/O figures for 1992 to account for effect of refurbishment and extension.

T/O figure	£976,124		
to 1988 (less 18%)	£175,702	=	£800,422
		Say	£800,000
Net Annual Value - at 10%		=	£80,000
	x 0.5%	=	£400
Ratio of £1 RV to T/O		=	£2,000."

Mr. Walsh gave details of three comparisons which are summarised below:-

**(1) VA94/2/021 - The Noggin Inn**

Lot 47, Sallynoggin Road.

Valuation confirmed by Valuation Tribunal at £550 on the 21 December 1994.

Floor areas: Ground floor - 10,645 sq.ft.  
 First floor - 2,993 sq.ft.  
 Out Store - 1,195 sq.ft.  
 Total 14,833 sq.ft.

**(2) VA94/4/005 - The Goat**

Lot 3a, Drummartin.

Valuation confirmed by Valuation Tribunal at £825 on the 4th May 1994.

Floor areas: Ground floor - 9,117 sq.ft.  
 First floor - 2,734 sq.ft.  
 Total - 11,851 sq.ft.

**(3) 'Bridget Burkes'**

Oldbawn Road, Tallaght.

Valuation agreed at 1991 First Appeal at rateable valuation £350.

Commenting on the comparisons, Mr. Walsh said that comparison No.1, the Noggin Inn - has a mix of food and drink sales and enjoyed a healthy gross profit margin (44.8% in 1991). Comparison No. 2, The Goat - has a mix of food and drink sales also but that the two years to 1988 showed that 55% of turnover was made up of sales of food and non-alcoholic drinks.

In conclusion, Mr. Walsh said that in recommending that no reduction be made to the rateable valuation of £400 on the subject premises, he had relied on the judgement of Mr. Justice Barron in *Rosses Point Hotel Company Limited v. Commissioner of Valuation, Jan 87*.

**Oral Hearing:**

The oral hearing took place in Dublin on the 2nd day of October 1995. Mr. Eamonn O'Kennedy of O'Kennedy & Company appeared on behalf of the appellant and was accompanied by Mr. Spendlove, part owner of the subject premises. Mr. Peter Walsh of the Valuation Office appeared for the respondent.

Mr. O'Kennedy's submission was in accordance with his written submissions and he particularly pointed out the following:-

- 1) that the subject premises was valued as if it was a Dublin city pub, while its main income is as a restaurant and it would have a very small pub business.
- 2) it was valued in 1987 and the increase therefrom was 300%.
- 3) that the inter company lease should not be taken into account and in particular, evidence had been given that there had been no advices obtained in regard to the figure to be shown on the lease.
- 4) this is a family business with Mr. Spendlove, his wife and four sons working on the premises and its success is due mainly to their presence.

Mr. O'Kennedy said that in general the premises is not open until 6pm in the evening, Monday to Friday and on Saturday and Sunday at 12.30pm. Evidence has also been given that the profit from drink sales decreased in recent years.

Mr. Walsh from the Valuation Office indicated that the work on the premises was completed in 1992 and that the property was valued on the basis of turnover. He also indicated that the suggestion that there was a 300% increase in the valuation was not strictly correct since the 1987 figure was valued under the old formula, despite the fact that the Act was introduced in 1986. Mr. Walsh said that the value of the extension had to be taken into account, and consideration also had to be given to the inter company lease. He considered that the reduction herein was generous and supported by the comparisons in particular, "Johnny Fox's" and "The Goat".

In response, Mr. O'Kennedy and his witness said that the capital value of the Wicklow Arms in 1989 was not reflected in the rateable valuation and that there was nothing in the Act to allow the Valuation Office to value in accordance with turnover. Mr. O'Kennedy said that

this was valuing the "ability to trade" and that the figure herein was out of line with rateable valuations on other properties in this area.

Taking the written submissions and the oral hearing into account, as well as the comparisons offered, the Tribunal determines a rateable valuation of £330.