

Appeal No. VA96/2/022

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

**Perenfield Construction Limited - Aranas**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed House at Map Ref: 58 Charlemont Street, Ward: St. Kevins' A, County Borough of Dublin

Quantum - Method of Valuation

**B E F O R E**

**Fred Devlin - FRICS.ACI Arb.**

**Deputy Chairman**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Barry Smyth - FRICS.FSCS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 22ND DAY OF JULY, 1997**

By Notice of Appeal dated the 19th April, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £120 on the above described hereditament.

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

- "(1) The valuation is excessive and inequitable.
- (2) The valuation is bad in law."

The subject premises, No. 58, Charlemont Street, comprises part of a licensed premises known as "An Beal Bocht". It is a three storey building with a front bar and entertainment bar with stage at rear. The first floor comprises bar, kitchen and WC with two rooms on top floor. The public house which incorporates No. 59, Charlemont Street has been closed since 1994.

The accommodation as described by the Respondent is as follows:-

Ground Floor Net Lettable Area	-	1,130 sq.ft.
First Floor Gross Area	-	558 sq.ft.
Second Floor Gross Area	-	558 sq.ft.

The relevant valuation history is that subsequent to revision in March, 1995 a rateable valuation of £160 was fixed on the premises. The valuation was appealed on 2nd June, 1995. On 25th March, 1996 the Commissioner of Valuation issued his decision reducing the valuation to £120.

A written submission prepared by Ms. Sheelagh O'Buachalla, BA on behalf of the Appellant was received by the Tribunal on 11th November, 1996. Ms. O'Buachalla is an Associate of the Society of Chartered Surveyors and a Director of Donal O'Buachalla & Company Limited.

The written submission described the subject premises as being in a very poor state of repair. It would require refurbishment prior to re-occupation and re-opening.

The written submission stated that No's. 58 and 59, Charlemont Street was purchased in December, 1994 by Perenfield Construction Limited for £310,000. At that time the public house was trading but ceased trading after the purchase. The new owners have retained the licence. The premises is not trading and therefore a valuation on an accounts basis is not feasible.

The only evidence of value available, according to the Appellant's written submission, is the purchase price of £310,000. In the circumstances it was suggested that the apportionment of this valuation between the two properties would be:-

No. 58, Charlemont Street	-	£170,000
No. 59, Charlemont Street	-	£140,000

The net annual value therefore represents a figure of 9%, namely £15,300.

In order to arrive at a net annual value for November, 1988, it would be necessary to adjust this figure by the Consumer Price Index namely:-

<u>134.8</u>
159.6

Accordingly, in the Appellant's submission a fair valuation on the subject premises is NAV £12,900 at 0.63% which is equal to RV £81.

The Appellant contended that when there was no evidence of trading and no accounts that the valuation should not be increased. Therefore the previous rateable valuation of £90 prior to May, 1995 should remain on the Valuation List.

A written submission prepared by Mr. Tom Stapleton on behalf of the Respondent was received by the Tribunal on 7th November, 1996. Mr. Stapleton is a Valuer, Grade 1 with over thirty years experience in the Valuation Office.

The written submission described the derivation of the rateable valuation as follows:-

Ground Floor Net Lettable Area	1,130 sq.ft.	@	£14.00 psf	=	£15,820
First Floor Gross Area	558 sq.ft.	@	£ 5.00 psf	=	£ 2,790
Second Floor Gross Area	558 sq.ft.	@	£ 2.00 psf	=	<u>£ 1,116</u>
					£19,726

Net Annual Value: £19,000

RV @ 0.63% £119.70

Say RV £120

The written submission described the subject premises as being located immediately adjacent to a new large development known as "Harcourt Green". When complete this development will comprise 169 apartments, hotel, office block and shops.

Finally the written submission stated that the RV of £120 is merely an interim valuation.

The oral hearing of the appeal took place in Dublin on 20th day of November, 1996.

Ms. O'Buachalla called Mr. Pat O'Shea of City Property Management Services who acts as property manager on behalf of Perenfield Construction Limited. In his sworn testimony he described various efforts made by the owner to let the premises. The owner could only offer a short term lease and this was unattractive to lessees. The owner does not now expect to let the present premises. The owner was assembling a site and they expect to start building a new development in two years time.

Under cross-examination by Mr. Stapleton, Mr. O'Shea stated that the purchase price of £310,000 included No's 58 and 59, Charlemont Street and also the vendor's interest in No. 60, Charlemont Street in which the vendor had contended he had an interest by way of adverse possession.

Ms. O'Buachalla in her sworn testimony adopted her written submission as her evidence to the Tribunal. She confirmed that the floor area had been agreed and that the licence extended to No's 58 and 59, Charlemont Street.

Ms. O'Buachalla stated public houses were usually valued on an accounts basis but that was not possible here as the premises had ceased trading at the end of 1994. The property when it was revised in May, 1995 was described as vacant. She stated that if the premises was to be used again as a public house or offices it would have to be totally refurbished.

Ms. O'Buachalla referred to the basis on which she gave an opinion of rateable valuation. The building was vacant and in a bad condition. She had valued the subject premises at a lower rate than if the business was being conducted in a normal way. The Appellant wanted the old RV of £90 restored as she does accept that the licence has value.

Ms. O'Buachalla stated that when the property was purchased it was trading therefore there was an element of good will together with the value of the licence. She considered that it was difficult to estimate a return on the purchase price. If the subject premises had been trading in the normal way she would have estimated the return being 7% to 8%. In this case she had estimated a return of 9%.

The only comparison she considered appropriate was Mulligan's of 104/105 Leeson Street. This property was valued on First Appeal in 1993/4 with an RV of £330. This property was valued on an accounts basis. The purchase price in 1992 was £710,000. Adjusting this back to 1988 gives a figure of £624,800. The NAV here is £52,380 with a return of 8%.

On cross-examination by Mr. Stapleton of the Valuation Office it was put to Ms. O'Buachalla that the property was described as licensed house when the rate was struck in January, 1995. Furthermore it was put by Mr. Stapleton that the revision was part of the ongoing revision by the Valuation Office of some 700 public houses in Dublin.

Mr. Stapleton in his sworn testimony adopted his written submission as his evidence to the Tribunal. He stated that it was difficult to apportion the purchase price between No. 58, No. 59 and No. 60, Charlemont Street. No. 60, Charlemont Street was a dilapidated house and No. 59, Charlemont Street was not listed for revision. Again he stated that the licence attaching to No. 58, Charlemont Street had a substantial value.

The approach taken by the Valuation Office was what would the subject premises be let for trading as a shop. He had agreed the ground floor area as being 1,052 sq.ft. in area. He estimated that this area could be let at £14 psf.

For comparison purposes he gave evidence about the new nearby 'Harcourt Green' development. There were six shops to be let there, varying from 627 sq.ft. to 1,765 sq.ft.. He had been informed by the letting agent that one unit of 1,507 sq.ft. included a basement of 610 sq.ft. had an asking rent of £33,000. The Valuation Office estimated that that worked out at £20 psf for the ground floor and £5 psf for the basement.

The ground floor in the subject premises was smaller than his comparison in the new development but it was a corner site.

Again across the road from the subject premises there were a number of small shops which would let at £14 to £15 psf.

In his testimony Mr. Stapleton referred to Gleeson's public house which was near the subject premises and had been let at £1,000pw from mid 1991. The turnover was £8,000 to £9,000pw. The ground floor area was 2,350 sq.ft.. The rent was £51,000pa with the Tenant being liable for rates, insurance and repairs. The NAV was £41,000 with an RV of £250 fixed in 1995. This worked out at £17 psf. The front lounge at 1,127 sq.ft. taken at £20 psf, and the rear lounge of 1,123 sq.ft. taken at £15 psf. The upper floor was described as dilapidated. Gleeson's had a better frontage and a better site than the subject premises. The tenant in Gleeson's had been trading there on a year to year basis since 1991.

Mr. Stapleton argued that it was difficult to arrive at a valuation using the purchase price because that price was spread over three lots. The valuation here dealt with the bar in No. 58, but the bar had been extended into No. 59. It was difficult to assess how much of the bar was in No. 58 and how much was in No. 59. He had recommended to the Commissioner of Valuation that No. 58 and No. 59, Charlemont Street should be listed for revision and listed as one lot.

Finally, in his opinion in a property like this requiring significant maintenance an investor would require a return of 10%.

Under cross-examination by Ms. O'Buachalla, Mr. Stapleton agreed that the asking price for rent in the new development was not necessarily the same as an agreed rent, however, he said the Valuation Office used the rent here as an indicator.

Ms. O'Buachalla put it to Mr. Stapleton that the shops across the road were very small. No. 23 had 355 sq.ft. and Barry's Newsagent was 268 sq.ft.. How could he apply a rate of £14 psf in these properties to the subject which was three times bigger. He replied that these small units were in a good location for the type of business they carried on, e.g.. as a newsagent.

Under further cross-examination Mr. Stapleton stated that there was a letting of £20 psf near the subject premises. This £20 psf was the minimum rate in the new development. If this figure was backdated to 1988 it makes his valuation of £14 psf on the subject a modest one, taking into account the value of the licence.

Finally, Mr. Stapleton was asked by the Chairman whether he wished to amend his valuation given that the agreed area for the ground floor was now 80 sq.ft. less than that contained in his written submission. He said he did not so wish. The area had been agreed in a spirit of good will and it was difficult to differentiate accurately floor areas because there were three interconnecting properties. Ms. O'Buachalla did not raise any objection.

**Determination:**

Given that the usual basis for determining the valuation of public houses is absent here, namely trading accounts, the first issue for the Tribunal is to determine which of the two different approaches to valuation adduced by the parties is to be preferred.

The Tribunal considers that the approach offered by the Appellant is unreliable in arriving at a valuation here. The purchase price is spread over three properties, No's. 58, 59 and 60, Charlemont Street. The subject matter of this appeal is No. 58, Charlemont Street and the Tribunal considers a valuation based on the purchase price cannot be attached with the necessary certainty and reliability to the subject premises in arriving at a rateable valuation.

Accordingly, the Tribunal considers the approach adopted by the Respondent in valuing the subject premises, namely the letting rate psf if the property was let as a shop, to be the most reliable. Furthermore the Tribunal considers that the valuation placed on the subject is an appropriate one. This conclusion is grounded on the comparisons the Respondent has produced from the new development nearby, the units across the street from the subject and Gleeson's public house.

Accordingly, the Tribunal dismisses the Appellant's appeal herein and affirms the Respondent's decision in fixing the rateable valuation of the subject premises at £120.