

Appeal No. VA96/2/060

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

The Barge

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Premises at Map Ref: 42, Charlemont Street, Ward: St. Kevin's A, County
Borough of Dublin

Quantum - Turnover method

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 10TH DAY OF APRIL, 1997

By Notice of Appeal dated the 25th April, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £725 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the rateable valuation of £725 is excessive having regard to the tone of the list".

The appeal proceeded by way of an oral hearing which took place on the 20th November, 1996 at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7. The appellant was represented by Mr. Conor O'Cleirigh, ARICS ASCS MIAVI, Principal of Conor O'Cleirigh & Company, Chartered Valuation Surveyors. The respondent was represented by Mr. Tom Stapleton, Valuer (Grade 1) with over 30 years experience in the Valuation Office. Mr. Philip Hickey, operator of "The Barge" was also present.

Having taken the oath each Valuer adopted as their evidence in chief their respective written submissions which had previously been exchanged by them and submitted to the Tribunal.

Agreed facts:-

The Valuers were agreed on the location, description and floor area of the premises which are briefly as follows:-

Ground Floor:

Bar, Serving Area and Lobbies	190 sq.m (2,038 sq.ft.)
Kitchen	27.87 sq.m (300 sq.ft.)
Toilet Accommodation	

First Floor:

Bar, Serving Area and Manager's Office	150.49 sq.m (1,620 sq.ft.)
Toilet Accommodation	

Second Floor:

Lounge	32.79 sq.m (355 sq.ft.)
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Basement:

Stores, Changing Rooms, etc.	41.34 sq.m (445 sq.ft.)
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The property was purchased at auction in July, 1993 for £757,000 was largely demolished and reconstructed at a further cost of £265,000.

The turnover figures and gross profit percentage for the 11½ month period ending the 31st May, 1995 were as follows:-

Turnover:

Food	-	£255,856
Drink	-	£1,202,580

Profit Percentage:

Food	-	47.22%
Drink	-	52.71%

The property is let under lease for a period of 9 years and 9 months from the 10th June, 1994 at an initial monthly rent of £10,500 plus VAT from June, 1994 increased by gradual increments to a monthly rent of £21,000 plus VAT from January, 1995. From the 1st February, 1995 the annual rent is £22,000 per month plus VAT, that is, £264, 000 plus VAT per annum. Further annual reviews are by reference to the Consumer Price Index. This rent is for a totally finished and equipped licensed premises and therefore includes furniture, glasses, kitchen equipment, etc.. The lease is terminable on three months notice by either party.

Mr. O'Cleirigh stated that the rateable valuation of £725 was too high. Turnover must not be the sole criteria for assessing rateable valuation. Other similar properties in comparable locations have lower rateable valuations. The turnover is due to the skill of the operator and rateable valuations based on turnover only penalise the good operator and subsidise the poor trader. The lease is more on the lines of a management agreement than a true lease particularly as it includes all the contents and also the option of either party to terminate the agreement on three months notice. Where evidence is available of normal long term lettings then the net annual value is equivalent to the rent reserved but this agreement is quite different.

Comparisons were produced in three categories, namely public houses in the immediate area, well known Dublin landmark pubs on the Southside and public houses generally. Particular emphasis was placed on "The Portobello" on South Richmond Street, "The Bleeding Horse" on Upper Camden Street and "Searsons" on Upper Baggot Street which is let on a conventional long term lease with regular rent reviews. Under cross examination Mr. O'Cleirigh claimed that there was an element of profit sharing in the lease agreement but this could not be substantiated as there is no direct relationship between the rent being paid and the turnover. Mr. O'Cleirigh assessed his estimate of rateable valuation as follows:-

Basement Stores	445 sq.ft.	@ £5 psf	=	£ 2,225
Ground Floor Bar & Serving				
Area (including lobbies)	2,038 sq.ft.	@ £22.50 psf	=	£45,243
Kitchens	300 sq.ft.	@ £5 psf	=	£ 1,500
First Floor Bar & Serving				
Area	1,570 sq.ft.	@ £12 psf	=	£18,840
Manager's Office	50 sq.ft.	@ £5 psf	=	£ 250
Second Floor Lounge	335 sq.ft.	@ £10 psf	=	<u>£ 3,350</u>
				<u>£71,408</u>
	Net Annual Value	Say		£71,500
	Rateable Valuation @ 0.63%=			£450.45
		Say		£450.

Mr. Philip Hickey was sworn in and stated that he was the sole operator of "The Barge" and gave details of his experience in the licensed trade. He stated that advertising expenses in "The Barge" were particularly high and that staff costs were also high because the premises trades on three levels. Customers were not drawn from the immediate area but from all over the city and competitors included "McSorley's" in Ranelagh, "The Bleeding Horse", "Swamp Critters" in Rathmines and "The Portobello". Each of these premises has a turnover in the order of a million pounds per annum.

Mr. Tom Stapleton stated that the rateable valuation of the premises at £725 was correct and had been assessed as follows:-

Turnover for 11½ months ending 31st May, 1995	=	£1,458,436
Full Year Say	=	£1,500,000
Adjust to November, 1988 by reference to C.S.O. Index	=	£1,157,500
Net Annual Value @ 10%	=	£ 115,750
RV @ 0.63%	=	£729.22
	But Say	= RV £725.

Comparisons utilised included "The Bleeding Horse", "The Portobello", "Quinn's" on Drumcondra Road, "McSorley's" and "The Goat". In each of these the valuation was derived from turnover. Under cross examination, Mr. Stapleton accepted that the lease agreement and rent includes not only the premises but also fixtures, fittings, glasses, etc. and that the tenant had the option to surrender the lease on short notice. He stated that on the basis of tone of the list the rateable valuation of "The Barge" at £725 was equitable. It was a superior premises to "The Bleeding Horse" in that the latter is an old building with high maintenance costs and not as easily run and also better than "The Portobello" which had a basically student clientele and is now in need of further refurbishment. "Searsons" was trading poorly and this was reflected in the rent of £136,000 per annum being paid following the 1996 rent review.

Determination:

In the view of the Tribunal the following factors are relevant to the determination of net annual value and thus rateable valuation in this case:-

1. the location
2. the nature and style of the premises and their condition
3. the rent reserved in the letting agreement, and
4. the turnover.

The parties are agreed as to the location, nature, style and condition of the premises. The Tribunal accepts that the rent reserved does not represent an open market rent in the true understanding of that phrase in that this is a turn-key operation presented to the tenant ready to operate without further purchases or leasing charges other than the purchase of food and drink. Turnover is an important guideline in the value of any licensed premises and is the first question a potential purchaser or hypothetical tenant will ask. The breakdown of turnover between food and drink and the cost of operating the premises in order to achieve the turnover are relevant. Also it must be considered whether the turnover reflects a particular skill and expertise or as the case may be lack of expertise on the part of the operator and thus whether or not the turnover can be maintained or improved and these factors are taken into account in assessing the rental value that would be derived from the turnover.

Having regard to the foregoing and the evidence adduced by the parties the Tribunal determines the rateable valuation at £650 calculated as follows:-

Turnover 11½ months to the 31st May, 1995:

Food	=	£ 255,856
Drink	=	<u>£1,202,580</u>
		<u>£1,458,436</u>

Adjusted to November, 1988 as per Mr. Stapleton's evidence

= £1,157,489

Net Annual Value @ 9% = £ 104,174 RV @ 0.63%

= £656

But Say = RV £650.

Alternatively

Basement Stores	445 sq.ft.	@ £5 psf	=	£ 2,225
Ground Floor Area	2,338 sq.ft.	@ £25 psf	=	£ 58,450
First Floor Area	1,620 sq.ft.	@ £15 psf	=	£ 24,300
Second Floor Area	335 sq.ft.	@ £10 psf	=	<u>£ 3,350</u>

		£ 88,325
Plus License		<u>£ 10,000</u>
		<u>£ 98,325</u>
	Say =	£100,000 x 0.63%
	RV =	£630
	Say =	RV £650.