

Appeal No. VA96/2/079

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

Showelwater Limited t/a The Pod

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Nite Club and Restaurant at Map Ref: 9b, Upper Hatch Street, Ward: St. Kevin's B,
County Borough of Dublin
Quantum - Appropriate comparisons

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Rita Tynan - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF MAY, 1997

By Notice of Appeal dated the 22nd April, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £525 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 appeal proceeded by way of an oral hearing which took place on the 7th day of February, 1997. The Appellant was represented by Mr. Eamonn O'Kennedy B.Comm., MIAVI, Valuation and Rating Consultant. The Respondent was represented by Mr. Peter Conroy, District Valuer in the Valuation Office.

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 nature of the location of the premises and its description as a nightclub and bar converted from what had previously been a bonded warehouse in the arches or vaults under the former Harcourt Street Railway Station. There were insignificant differences between the parties on the floor areas, the Appellant stating that the floor area comprised:-

Nightclub	(5,600 sq.ft)
Kitchen	(350 sq.ft.)
Gallery	(<u>500 sq.ft.</u>)
Total	(6,450 sq.ft.)

whereas the Respondent stated that the ground floor area was 548 sq.m (5,900 sq.ft) and the gallery 50.7 sq.m. (546 sq.ft.), total 598.7 sq.m. (6,446 sq.ft.).

The premises was purchased in either 1992 or 1993 for £400,000 with the benefit of a full seven day licence and was converted to a nightclub and bar at a further expenditure of £150,000 to £200,000.

A letter was submitted from Murphy & Company, Registered Auditors and Accountants confirming that the turnover of the premises for the year ended 31st March, 1994 was £461,757 and that the accounts for the year had not yet been finalised and also stating that the turnover for the year ending 31st March, 1995 according to the VAT returns of the Company amounted to £539,471.

The title of the property is freehold.

Issues:

Mr. O'Kennedy

Mr. O'Kennedy said that in his opinion the fair rateable valuation of the premises was £250 based on an NAV of £40,000 and he provided three valuation methods in support of this:-

1. **Method One**

Sale Price 1993	£400,000
Improvements	£150/200,000
Therefore Purchase Price	£550/600,000
Adjusted back to 1988	Say £400,000
Rental Value as at November, 1988 at 10%	£40,000

2. **Method Two**

6,000 sq.ft. @ £1.30 psf	=	£ 7,800
Improvements 6,000 sq.ft. @ £2.70 psf	=	£16,200
Licence	=	<u>£15,000</u>
Total:		£39,000

3. **Method Three**

Turnover March, 1994	=	£461,757
Turnover March, 1995	=	£539,471
Average T/O	=	£500,000
Adjust back to November, 1988	=	£410,000
Rental Value	=	£410,000 at 9%
	=	£36,900 Say £37,000

He stated that the premises was removed from the main nightclub areas of Leeson Street and Temple Bar: He said in addition that nightclubs (1) tended to have a limited life span of popularity, and (2) were very dependent on the personalities involved in running them and public relations, and (3) operated in a grey area in relation to licensing.

He stated that the Commissioner's valuation was based on public houses and although the subject premises has a seven day licence it was not comparing like with like to do so and it should be compared with other nightclubs. It had an advantage over Leeson Street because of its full seven day licence but no advantage over nightclubs attached to hotels.

He set out comparisons under two headings namely, nightclubs and other licensed premises and noted Sachs nightclub valued as part of Sachs Hotel with a total area of 31,200 sq.ft. at £4.20 psf, Gigi's nightclub in the Russell Court Hotel on Harcourt Street similar size to The Pod valued at £8 psf and Leeson Street nightclubs valued on average at £5 psf. He also gave a long list of licensed premises setting out their turnover and rateable valuations.

In cross examination Mr. O'Kennedy stated that in his opinion the capital value of the premises today was in the order of £1.2m but when it was put to him that this figure adjusted back to 1988 would give a figure of £800,000 he stated that this was not a correct method to adopt as values had increased enormously in 1996 and that a factor more in the order of 2½ to 3 would be more suitable for adjusting from 1988 to 1997 for public house values.

In relation to his second method of valuation in which he utilised the NAV figures in relation to the adjoining Findlater's Wine Warehouse he stated that he had not seen the interior of Findlater's but as it was effectively in the same building he felt it was appropriate to use it.

He accepted that the turnover information provided was inadequate. He also accepted that the comparison produced of Sachs Hotel reflected the rateable valuation of the entire premises and not of the nightclub on its own.

Mr. Conroy

Mr. Conroy stated that in his opinion the fair rateable valuation of the premises was £525 and this he calculated as follows:-

Ground Floor	5,900 sq.ft.	@	£14/psf	=	£82,600
Gallery Floor	546 sq.ft.	@	£5/psf	=	<u>£ 2,730</u>
					£85,330
			NAV	=	£85,000
					<u>x 0.63%</u>
			RV	=	£535
			Say	=	£525

He provided four comparisons comprising two public houses and two nightclubs.

1. The Bleeding Horse, Upper Camden Street with a ground floor area of 2,408 sq.ft. and an NAV of £30 psf.
2. Gleeson's, 20/21 Charlotte Street with a ground floor of 1,227 sq.ft. showing an NAV of £20 psf.
3. The nightclub at the Central Hotel, Exchequer Street is leased for 35 years from the 21st December, 1995 at £85,000pa. This comprises ground floor 904 sq.ft., basement 3,649 sq.ft., total 4,553 sq.ft. and this rent devalues at £18.66 psf.
4. The River Club Limited on Wellington Quay. A nightclub leased on a 20 year term from January, 1995 at £20,000pa and comprising a first floor of 2,857 sq.ft. which

rent devalues at £7 psf.

Mr. Conroy stated that the most appropriate method is to value the premises on a price per square foot but in comparison with other pubs assessed by the Commissioner. In his opinion the purchase price plus improvements falls short of the market value on completion. He noted that the Chocolate Bar opens for normal public house hours but that The Pod is too big to operate during the day as is the case with many lounges.

In cross examination he stated that the Central Hotel nightclub was leased and could not be sold separately from the hotel and confirmed the devaluation of rent at £18.66 was a 1995 rent and that rental values had increased since 1988. In response to a question in relation to tax designation and double rent allowance he stated that he assumed that the hotel had taken the capital allowances and there was no double rent allowance available therefore to the nightclub. This point however was not confirmed. He concurred with Mr. O'Kennedy's opinion in that the present market value of The Pod was £1.2m and in response to a further question stated that in his view the increase in value from 1993 to 1995 would have been marginal.

Determination:

This is an unusual premises in that it is principally a nightclub with a relatively small bar area, the entire having a seven day licence as opposed to the more usual fully licensed nightclub which is attached to a larger hotel premises or public house or the Leeson Street type nightclubs referred to which only have wine licences.

The information in relation to turnover is, to say the least, sparse and is of little assistance to the parties or to the Tribunal.

Due to the nature of the premises it does not appear to the Tribunal that it can fairly be compared with licensed houses such as The Bleeding Horse and others mentioned in the submissions. It appears to the Tribunal more appropriate to compare the premises with licensed nightclubs of which a number of comparisons were provided including Gigi's in Harcourt Street, The River Club on Wellington Quay and the nightclub in the Central Hotel.

Having regard to the foregoing and the evidence adduced by the parties the Tribunal determines the rateable valuation at £370 calculated as follows:-

Total Floor Area	604 sq.m.	@	£97/sq.m		
	(6,500 sq.ft.	@	£9 psf)	=	£58,588
			NAV	=	£58,588
					<u>x 0.63%</u>
			RV	=	£369.10
			Say	=	£370.