

Appeal No. VA96/6/003

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

**Mulcahys (Clonmel) Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed House at Lot No. 47 (incl. 1, 2, 3 Elbow Lane and 1, 2, 3, 4A East Lane),  
Gladstone Street, Clonmel East, UD: Clonmel, Co. Tipperary  
Quantum - Method of Valuation

**B E F O R E**

**Liam McKechnie - Senior Counsel**

**Chairman**

**Barry Smyth - FRICS.FSCS**

**Member**

**Ann Hargaden - FRICS.FSCS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 19TH DAY OF APRIL, 1999**

By Notice of Appeal dated the 22nd day of November 1996 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £420 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that "the valuation was increased to £442 from £190 in 1996."

The appeal proceeded by way of an oral hearing which took place on the 23<sup>rd</sup> day of March 1998 at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7. The appellant was represented by Mr. Eamonn O'Kennedy BCOMM M.I.A.V.I. of O'Kennedy & Company, Valuation and Rating Consultants and the respondent was represented by Mr. Denis Maher A.R.I.C.S., District Valuer in the Valuation Office.

Having taken the oath each valuer adopted as his evidence in chief his written submission which had previously been exchanged by the valuers and submitted to the Tribunal.

### **Material Facts agreed or found by the Tribunal**

These premises are situated on Gladstone Street close to the centre of Clonmel. This is a commercial area with retail banking and similar trades at pavement level and offices and residential accommodation on the upper floors. The property has further frontage to Elbow Lane and Market Street from which there is an entrance and also to East Lane.

The property comprises a substantial licensed premises with a Lounge/Bar, Restaurant, Discotheque and similar facilities and residential accommodation. The building is three storey on the Gladstone Street frontage part two-storey and part single-storey at the rear.

The accommodation is as follows;

		<i>Sq.ft.</i>
<b>Ground Floor</b>	Front Lounge	1814
	Rear Lounge (incl. Carvery)	1775
	Restaurant	980
	Kitchens	450
	Toilets	417
	Stores	128
<b>First Floor</b>	Disco	2199
	Offices	469
	Stores	315

	Toilets	470
<b>Second Floor</b>	Disco	932
	Stores	295
	Domestic accommodation on 1 <sup>st</sup> & 2 <sup>nd</sup> floor	1722

Total approximately 12,000 sq.ft.

*Note:* The appellant's floor areas differed only marginally from the above which are taken from the respondent's submission and the difference are of no significance.

This is the largest public house in Clonmel and has been extended and improved over the years. In 1994 a first floor lounge was converted to a discotheque which has subsequently been extended into the second floor overhead.

Redevelopment and extension has continued post the revision date of November 1995 to include large lounge and discotheque extension to adjoining properties but these works are not included in this valuation or appeal.

Turnover is as follows;

<b>Year</b>	<b>Bar</b>	<b>Food</b>	<b>Disco</b>	<b>Total</b>
<b>1992</b>	£239,877	£193,502	Nil	£433,379
<b>1993</b>	£300,734	£236,612	Nil	£537,346
<b>1994</b>	£310,000	£253,692	Nil	£563,692
<b>1995</b>	£372,011	£302,656	£501,844	£1,176,511

### **The Appellant's Case**

Mr. O'Kennedy in his précis and direct evidence stated;

1. These are attractive rental premises to which a first floor nite club had recently been added .
2. The licensed premises had traded at a steady level for a number of years.
3. The addition of the first floor nite club had added substantially to the turnover of the premises.
4. Nite Clubs are known to have a limited life span and even in large centres of population it is the exception that remains in existence for longer than five/seven years.
5. There would be less demand for a licensed premises where a large proportion of the turnover was derived from the nite club than from a premises with a similar turnover derived only from drink sales.

Mr. O’Kennedy proposed two methods of valuation the first based on turnover and the second based on capital value. For the first method each element of the 1995 turnover was adjusted to November 1988 and a percentage yield was applied as follows;

<b>Drink</b>	T.O. £300,000 @ 8% - £24,000
<b>Restaurant &amp; Bar Food</b>	T.O. £240,000 @ 6% - £14,400
<b>Nite club</b>	T.O. £400,000 @ 5% - £20,000
	Total £58,400
	Say £58,000
	@ 0.5% = R.V. £290

Mr. O’Kennedy stated that the average yield or factor to relate drink turnover to N.A.V. in Dublin was 9% and it should be less for provincial locations particularly of this size and therefore he applied 8% on the subject case. 6% was applied to the food because of the very much higher overheads even though the gross margin is similar to that derived from drink turnover. He further stated that the Valuation Office acknowledged this by applying 25% net on

turnover for food. 5% was applied to the disco turnover because of the considerable costs involved in running the disco which he listed as follows;

- £150 plus legal costs per night for licence extension
- Two disc jockeys per night @ £240 each
- Nine security men @ £270 each per week
- Insurance costs increased of £280 per week
- Lighting and sound equipment hire of £480 per week

He stated that there are concession and entrance charges on many nights of the week and that the door money is only significant on Saturdays.

In relation to the capital value basis Mr. O'Kennedy stated that there was no record of any licence premises selling for over £500,000 at 1998 and he therefore valued the subject premises at £500,000 and with a yield of 10% giving an N.A.V. of £500 and thus an R.V. of £250.

A third method of valuation basically adding for extensions since the previous valuation on the property was withdrawn as the previous valuation was dating from 1986 and had been done on a metre squared basis rather than on an N.A.V. basis.

In cross examination Mr. O'Kennedy stated that there was no evidence of sales of public houses with nite clubs and therefore no evidence would show less demand for premises with nite clubs. Most nite clubs are attached to hotels rather than pubs. He accepted that since the discotheque had opened the turnover had doubled and that an extension to the disco had been constructed at the cost of £600,000 (this is not included in the current R.V.). In summary he stated that he was not arguing that the discotheque was not profitable but that its turnover and profit were not as valuable as that deriving from drink sales because of the extra costs as outlined and the extra hours involved.

Mr. O’Kennedy noted that the R.V.’s of licensed premises in the Clonmel area vary from £60 to £180 and therefore there are no direct comparisons of similar valuations available. He provided comparisons on two groups;

- (a) provincial valuations with similar turnover which have been revised in recent years
- (b) comparisons of licensed premises with valuations in the R.V. range of £250 to £300 and these are append to this judgment.

In Mr. O’Kennedy’s opinion the appropriate R.V. in the subject premises is £300.

### **The Respondent’s Case**

Mr. Denis Maher in his précis and direct evidence stated;

1. The property is in good condition with up to date layout and finishing throughout.
2. It has undergone a continuous scheme of upgrading, extension and refurbishment.
3. Licensed houses represent a strong retail section in Clonmel and are in the forefront in the growth of property values in the town.
4. The previous R.V. dates from 1986 and it was valued on the metre squared basis and when the ground floor extended to approximately 4,250 sq.ft.
5. Turnover figures had been submitted to the Valuation Office for 1992, 1993 and 1994 which represent income from drink and food only but turnover for 1995 which would include the discotheque had not been submitted. He noted his understanding that the turnover was approximately £1,177,000 for 1995 (this is confirmed in Mr. O’Kennedy’s submission).

6. He apportioned the increase in turnover on the basis of £310,000 being drink sales in the lounge prior to the disco, door income from the disco of £200,000 and £100,000 being the increase in food sales.

“Barry’s” on O’Connell Street, Clonmel was valued in 1991 on the basis of N.A.V. based on 8.7% of the turnover and “Langtons” in Kilkenny had a valuation agreed in 1991 on the basis on 9% of annual turnover which was in the order of £1 million.

7. Retail rents in Gladstone Street ranged from £22 to £25 p.s.f. Zone A or £16 p.s.f overall and thus £12 p.s.f. would be appropriate on the ground floor of the subject with £6 on the first floor and £3 on the second floor.

Mr. Maher proposed three methods of valuation;

- (i) Deriving a net profit or divisible balance from the turnover.
- (ii) Applying a yield to the turnover.
- (iii) Applying rates p.s.f. to the floor areas and adding for the licence method.

Method (i) 1995 T.O. Bar est. £620,000 adj. to 1988 £475,000

Food est. £350,000 adj. to 1988 £280,000

Disco est. £200,000 adj. to 1988 £160,000

Gross Profit Bar 50% £238,000

Gross Profit Food 50% £140,000

Gross Profit Disco 80% £128,000

Net Profit Bar 50% £119,000

Net Profit Food 25% £35,000

Net Profit Disco 50% £64,000

Total Net Profit £218,000 i.e. the divisible balance N.A.V. @ 50% £109,000 x 0.5% R.V. £545

Method (ii) 1995 T.O. £1,177,000 adj. to 1988 £894,520

Yield 9% = £80,507

N.A.V. @ 0.5%

R.V. £402

Method (iii)

		<i>Sq.ft.</i>	<i>£</i>
<b>Ground Floor</b>	Lounge/Restaurant	4,569	12 p.s.f
	Kitchens/Stores/Toilets	995	6 p.s.f.
<b>First Floor</b>	Disco	2,199	6 p.s.f.
	Offices	469	5 p.s.f.
	Stores/Toilets	785	2 p.s.f
<b>Second Floor</b>	Disco	932	3 p.s.f.
	Stores	295	1 p.s.f.

**Domestic** say £30 per week

**Licence** £50,000 @ 10%

**Total** £87,558

**N.A.V.** £438

Taking the above into account Mr. Maher estimated the N.A.V. @ £84,000 and thus the R.V. @ 0.5% at £420.

Three main comparisons were provided plus a brief summary plus of the percentage applied to the turnover for five smaller public houses. Details are appended to this judgment.

In cross examination Mr. Maher stated that Langtons in Kilkenny one of his comparisons did not have a nite club at the valuation date but at that date a licence trade and restaurant only. The rent



of £12,000 per annum applicable to comparison No. 2 did not include the disco area. In his opinion the market value of the subject premises is £1 million. Mr. O'Kennedy noted that pubs sold in excess of £1 million had R.V.'s of only £250 as per his comparisons.

In response to a question from the Chairman, Mr. Maher stated that the hypothetical tenant would pay more for a premises with a drinks only turnover than one with food and/or disco attached.

### **Determination**

These are very substantial licensed premises with;

- Lounge/Bar
  
- Restaurant
  
- Discotheque
  
- Kitchens
  
- Stores & toilets
  
- Domestic accommodation

They are in a prominent position in the centre of the town. The premises has been very well maintained over the years and there has been a continuous programme of expenditure on improvements and extensions. The premises is substantially larger than any other licensed premises in Clonmel and thus it is difficult to draw direct comparisons with other pubs in the town.

The valuers between them propose four methods of valuation to assess the N.A.V. namely;

1. A percentage of the turnover
2. The derivation of a divisible balance from the turnover
3. A percentage of capital value
4. The application of a rate of pounds p.s.f. to the floor area.

Only the first method is common to both and therefore the Tribunal is inclined to follow it. In this case.

Mr. Maher's approach in deriving a divisible balance from the turnover is hampered because he did not have the 1995 accounts and thus had to make assumptions that may or not be accurate in calculating a N.A.V. by this method.

The two valuers are a considerable distance apart in their opinions of market value and therefore in this instance this is not an appropriate method for the Tribunal to use. The rate p.s.f. method has some merit in that it relates only to the premises and the licence and not the actual business carried on in the premises and thus what is being valued is the hereditament rather than the business. However, licensed premises are seldom rented although Mr. Maher does give a comparison of one which he does not seem to rely on his assessment of rental value under his heading. It is difficult to draw comparisons in rent between standard shops in Gladstone Street and a premises of this size of 5,500 sq.ft. on the ground floor and a total square area of 12,000 sq.ft. The Tribunal would not rely on this method in this case.

This leaves this first method a percentage of the turnover which is common to both valuers as being the method to be adopted in this case. The Tribunal thinks it is reasonable to differentiate between the different elements of turnover. The rateable valuation is calculated as follows taking the 1995 accounts;

**Lounge/Bar/Drink** T.O. £372,011 adj. to November 1988 - £300,000 @ 9% - £27,000

This is the same rate as applied to Langtons in Kilkenny.

**Restaurant/Bar Food** T.O. £302,656 adj. to November 1988 - £240,000 @ 8% - £19,200

This is to reflect the higher costs of food operation compared with the twin corporation.

**Nite Club** T.O. £501,844 adj. to November 1988 - £400,000 @ 7% - £28,000

This reflects the considerable extra costs in generating this turnover. The extra hours involved and the relatively short span or fashionably nature of such premises.

Total N.A.V. £74,200.

Add domestic £1,560

Total N.A.V. £75,760

@ 0.5% £378.80

Say £380

**Appendix One**

**The Monasterboice Inn, Drogheda**

R.V. £225      1994 Revision

Turnover 1994 #31,046,686 (Drink & Food)

**Keogh's, South Anne Street**

R.V. £250      1991 Revision

Sold in 1996 - £2,000,000

