

Appeal No. VA97/2/034

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

**Michael Kavanagh t/a James Kavanagh & Son Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed house & shop at Lot No. 46.47 - 48, Main Street, Borris, RD: Carlow, Co. Carlow

Quantum - Difficult trading and deficiencies of the building

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Barry Smyth - FRICS.FSCS**

**Member**

**Anita Geraghty - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 28TH DAY OF APRIL, 1999**

By Notice of Appeal dated the 4th day of April 1997, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £80.00 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the R.V. is excessive, inequitable and bad in law. R.V. is out of line with similar properties in similar locations both in Co. Carlow and adjoining areas.

The relevant valuation history is that at the 1996 revision the valuation was fixed at £90. On appeal the valuation was reduced to £80, which decision was published in March 1997.

A written submission prepared by Mr. Eamonn Halpin B.Sc. (Surveying) ASCS ARICS MIAVI, on behalf of the respondent was received by the Tribunal on 22<sup>nd</sup> day of September 1997.

This written submission set out Mr. Halpin's estimate of a fair rateable valuation as follows:

### **Method 1**

Shop Front	794 sq.ft. }		
Shop/office rear	314 sq.ft. }	Entire @ £50/week =	£2,600
Wallpaper store/display	121 sq.ft. }		
Bar & Lounge	300 + 802 sq.ft.		
L.T.O. (1995) £94,441 less 25% to restate @ 1988 levels.			
	= £70,830 @ 8%	=	£5,666
	Residential @ £40/week	=	<u>£2,080</u>
			£10,346
Add old mill buildings at rear Nominal		=	<u>£ 600</u>
	<b>Total</b>	=	<b>£10,946</b>
	<b>N.A.V. @ 0.5% =</b>		<b>£54.73</b>
	<b>Say</b>		<b>£55.00</b>

### **Method 2**

Estimate capital value of entire property (1988 basis)

£90,000 @ 10% = £9,000pa

@ 0.5% = R.V. £45

The written submission contained a schedule of six comparisons.

A written submission prepared by Mr. Tom Cuddihy B.Agr.Sc. on behalf of the respondent was received by the Tribunal on 19<sup>th</sup> September 1997. Mr. Cuddihy is a District Valuer with thirty years experience in the Valuation Office.

This written submission set out the basis for the calculation of the rateable valuation as follows:

Average L.T.O. 1993 – 1995	=	£91,056
Adjust to Nov 88 (26%)	=	£72,266
@ 39% Gross Profit	=	£28,183
@ 50% Nett Profit	=	£14,099
For Rent 50%	=	£ 7,045
Est. N.A.V.	=	£ 7,045
Shop 1,280 ftsq. @ £4.00 ftsq	=	£ 5,120
Stores worth	=	£ 1,000
Domestic Accommodation worth	=	<u>£ 3,000</u>
		£16,165
Est. N.A.V. = £16,000		
Est. N.A.V. = £16,000 x 0.5%	=	£80.00

Mr. Cuddihy's written submission contained a schedule of two comparisons.

The oral hearing took place at the Tribunal's Offices in Dublin on 7<sup>th</sup> January 1998.

In his sworn testimony Mr. Halpin adopted his written submission as his evidence to the Tribunal.

Mr. Halpin described the subject premises. He said it was unusual in that the bar and lounge had no street frontage. The bar was basic and the lounge, which had been refurbished about ten years ago, needed a refit.

Mr. Halpin said the town of Borris had suffered a contraction in business in recent years. Furthermore the competing businesses in the town had been modernised.

Mr. Halpin then gave detailed evidence in connection with his comparisons.

Comparison One adjoins the subject. It had been modernised and included a funeral home.

Comparison Two was a large licensed premises which had been agreed at first appeal. It was somewhat similar to the subject but was located within a larger population base.

Comparison Three was somewhat similar to the subject. It had however street frontage and a better turnover than the subject.

Comparison four was a large licensed premises with guest accommodation and situated on the Main Street in Borris.

Comparison five was directly opposite the subject. It had been modernised in recent years and had a separate restaurant.

Comparison six was the only supermarket in the town. It had been modernised and had a regular rectangular shape.

Mr. Halpin said the shop in the subject while approximating in area to comparison number six was dissimilar internally. In the subject's shop there was an office, front and rear shop and a store. These spaces were separated internally by some sort of intervening wall. Mr. Halpin said it would cost a lot of money to refurbish the subject to the standard of comparison number six.

Mr. Halpin said that shops in rural towns would not be let on a square footage basis but on a rent per week.

Mr. Halpin said that the values used in his second method of valuation were based on his knowledge of rural properties in the 1980's. He said however that he considered his first method of valuation to be the most appropriate.

Mr. Halpin said that the public house in the subject was located on a side street and it was accessed internally by passageways.

Finally Mr. Halpin stated that he was prepared to agree the area for the shop in the subject on the basis of the figures set out in the respondent's written submission.

Details of Mr. Halpin's comparisons are annexed to this judgment at appendix one.

Mr. Michael Kavanagh gave sworn testimony. He described the difficult trading conditions in the town with buses taking shoppers to towns like Kilkenny and Carlow. He said he could not justify the expenditure required to bring his shop up to the standard of the shop in Mr. Halpin's sixth comparison. Mr. Kavanagh said his trading difficulties had been exacerbated by the opening of a petrol station at the entrance to the town. This facility had a shop attached, which reduced the trade at his shop.

Mr. Kavanagh said in further evidence that the licensed portion of his premises had greater trading problems now that other public houses in the town had been modernised.

Mr. Cuddihy in his sworn testimony adopted his written submission as his evidence to the Tribunal. He said that the Valuation Office had taken into account the trading difficulties caused by shoppers taking their business to large nearby towns when valuations were fixed in Borris.

Mr. Cuddihy said all the licensed premises in Borris had been revised at the same time. The valuations were fixed on the basis of turnover figures for the previous three years. He said the figure of 8% applied by Mr. Halpin to his adjusted turnover figures had not been used in connection with the valuation of other licensed premises in Borris. Mr. Cuddihy said the public house in the subject premises was well located. It was in a corner position and well located as one drove down the main street.

In further evidence Mr. Cuddihy stated that the shop in the subject was well located. It was at the front of the building and on a corner site. He said that his first comparison, which was Mr. Halpin's sixth comparison, was not a modern supermarket as it had a low ceiling.

Mr. Cuddihy's comparisons are annexed to this judgment at appendix two.

Under cross-examination by Mr. Halpin Mr. Cuddihy said that there were five or six premises in the licensed trade operating in the town of Borris at the same level and there were no grounds for differentiating in the method of valuation for rateable purposes.

During cross-examination Mr. Halpin put it to Mr. Cuddihy that the 39% gross margin in the respondent's written submission was incorrect and that the figure should have been 35%. In this respect Mr. Halpin referred to the copy letter dated 18<sup>th</sup> July 1996 to the revising valuer contained in the appellant's written submission. In reply Mr. Cuddihy said that he would need to inspect the accounts which had been provided to the Valuation Office.

In his closing submission Mr. Halpin stated that the subject premises, an old building and internally with an inefficient structure, could not be compared with the modernised premises in the town of Borris. The Tribunal should take into account the actual state of the premises.

In his closing submission Mr. Cuddihy said there were two separate entities in the subject premises, a public house and a shop. This type of entity was a normal feature of the trading environment in a country town.

The Tribunal has considered the written submissions of the appellant and the respondent. The Tribunal has also considered the evidence provided by the appellant and the respondent.

The Tribunal finds that a number of adverse factors have the effect of diminishing the letting potential of the subject hereditament. This finding is based on the evidence as to the difficult trading conditions in the town of Borris and also that the subject property is less attractive as a business entity compared to its competitors in the town.

The Tribunal considers that this finding should be reflected in a lower N.A.V. and consequently in a reduced valuation as follows:

Average L.T.O. 1993-1995	=	£91,056
Adjust to Nov '88 (26%)	=	£72,266
@ 35% Gross Profit	=	£25,293.01
@ 50% Net Profit	=	£12,646.55
For rent 50%	=	£ 6,323.27
N.A.V.	=	£ 6,323.27
Shop 1,280 sq.ft. @ £80 p.w.	=	£ 4,160.00
Stores	=	£ 600.00
Domestic accommodation	=	<u>£ 3,000.00</u>
N.A.V.	=	£14,083.27
£14,000 x 0.5%	=	£70.00 <b>R.V.</b>

The Tribunal therefore determines the rateable valuation of the subject premises to be £70.00.