

Appeal No. VA97/3/007

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

Oliver Malone & Sean McGuigan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Restaurant at Map Reference 97c, Main Street, UD: Cavan, Co. Cavan.

Quantum

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Finian Brannigan - Solicitor

Member

Ann Hargaden - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 22ND DAY OF JANUARY, 1999

By Notices of Appeal dated 3rd July 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £35 on the above described hereditament.

The Grounds of appeal as set out in the Notice of Appeal are "taking into account the location, size and comparable rateable valuations in the area and the difficulty marketing any business in this economically deprived and social welfare dependent part of Cavan town the rate is submitted to be excessive".

The relevant valuation history is that a rateable valuation of £50.00 was fixed on the property at the 1995/4 revision. On appeal the rateable valuation was reduced to £35.00.

A written submission on behalf of the respondent prepared by Mr. Raymond Sweeney, a District Valuer with twenty seven years experience in the Valuation Office was received by the Tribunal on 18th November 1997.

The written submission described the subject and the fixing of the rateable valuation as follows:

Restaurant	533 sq. ft. @ £8.00psf	=	£4,264
Kitchen	345 sq. ft. @ £6.00psf	=	£2,070
Store/Second floor	310 sq. ft. @ £2.50psf	=	£ 775
	N.A.V.	=	£7,109
	7,109 @ 0.5%	=	£35.55
	Say	=	£35.00

or

Estimated rent 11/88: £135 per week x 52 = £7,020

£7,020 @ 0.5% = R.V. £35.00

Mr. Sweeney's written submission contained three comparisons.

A written submission on behalf of the appellant prepared by Donohoe Mackey & Co., Solicitors, was received by the Tribunal on 20th November 1997. The written submission listed eight comparisons.

The appeal proceeded by way of an oral hearing which took place in the Circuit Court in Cavan on 28th November 1997. The appellant was represented by Mr. James Donohoe of Donohoe Mackey & Co. The respondent was represented by Mr. Raymond Sweeney.

In an earlier appeal that morning Mr. Donohoe had made the general point that the government had not provided any urban financial incentive in Cavan town and that this had a negative impact on investment in the town.

In his oral submissions Mr. Donohoe stated he was in agreement with Mr. Sweeney's description of the floor areas of the subject premises.

Mr. Donohoe submitted that the most relevant recent valuation was the restaurant occupied by Mr. Michael Farriday in Cavan town and referred to in his written submission. This was the only separately rated first floor restaurant in the town. The rateable valuation had been fixed at £20.00 in the 1997/4 revision. The total area of this property was 968 sq. ft. with 549 sq. ft. of public space.

Mr. Donohoe referred to "Cookies" restaurant, which was the first comparison of Mr. Sweeney. He stated that the restaurant there had a larger public area than the subject but a rateable valuation which was £7.00 less. This property was also located on the main road into Cavan town.

Again Mr. Donohoe referred to Noels restaurant, the third comparison of Mr. Sweeney. This was in an almost equivalent location. It was a ground floor property accessible off the main street. This property had a rateable valuation of £25.00.

In his sworn testimony Mr. Sweeney adopted his written submission as his evidence to the Tribunal. He described the subject premises as being well appointed.

Mr. Sweeney described the lease of the subject details of which were contained in his written submission. The estimated rent was £135 per week in November 1988. Mr. Sweeney stated that the evidence of the passing rent was inconclusive and he did not feel compelled to use this rent in arriving at N.A.V.

Commenting on Mr. Donohoe's comparisons Mr. Sweeney stated that Mr. Farriday's restaurant (Bachus) was the only relevant comparison as it had been recently revised. Mr. Sweeney further stated that the Bachus restaurant was a mews type of restaurant with no frontage to the main street. The subject premises, however, had frontage onto the main street.

The Tribunal has considered the written submissions of the appellant and the respondent. The Tribunal has also considered the oral submissions of Mr. Donohoe and the evidence of Mr. Sweeney.

In arriving at a decision the Tribunal notes that the three comparisons offered by the respondent are ground floor restaurants. The subject restaurant is located on the first floor.

The Tribunal considers that the discount offered by the respondent for the first floor location of the subject is not adequate. Therefore the Tribunal considers an appropriate rateable valuation should be determined as follows:

Restaurant:	533 sq. ft. @ £7.00psf	=	£3,731
Kitchen:	345 sq. ft. @ £4.00psf	=	£1,380
Store:	310 sq. ft. @ £2.00psf	=	<u>£ 620</u>
			£5,731
	@ 0.5%	=	£28.65
	Say	=	£29.00

The Tribunal therefore determines the rateable valuation of the subject premises to be £29.00.