

Appeal No. VA97/7/005

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

**Frank Dorrian Ltd. t/a Dorrian's Imperial Hotel**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed hotel, yard and garden at Map Reference 37.38.39b Main Street,  
Ballyshannon, Co. Donegal  
Quantum - Method of Valuation

B E F O R E

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Barry Smyth - FRICS.FSCS**

**Member**

**Marie Connellan - Solicitor**

**Member**

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

By Notice of Appeal dated the 5th day of November 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £300 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that;

- "1. The valuation is excessive and inequitable.
2. The valuation is bad in law.
3. No account has been taken of the Nett Annual Value in determining the Rateable Valuation assessment of this hereditament.
4. Not valued in accordance with the Valuation Acts and related legislation.
5. Insufficient opportunity to discuss the appeal with the Appeal Valuer.

6. Notification of results of Appeal not in accordance with the Valuation Acts.

The appeal proceeded by way of an oral hearing, which took place on the 19<sup>th</sup> day of March 1999 in the District Court, Letterkenny, Co. Donegal. Mr. Patrick McCarroll, Chartered Surveyor and Rating Consultant appeared on behalf of the appellant. Mr. Christopher Hicks, an Appeal Valuer in the Valuation Office appeared on behalf of the Commissioner of Valuation. In accordance with practice and as required by the rules of this Tribunal the parties had prior to commencement of the hearing exchanged précis of evidence and submitted same to us. Having taken the oath each valuer adopted as his evidence in chief his précis.

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

The property is located in the centre of Ballyshannon on the Main Street, comprising a substantial three storey over basement building with three storey extension to the rear. Parking facilities are limited and the site is somewhat restricted. It has 26 en-suite bedrooms, a small leisure and conference centre and a function room. It has been well maintained. It is open all year and is dependent upon coach tours, which account for 70% of the business. Ballyshannon is not a noted tourist centre in Donegal. The agreed total gross external floor area is 28,781 sq.ft. including the function room agreed at 3,312 sq.ft.

Mr. McCarroll produced audited accounts prepared by T.J. McBride & Co., Chartered Accountants for the years ended 30<sup>th</sup> April 1992 to 30<sup>th</sup> April 1997 inclusive, and which include the Thatch Pub in Bishops Street with R.V. of £27 which is not the subject of this appeal.

The accounts for the years ended 30<sup>th</sup> April 1996 and 1997 provide the following:-

**1997**

**1996**

	<i>IR£</i>	<i>IR£</i>
Turnover	475,441	504,584
Cost of sales	<u>176,169</u>	<u>196,223</u>
Gross Profit	299,272 (69.9%)	308,361 (61.1%)
Administration Expenses	266,360	275,554
Net Profit	32,912	32,807

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

At the outset Mr. McCarroll raised the point Lot No. 39B comprising the function room was not listed in Notice of Revision issued by the Local Authority on the 26<sup>th</sup> June 1995 which refers to Lot Nos. 37 and 38. Following revision lot Nos. 37, 38 and 39B were revised in accordance with Notice of Revision of Valuation dated 13<sup>th</sup> November 1995. Mr. McCarroll submitted lot No. 39B was not listed in accordance with Section 3(1) of the Valuation Act 1988 and should not have been included in the Revision. He contended this should have been dealt with at Appeal stage and the Valuation reduced accordingly.

Mr. McCarroll stated the property comprises a substantial three storey over basement building together with a three-storey extension to the rear, and following renovations has 26 bedrooms. Parking facilities are limited. He stated the type of business is highly competitive, the average price for dinner, bed and breakfast in July 1997 (peak period) was at a rate of £29.50. In 1994 the property had a 2 star rating in the Ireland Accommodation Guide. It has not since been graded because of ongoing renovations and extension works. He referred to recent Tribunal decisions on the three hotels in Bundoran, which he considered were not comparable to the subject, and merely to highlight the excessive valuation on the subject hereditament. He expressed the view the valuation should be determined on a turnover and accounts basis, and examined the accounts for 1994/1995/1996 period, adjusting the average turnover to 1988 by using 15% and used 9% to arrive at an N.A.V. of £165. His analysis of the 1997 accounts arrived at an N.A.V. of £168. He referred to other recently revised hotels in Donegal, as follows:-

1. VA96/3/016 - Seaview Hotel (Bunbeg)

R.V. £290

2. VA97/7/002 - Ostan Na Rosann  
R.V. £250

3. VA - Sand House  
R.V. £275

Mr. McCarroll was of the view the Seaview was really a licensed premises with a turnover double that of the subject which has no disco. Ostan NaRosann is of a higher standard than the subject and is more spacious and built to a higher standard and achieves a higher gross profit. The Sand House has a four star rating, is in a prime location and trade is better than the subject which operates in a low margin sector. He stated there is an air of neglect in Ballyshannon with a large percentage of retail outlets to let and the town is not doing a high level of trade.

Mr. McCarroll requested the Tribunal to reduced the valuation to an equitable assessment of £165/£168.

### **Respondent's Case**

In response to the point raised by the appellant regarding the omission of Lot No. 39B in the Notice of Revision, Mr. Hicks accepted the Local Authority did not notify the Valuation Office of the proper Lot Nos. He submitted the appellant was aware lot No. 39B was included in the revision and the matter should have been raised at appeal stage. Furthermore, the matter was not raised with him in writing by the appellant at any time until the 11<sup>th</sup> March 1999, within a week of the hearing.

Mr. Hicks dealt with the matter on a rate p.s.f. basis only and made no reference whatsoever to the accounts in his written submission. He provided three comparisons:-

#### **1. *Bayview Hotel, Killybegs***

A new three star hotel comprising 37,000 sq.ft. and 38 bedrooms on a very confined site with no off street parking. While Killybegs is a busy fishing port it is not popular

as a tourist destination and has poor passing trade. The R.V. of £475 devalues at £2.50 p.s.f.

**2. *Seaview Hotel, Bunbeg***

A two star 22 bedroom hotel in reconstructed building comprising 21,800 sq.ft. It is well positioned and benefits from all types of trade but only 15% of the total turnover is derived from accommodation and is more in the nature of a public house than a hotel. The R.V. of £290 devalues at £2.75.

**3. *Lake of Shadows Hotel, Buncrana***

A two star 23 bedroom hotel in reconstructed building comprising 20,073 sq.ft. It is similar to the Seaview except that Buncrana has a much larger population compared to Bunbeg. The R.V. of £350 devalues at £2.77 p.s.f.

In reference to the accounts Mr. Hicks contended the accounts for 1994/1995 are not entirely relevant, as they do not reflect the extension completed in 1995 comprising approximately one third of the entire area. He had no opportunity to analysis the 1996/1997 accounts, which were not made available in sufficient time before the hearing.

**Mr. Hick's valuation on the subject:**

28,781 sq.ft. @ £2.15 p.s.f.	=	£61,879
N.A.V. £60,000 @ 0.5%	=	R.V. £300

**Determination**

Having regard to all the evidence adduced the Tribunal determines as follows:-

1. There was a clerical error made by the Local Authority in omitting to include lot No. 39B on the Notice of Revision.
2. The appellant was aware lot No. 39B was included and revised following issue and receipt of Notice of Revision of Valuation of the 13<sup>th</sup> November 1995.
3. The fact that Notice was given to the appellant by the Local Authority under Section 3(4)(B) there was sufficient compliance with the provisions of the 1988 Act.

4. The issue of notification can not be raised before this Tribunal as it was not raised at first appeal stage.
  
5. The case is analogous to a decision of the Tribunal in VA92/3/017 – Topline Fashions Ltd. delivered on 21<sup>st</sup> September 1993 where no Notice of Request for revision was served on the appellant but Notice of the result of the revision was served. The Tribunal held that since the Rating Authority furnished notice of the results of the Revision and the appellant company participated in the first appeal process and in the appeal to this Tribunal, then the steps cured the defect in question, and that since the issue of non-notification was not raised at first appeal stage it could not be raised before this Tribunal.

The Tribunal has considered all methods in arriving at an N.A.V. to determine the R.V. It does seem refurbishment and extension works have been ongoing since the early 1990s and the pattern of trade has been slow. The Tribunal considers the accounts do not accurately reflect the current situation and cannot be relied upon.

The Tribunal has had regard primarily to the comparative evidence adduced in relation to other hotels in the County, and in particular, The Seaview, Bunbeg and The Lake of Shadows, Buncrana which are comparable to the subject in terms of accommodation. The Seaview has a smaller floor area but a greater turnover, and has a disco unlike the subject. The Lake of Shadows also has a smaller floor area but is better located in a more densely populated area. Ballyshannon is not a noted tourist centre in Donegal and is overshadowed by Bundoran and Donegal town. The subject is built on a confined site and has limited parking facilities.

Having regard to the foregoing the Tribunal determines that the subject property by virtue of its accommodation, area, location and other characteristics should be valued at the rate of £2 p.s.f. and the rateable valuation to be £285 calculated as set out hereunder:

28,871 sq.ft. @ £2 p.s.f.	=	£57,562
N.A.V. £57,000 @ 5%	=	R.V. £285