

Appeal No. VA98/2/011

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

Springdale Inns Ltd., t/a The Halfway House

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed shop at Lot No. 15a, Pelletstown, Ward: Ashtown, Cabra West, County Borough of Dublin

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 April 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £900 on the above described hereditament.

The Grounds of Appeal as set out in the Notice of Appeal are that "the assessment is excessive and inequitable having regard to the provisions of Valuation Acts and on other grounds also.

The appeal proceeded by way of an oral hearing that took place on the 25th day of January 1999 at the offices of the Valuation Tribunal in Dublin. The appellant was represented by Mr. Eamonn O’Kennedy B.Comm M.I.A.V.I. of O’Kennedy & Co., Valuation & Rating Consultants and the respondent was represented by Mr. Colman Forkin B.S.c. [Surveying] A.R.I.C.S. A.S.C.S., a 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. In addition Mr. Forkin submitted a written analysis of the appellant’s comparisons.

Material Facts agreed or found by the Tribunal

1. Valuation History

The subject property was valued at £250 and agreed at appeal stage in 1976. The property was listed in 1981 to value an extension to the lounge area and this resulted in an increased R.V. of £300. The premises was also the subject of a revision in 1993 when the valuation was again confirmed at £300. After the construction of a restaurant extension the premises was listed for a revision of valuation in 1996 and this resulted in an increase in the valuation to £900 and there was no reduction at 1996 first appeal.

2. Situation

The premises are situated on the Navan Road at a roundabout at a junction with Castleknock Road adjacent to the former Phoenix Park Race Course and a number of industrial undertakings. Otherwise the location is residential in character.

3. Premises

The premises comprises a two-storey over part basement licensed premises with a single storey extension. It is an attractive building in good structural and decorative condition throughout.

4. Accommodation

		<i>Sq.ft.</i>
<i>Ground Floor</i>	Entrance Lobby	66
	Lounge/Conservatory	4032
	Ladies & Gents Toilets	
	Bar	754
	Ladies & Gents Toilets	
	Restaurant	935
	Seating capacity (80)	
	Kitchen	505
	Ladies & Gents Toilets	
	<i>First Floor</i>	Stores
Basement/Stores		542
	74 Car Parking spaces	
	<i>Total net internal floor area</i>	7,899

(The above figures per Mr. O’Kennedy’s précis)

Gross floor area 11,132 sq.ft. (Per Mr. Forkin’s précis)

5. Purchase Price & Expenditure

The property was purchased at auction in October 1987 for £780,000. Subsequent extensions and refurbishment have cost £336,542 with £383,415 spent on fixtures and fittings.

6. Turnover & Gross Profit

Year ended 30/11	Turnover £	Gross Profit £	Gross Profit %
1994	1,953,699	936,312	47.92
1995	1,929,344	935,191	48.47
1996	2,099,596	1,032,032	49.15

The breakdown for drink and food for year ended 30/11 1995 was drink £1,037,953 and food £843,107. (These figures do not total £1,929,344). The ratio according to Mr. O’Kennedy is 55% drink and 45% food.

Appellant’s Case

Mr. O’Kennedy in his précis and direct evidence stated interalia

1. Onsite carparking is restricted and this causes some difficulties with customers parking in adjoining residential estates.
2. Food sales are approximately 45% of turnover.
3. The market value for the property at November 1988 was £950,000. Top prices at that time were in the order of £650,000 to £875,000 and only the Redcow Inn at £1.01 million in September 1988 had exceeded that level.
4. In the early 1990’s, when a large number of pubs were revised, a group comprising representatives from the Valuation Office and the Rating Consultants had considered the matter and agreed that the relevant factors were;

Turnover

Market value at November 1988

Tone of the list

Rent p.s.f. basis as a guideline or for analysis only.

Mr. O’Kennedy set out four methods for assessing the N.A.V. and thus R..V. as follows;

- Open market rental value taken as 10% of capital value of £950,000 at November 1988 gives N.A.V. £95,000.
- Rate p.s.f. on the net trading area;

Ground Floor	Lounge, Bar & Restaurant	5,720 sq.ft. @ £12.00 p.s.f.
	Kitchen	505 sq.ft. @ £ 5.00 p.s.f.
First Floor	Stores	1,065 sq.ft. @ £ 5.00 p.s.f.
Basement	Stores	542 sq.ft. @ £ 5.00 p.s.f.

Total 7,832 sq.ft.

N.A.V. £79,702

Say £80,000

In support of these rates p.s.f., he provided a comparison of the Roselawn Inn in Castleknock which shows a rental of £10 p.s.f. on the lounge area and £5.00 and £3.00 on the stores. Full details are in the appendix.

- Turnover to the year ended 30/11 1995 - £1,929,344.
This was adjusted back to November 1988 using the drinks price index. There was an error in the calculation in Mr. O’Kennedy’s written précis but it is corrected here and the resulting figure is £1,482,421. This was then apportioned as to 55% being related to drink sales that is £815,331 and 45% to food sales that is £667,090.

Drink £815,331 @ 8% = £65,226

Food £667,090 @ 4% = £26,684

Total £91,910

Say £92,000 N.A.V.

- Comparison with N.A.V.'s agreed by the Commissioner of Valuation on similar licensed premises in the immediate area as at November 1988.
 - Myo's Castleknock £65,000
 - The Bell, Blanchardstown £80,000
 - The Greyhound Bar, Blanchardstown £85,000
 - The Clonsilla Inn £80,000

The Halfway House NAV on this basis is £85,000

On the basis of the above methods Mr. O'Kennedy estimated the N.A.V. at £95,000 and applying a fraction of 0.63%, derived a rateable valuation of £600 which in his opinion, is supported by the tone of the list in the area.

Mr. O'Kennedy offered the following comments on the respondent's comparisons;

(i) The Goat Grill, Goatstown

This was purchased in 1982 for £600,000 and £1 million plus was spent on it and therefore The Goat is twice the expenditure and price of the subject. The turnover should be averaged and then adjusted back to 1988.

(ii) The Foxes Covert, Tallaght

The figures are 10% higher than the subject and on that basis the RV of the subject should be £790 R.V. The trading area is 15% bigger and on that basis the R.V. should be £770.

(iii) The Belgard Inn

Twice the size of the subject and on that basis the R.V. of the subject should be £475.

(iv) The Red Cow Inn

Turnover is £2.5 million compared to £1.574 million on the subject, yet the R.V. on the Red Cow is £1,180 and £900 on the subject. This ratio would in fact indicate an R.V. of £700. The trading area in the Red Cow Inn is 16,581 sq.ft. compared to 7,091 sq.ft. in the subject and that would indicate, on the basis of ratio, an R.V. of £550.

Mr. O’Kennedy also commented that in seeking his comparisons the respondent has gone outside the immediate area but had ignored the Submarine which was sold in 1987 for £850,000 and an extra £90,000 paid for the car-parking. Its floor area at 7,278 sq.ft. is marginally bigger than the subject and its turnover in 1989 was £1.7 million and in 1990 £1.9 million both including approximately one third off sales. These figures adjusted to 1988 would be in excess of the subject premises yet the R.V. fixed by the Tribunal on the Submarine is £540.

The Mulhuddart house was sold in 1989 for £1,250,000 compared with the subject in 1987 at £780,000 yet the R.V. on the Mulhuddart house is £650.

The Respondent’s Case

Mr. Forkin in his précis and direct evidence stated inter alia;

1. In 1993 approximately 300 licensed premises in the greater Dublin area were revised and it was agreed at that time with the rating consultants association that 3 years audited

accounts would be provided or in the alternative for each of the three years, the following information;

- (i) Auditors certificate pertaining to the accounts
- (ii) The profit and loss accounts
- (iii) The trading accounts
- (iv) A copy of the balance sheet.

In the subject case he has been provided with the accounts for the years ending November 1994, 1995 and 1996.

2. In VA93/3/038 – *The Greyhound Inn* the Tribunal casts some doubt on using public house lettings, which were in the nature of management agreements, as a guide to assessing N.A.V.'s.
3. The revision date is August 1996 and therefore the accounts to November 1996 would be the relevant ones as they include the increased turnover attributable to the new restaurant extension completed in 1995 and the benefit of this would not be reflected in earlier figures.

In assessing the N.A.V. Mr. Forkin relied on a valuation based on turnover.

Turnover for the year ended November 1996 £2,099,596 adjusted to 1988 base by the Drinks Price Index £2,099,596 x 135.50

$$181.00 = £1,571,797$$

$$\text{N.A.V. @ } 9\% = £141,462$$

$$\text{R.V. @ } 0.63\% = £ 891.00$$

Say £900

Mr. Forkin provided four comparisons and compared each with the subject premises. Details are appended to this judgment. In summary these are as follows;

(i) The Goat Grill

Trading area 6,640 sq.ft.

Total floor area 9,117 sq.ft.

T.O. adjusted to 1988 £1,441,770

Factor to derive N.A.V. 9%

(ii) Foxes Covert, Tallaght

Trading 8,273 sq.ft. including off-licence 950 sq.ft.

Total floor area 12,985 sq.ft.

Average turnover adjusted to 1988 £1,794,000

Factor to derive N.A.V. 8%

(iii) The Belgard Inn

Ground Floor Trading area 8,975 sq.ft.

Mid basement night club 5,020 sq.ft.

Lower basement/snooker room 4,840 sq.ft.

Ancillary 13,611

Total area 23,471 sq.ft.

Average T.O. adjusted to 1988 £1.7m

Factor to derive N.A.V. 9%

(iv) The Red Cow Inn, Naas Road

Trading area 16,581 sq.ft.

Total area 25,422 sq.ft.

T.O. average and adjusted to 1988 £2,497,699.

Factor to derive N.A.V. 7.5%

Mr. Forkin provided an analysis of the appellant's comparisons, details of which are appended to this judgment. A summary is set out below;

Comparisons Summary (Valuation Office)

	Trading Area Sq.ft.	Total Area Sq.ft.	T/O Adj. to 1988 £	N.A.V. £	N.A.V. as a % of T.O.	R.V. £
Subject Premises	7,091	11,132	£1,574,697	£143,000	9.08%	£900
Myo's	4,639	6,550	£ 669,370	£ 65,000	9.75%	£410
The Bell	4,607	7,287	£ 857,701	£ 80,000	9.32%	£500
The Greyhound	4,995	6,920	£ 928,527	£ 84,000	9.05%	£530
Clonsilla Inn	5,288	8,009	£ 906,112	£ 80,000	8.9%	£500

In cross examination, it was confirmed that the group from the Valuation Office and the Rating Consultants who considered the 1993 revisions of public houses, in assessing N.A.V.'s, on average used 10% of the market value of the improved property as at 1988 or 9% of the T.O. adjusted back to 1988 using the drinks index and 5% of the food turnover similarly adjusted. The profits method of valuation was abandoned. The tone of the list was considered as were current market values and Mr. Forkin confirmed that turnover was the most important factor for the group.

Mr. O'Kennedy stated that he had applied 8% to the drink turnover to reflect the fact that this was an owner operated pub and for these reasons had applied 4% to the food turnover which showed considerably less net profit than the drinks element of the turnover.

In response Mr. Forkin noted that 9.09% of the entire turnover had been applied in the Goatgrill where a large proportion of the turnover was attributable to food and the special contribution of the owner was acknowledged.

Determination

These are long established well known licensed premises enjoying a high level of turnover. The property has been renovated and extended over the years and at the current revision date further extension was in progress.

Mr. O’Kennedy for the appellant proposes four methods of valuation to assess the N.A.V. and thus R.V. namely;

- Open market rental value based on the capital value as at November 1988
- The application of a rent p.s.f. to the nett trading areas
- The application of a yield or factor to the T.O. adjusted to 1988 and differentiating the turnover relating to drink from that for food
- Comparison with N.A.V.’s and R.V.’s on similar licensed premises (tone of the list).

The respondent proposes only one method namely a percentage or yield on the adjusted turnover. That is the same approach as the appellants method three, although the respondent does not differentiate between drink related and food related turnover. As this method is basically common to both parties, the Tribunal is inclined to follow it in this case while bearing in mind the tone of the list. The turnover related basis seems to have been the preferred method for the Valuation Office/Consultants grouping.

It is difficult to assess the capital value of the property at November 1988 particularly in view of the number of extensions that have taken place since the property was purchased in 1987.

The rate p.s.f. method has the merit 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 but there is a dearth of comparative evidence where this method has been used.

Valuation based on turnover

The new restaurant extension which probably triggered the revision of August 1996 was completed in 1995. The 1994 turnover figure therefore does not reflect the new restaurant and the 1995 turnover reflects only a portion of the trade deriving from the restaurant. The 1996 turnover however fully reflects the new restaurant. It is appropriate therefore to rely on the 1996

turnover of £2,099,596 rather than averaging the figures over three years. (The increase in turnover from 1994 to 1996 is 7.5% and therefore averaging the figures would not make a great deal of difference as the average would be £1,994,213).

Turnover year ended November 1996 £2,099,597

Adjust to 1988 base by the drinks price index - $\frac{£2,099,596 \times 135.5}{181} =$

181 =

Adjusted turnover - £1,571,797

Apportion 55% to drink turnover and 45% to food turnover therefore;

Drink turnover £864,488

Food turnover £707,308

£864,488 @ 9% = £77,803

9% is used as this is an established well known and popular licensed premises and while the trade is undoubtedly very well managed by the proprietor, it is a premises in which any reasonable proprietor could be expected to maintain the level of business.

Food £707,309 @ 6% - £42,439

The reduction to 4% proposed by Mr. O'Kennedy seems excessive. In view of the number of extensions to the restaurant including the latest, which is not included in the rateable valuation figure on the subject of this appeal, it would appear that the food trade is both worthwhile and profitable.

Total N.A.V. £120,243 @ 0.63% = £757.00 Say £760

Alternatively

Total adjusted turnover £1,571,797 @ 8% = N.A.V. £125,744 x 0.63% = £792.

8% yield utilised to reflect the proportionately high level of food sales in the turnover. The Goat Grill treated at 9% has less food sales and the restaurant in that premises is closed.

Referring to the tone of the list the Tribunal would hold that for licensed premises it is acceptable to look at similar premises in a variety of locations, as many factors contribute to the value of licensed premises. It is not akin to retail wherein precise location is vital. In comparing the subject premises with the various public houses put forward as comparisons, the higher of the above figures appears reasonably in line with the tone of the list taking into account the relevant size and turnover of the various properties. The Tribunal therefore determines £790 as the R.V. of the subject premises.

1. Myo's, Castleknock

1992 First Appeal withdrawn R.V . £410

T.O. given as £19,000 p.w. gross = £988,000 p.a. gross - £780,520 p.a. nett

T.O. adjusted to November 1988

$$\frac{\pounds 780,520 \times 135.5}{158.0} = \pounds 669,370$$

Adjusted T.O. = £669,370 x 9.750% = £65,264

Est. N.A.V. £65,264 x 0.63% = £411.16

Say £410.00

Compare with subject property

	Myo's	Subject
<i>Trading area</i>	4,639 sq.ft.	7,091 sq.ft.
<i>Total area</i>	6,550 sq.ft.	11,132 sq.ft.
<i>Turnover adjusted to 1988</i>	£669,370	£1,574,697
<i>N.A.V.</i>	£65,000	£143,000
<i>N.A.V. as a % of T.O.</i>	9.75%	9.08%
<i>R.V.</i>	£410	£900

2. The Bell, Blandhardstown

1994/2 First Appeal R.V. £500 Agent: Eamonn O'Kennedy

T.O. for years ending	<u>1993</u>	<u>1992</u>
31 st July	£1,066,563	£966,428

Averaged and adjusted to 1988

£857,701 @ 9.32% = £79,938 Say £80,000

est. N.A.V. £80,000 x 0.63% = £503.60

Say £500

Compare with subject property

	The Bell	Subject
<i>Trading area</i>	4,607 sq.ft.	7,091 sq.ft.
<i>Total area</i>	7,287 sq.ft.	11,132 sq.ft.
<i>Turnover adjusted to 1988</i>	£857,701	£1,574,697
<i>N.A.V.</i>	£80,000	£143,000
<i>N.A.V. as a % of T.O.</i>	9.32%	9.08%
<i>R.V.</i>	£500	£900

3. The Greyhound Bar, Blandhardstown

1991/3 First Appeal – VA93/3/038 R.V. £530.00 Agent – Lisney

T.O. for year ending April 1991 = £1,008,017 nett

Adjusted to 1988 = £928,527 x 9.05% = £84,032

Est. N.A.V. £84,032 x 0.63% = £529.40

Say £530.00

Compare with subject property

	The Grehound	Subject
<i>Trading area</i>	4,995 sq.ft.	7,091 sq.ft.
<i>Total area</i>	6,920 sq.ft.	11,132 sq.ft.
<i>Turnover adjusted to 1988</i>	£928,527	£1,574,697
<i>N.A.V.</i>	£84,000	£143,000
<i>N.A.V. as a % of T.O.</i>	9.05%	9.08%
<i>R.V.</i>	£530	£900

4. The Clonsilla Inn

1994/2 First Appeal R.V. £500

T.O. for years	<u>1992</u>	<u>1991</u>
	£988,000	£1,077,000

Averaged and adjusted to 1988 - £906,112 @ 8.9% = £80,644

Est. N.A.V. £80,644 x 0.63% = £508.05

Say £500

Compare with subject property

	The Clonsilla Inn	Subject
<i>Trading area</i>	5,288 sq.ft.	7,091 sq.ft.
<i>Total area</i>	8,009 sq.ft.	11,132 sq.ft.
<i>Turnover adjusted to 1988</i>	£906,112	£1,574,697

<i>N.A.V.</i>	£80,000	£143,000
<i>N.A.V. as a % of T.O.</i>	8.9%	9.08%
<i>R.V.</i>	£500	£900