

Appeal No. VA98/2/049

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

Shem Lawlor

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed house and yard at Map Reference 59 John Street Lower, (incl 13-17 Main Street), Kilkenny No.2 Urban, County Borough of Kilkenny
Quantum - Turnover method

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 11TH DAY OF MAY, 1999

By Notice of Appeal dated the 29th day of April 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £125 on the above described hereditament.

The Grounds of appeal as set out in the said Notice of Appeal are that; "the valuation is excessive, inequitable and bad in law".

The appeal proceeded by way of an oral hearing, which took place on the 31st day of March 1999 in the Council Chamber, Kilkenny County Council, Kilkenny. Mr. Eamonn Halpin B.Sc. [Surveying] ASCS ARICS MIAVI of Eamonn Halpin & Co. appeared on behalf of the appellant. Mr. Patrick F. Berkery B.Comm, Dip. Planning Dev. Economics, a 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.

At the outset of the hearing Mr. Halpin who appeared for the appellant submitted the now agreed areas between himself and the respondent. As a consequence of these agreed dimensions, Mr. Halpin amended the square footage of the rear bar dining area from 790 sq.ft. to 875 sq.ft. He also said that as a result of these amendments there would be an addition of £415 to the N.A.V., which gave an N.A.V. of £19,102, and thus Mr. Halpin was now contending that the appropriate rateable valuation was £95.

Also at the outset of the hearing Mr. Berkery amended his précis with respect to Comparison No. 1 Bernadette Egan substituting 1,022 sq.ft. for the stated area of 10,222 sq.ft. (residential).

The Property

The premises comprises a traditional licensed premises with residential accommodation overhead. It is located on John Street lower in Kilkenny City. The agreed areas are set out above. Accommodation comprises a long bar fronting on to the street with an area to the rear adjoining the kitchen that doubles as an additional bar/dining area. A restaurant in the premises has a seating capacity of c.60 people.

Valuation History

The premises was revised in November 1995 and the RV was reduced without agreement to £125. The appellant appealed this figure to the Valuation Tribunal in April 1998.

Appellant's case

Mr. Halpin on behalf of the appellant made the following points in relation to the premises:

- that the premises was in an off-centre location

- that although there was a good lunchtime trade, the evening trade was reducing
- the premises was old and only in moderate condition
- Commissioner's comparisons had all been renovated
- the rear lounge had not been used for 10 years
- rental values in this part of Kilkenny were low.

Under cross-examination, Mr Halpin agreed that the premises had potential. He gave his opinion of capital value as about £200,000. He said that he had used the 1996 turnover figure only as it was a good representative figure. He confirmed that he had used 8% of turnover as the basis for calculating the NAV as a range of 8% to 10% of turnover was generally used in country locations. He justified his use of the lower percentage as 50% of the turnover was generated by food sales. Taking all the above into account, Mr. Halpin assessed the rateable valuation on the premises at £95. Mr Halpin supported his valuation with four comparisons which are attached to the judgment as appendix I.

Respondent's case

Mr Berkery described the premises as a well-known licensed house in a central location with great potential. He said that the premises of Bernadette Egan, also located on John Street and with only half the turnover, had a rateable valuation of £116. He also referred to his other comparisons and said that taking these into account the valuation of £125 was reasonable. Mr Berkery's comparisons are attached to this judgment as appendix 2. Mr Berkery confirmed that the 20% reduction from 1996 to 1988 was not assessed using the drinks price index and similarly that the figures for gross and net profit were estimates based on comparisons.

Determination

The Tribunal has considered the written submissions and the amendments thereof produced both by the appellant and the respondent. The Tribunal considers that the most appropriate starting point in arriving at a decision in this matter is by using the 1996 turnover of £250,858 and applying the drinks price index which Mr. Halpin applied. The Tribunal considers that this is the most accurate index to apply and this produced an adjusted figure for turnover for 1998 of £191,805. The Tribunal adopts the methodology of the accounts method applied by the Valuation Office to arrive at an N.A.V. and rateable valuation as follows:

Adjusted 1988 turnover	=	£191,805
Gross Profit @ 40%	=	£ 76,722
Net Profit @ 50%	=	£ 38,361
N.A.V. @ 50%	=	£ 19,180
Add for domestic	=	£ 2,600 p.a.
Total N.A.V.	=	£ 21,780
Say	=	£ 22,000
R.V. @ 0.5%	=	£ 110

The Tribunal would say finally that in arriving at this decision that the accounts method of valuation used by the Valuation Office was not disputed by the appellant and also if one had used a 10% return and applied that to the 1988 adjusted turnover, that one would have reached the same conclusion for the N.A.V. and therefore rateable valuation. The Tribunal therefore finally determines the R.V. to be £110.