

Appeal No. VA99/2/007

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

**Rivermist t/a Planet Hollywood**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed restaurant at Map Reference 130-133/-1,0, St. Stephen's Green West, Sundry Townlands, Ward: Royal Exchange B, County Borough of Dublin

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Barry Smyth - FRICS.FSCS**

**Member**

**Ann Hargaden - FRICS.FSCS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 31ST DAY OF JANUARY, 2000**

By Notice of Appeal dated the 21st day of April 1999 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £2,675 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, when rental levels and other factors are taken into consideration".

### **Oral Hearing**

An oral hearing was held on the 24<sup>th</sup> day of September 1999 in the Tribunal Offices in Dublin. Mr. Brian Bagnall ARICS, ASCS, MIAVI appeared on behalf of the appellant and Mr. Philip Colgan, District Valuer, appeared on behalf of the Commissioner of Valuation. Having taken the oath, both valuers adopted as their evidence in chief their respective written submissions which previously had been exchanged and received by the Tribunal. From the evidence tendered the following facts emerged as being material to this appeal.

### **Valuation History**

The premises were first valued in the 1998/2 revision. The first appeal was lodged on the 5<sup>th</sup> of June 1998 when the current valuation was set. This was appealed to the Valuation Tribunal on the 21<sup>st</sup> day of April 1999.

### **Location**

The property is located on the west side of St. Stephen's Green, approximately 20 metres south of the St. Stephen's Green Shopping Centre in Dublin city centre.

### **Description**

The building comprises a ground floor and basement licensed restaurant with ancillary kitchens and service facilities. It is occupied and trading as Planet Hollywood as a theme restaurant with a full liquor license but not a full seven-day pub license.

### **Accommodation**

The accommodation and areas were agreed between the parties as follows:

#### ***Ground Floor***

Restaurant	4,575 sq.ft.
Toilet/Cloakroom/Stores/Offices	<u>2,546 sq.ft.</u>
<b>Total ground floor area</b>	<b>7,121 sq.ft.</b>

#### ***Basement***

Restaurant	5,221 sq.ft.
Staff Lockers/Toilets/Stores	2,099 sq.ft.
Mezzanine Floor Basement	2,142 sq.ft.

<b>Total Basement Area</b>	<b>9,462 sq.ft.</b>
<b>Total Entire</b>	<b>16,583 sq.ft.</b>

### **Tenure**

The property is held on a 25-year lease from the 26<sup>th</sup> day of November 1996. The shell building was let at a rent of £351,000 per annum with five year rent reviews. The tenant completed the fit-out at a cost of circa. £2.2 million of which £285,000 was for built in furniture.

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

Mr. Bagnall adopted his written evidence as his evidence in chief and stated as follows:

There are no retail shops between Planet Hollywood and Harcourt Street on this stretch of St. Stephen's Green. Mothercare and Benetton used as comparisons (see Appendix I) are physically close but not comparable as they are at the main entrance to the St. Stephen's Green shopping centre where there is enormous passing trade. Both comparisons combined are only one third of the floor area of Planet Hollywood. Their respective rateable valuations are at agreed levels of £41.72 and £43.60 p.s.f. Mr. Bagnall submitted that the rateable valuation on the subject should be £1,700 R.V. or £30 p.s.f. and £15 p.s.f. respectively on the ground floor areas.

The Chicago Pizza Pie factory next door is an all basement restaurant with a full seven day public house license and has been agreed on appeal with the Valuation office at an overall level of £12.25 p.s.f. Mr. Bagnall has discounted the basement level in Planet Hollywood to £10.00 p.s.f. to reflect the fact that Planet Hollywood has no public house license and is considerably larger. The area in Chicago Pizza Pie factory is 7,158 sq.ft. whereas the overall area in Planet Hollywood amounts to 16,583 sq.ft.

Mr. Colgan cross-examined and asked whether a substantial premium would really be achieved for a seven-day license. Mr. Bagnall commented that a significant premium could be achieved as Chicago Pizza Pie factory could close down as a restaurant and operate as a full pub whereas Planet Hollywood could not. He disputed that Mothercare and Benetton were comparable as he stated that the traffic flow through the entrance to St. Stephen's Green shopping centre could not

be compared to the flow past Planet Hollywood. He commented that Mothercare and Benetton no longer use their entrances onto this side of St. Stephen's Green.

### **The Respondent's Case**

Mr. Philip Colgan adopted his written evidence as his evidence in chief and stated as follows;

In his view it is an advantage to have a single entrance from St. Stephen's Green as opposed to having an entrance within the centre. The restaurant trader could trade outside the normal trading hours within the Shopping Centre and open late night if required. He stated that Planet Hollywood was far superior to Chicago Pizza Pie restaurant as it has a large ground floor restaurant whereas the Chicago Pizza Pie outlet is confined to the basement.

Mr. Bagnall then cross examined Mr. Colgan and asked whether he accepted that there were no retail outlets on this side of St. Stephen's Green and that pedestrian flow is greater at the entrance to the Centre than that of Planet Hollywood, Mr. Colgan agreed. Mr. Bagnall then asked whether a potential tenant therefore would pay more rent for this pedestrian flow. Mr. Colgan commented that this did not necessarily follow as a restaurant would be confined to the Shopping Centre trading hours.

Mr. Bagnall then asked whether the fact that Benetton and Mothercare had frontage onto the same sides but did not use these entrances was indicative. Mr. Colgan stated that it depended on the retail trade that you opted for in the premises.

Mr. Bagnall then asked whether a seven-day license attaching to Chicago Pizza Pie factory would attract a premium and Mr. Colgan agreed. He asked if Mr. Colgan accepted his fourth comparison on King Street and asked why £17.50 p.s.f. was adopted as opposed to £40 p.s.f. on the ground floor of Planet Hollywood. Mr. Colgan stated that it was fairer to compare the rents in the Shopping Centre with Planet Hollywood.

The Tribunal then noted that originally Mr. Colgan had analysed the comparison of Chicago Pizza Pie factory at basement level at £17 p.s.f. but had since agreed a revision down to £12.92

p.s.f. and asked whether Mr. Colgan might adjust his valuation to reflect this fact. Mr. Colgan indicated that this was not appropriate, as the rate that this reflected was a basement with a restricted entrance.

### **Determination**

Having considered the evidence the Tribunal consider that Chicago Pizza Pie factory is one of the main comparables to be used. Both this and Planet Hollywood are not at the main entrance to the Shopping Centre which without doubt attracts a far greater pedestrian flow. Whilst the units, Benetton and Mothercare are useful to establish the tone of the list within the shopping centre, Planet Hollywood is removed from the entrance and is approximately two and a half times the size of Benetton and Mothercare at ground floor. Therefore some discount must be applied to reflect this factor and the decreased pedestrian flow. The basement of Chicago Pizza Pie factory is one third less in size but access at ground floor is inferior to Planet Hollywood even though there is a presence at ground level. Both of these factors outweigh one another and therefore the Tribunal have decided to maintain the basement rate of this unit on Planet Hollywood and find as follows:

<b>Ground Floor Restaurant</b>	4,575 sq.ft. @ £33 p.s.f.	=	£150,975
<b>Toilets and ancillary</b>	2,547 sq.ft. @ £20 p.s.f.	=	£ 50,940
<b>Basement including restaurant/toilets/ stores &amp; mezzanine kitchen</b>	9,462 sq.ft. @ £12.25 p.s.f.	=	<u>£115,909.50</u>
	<b>Total R.V.</b>		<b>£317,824.50</b>
	@ 0.63% = £2,002.29		Say R.V. £2,000

And the Tribunal so finds.