

Appeal No. VA14/5/487

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Kurva LTD

APPELLANT

And

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

Property No. 766691, Hospitality, 1-5 Findlater Place, County Borough of Dublin.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17TH DAY OF AUGUST, 2017

BEFORE:

Barry Smyth – FRICS, FSCSI, MCI, Arb

Deputy Chairperson

Brian Larkin - BL

Member

Frank Walsh –QFA, Valuer

Member

By Notice of Appeal received on the 4th day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value (NAV) of €160,000 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

"Estimated NAV is excessive and inequitable. The proposed assessment takes no account of the tone of the list and the considerations of the hypothetical tenant in regards to the comparable properties. The subject property is currently valued at 457% more than the pub diagonally across the road from it despite being a similar size. Other comparables in the vicinity (including those put at appeal) also show the subject property to be severely over assessed. The appellants believe that this is a very clear indication that the Valuation Office is taxing the goodwill of the occupier, which is not in accordance with section 48(3) of the Valuation Act, 2001."

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 20th day of October, 2015 adduced before us by Mr. Eamonn Halpin on behalf of the Appellant, who contended for a net annual value of €62,500 at hearing (€60,000 in the Notice of Appeal), and Ms. Joanne Duggan on behalf of the Respondent to the appeal,

DETERMINED

On the 6th day of November, 2015 at the post appeal meeting that the NAV of the subject property be €160,000 (unchanged).

The reason being

1) Agreed facts:

The property is located in Dublin City centre on Findlater Place, just off Cathal Brugha Street, close to the junction with O'Connell Street.

The property comprises a large ground floor licensed premises.

The accommodation comprises 3 bar areas totalling 317 m² with Cold Rooms of 35m², Office 8.4m², Toilets 53m² and External Beer Garden of 86m².

The property is held on lease for a term of 10 years from 5th March 2012 @ €75,000 per annum with 6 month's rent free, a tenants option to terminate the lease at the end of the third year and otherwise on usual commercial terms.

2) The Evidence:

Mr. Halpin argued that the location of these premises was poor and that the operator Mr. Noel Murray, who runs approximately 10 licensed premises, is an exceptional operator and that it is the premises that is to be valued and not the business acumen of the operator.

Mr. Halpin noted that the rent of €75,000 per annum was in place at the valuation date and allowing for the 6 month's rent free granted at that the commencement of the lease over the 3 year period to the break option this is equated to €62,500 per annum and in his view this is equated to the NAV.

Mr. Halpin introduced 8 licensed premises as comparators as evidence of an emerging tone of the list and these were dealt with in some detail both in the evidence and cross examination.

Mr. Halpin proposed three methods of valuation to reach the NAV

- a) The actual rent at the valuation date which equates €62,500 pa having allowed for the rent free period.

- b) Direct comparison with the emerging tone of the list as indicated by his 8 comparators.
- c) Application of the locally prevailing Zone A retail rent or overall retail rent to the property plus €10,000 for the license.

These methods produced figures of €62,500, €70,000, €76,900 and €67,800 and his opinion that a fair NAV for the subject premises is €62,500.

Ms. Duggan approached the valuation on the basis of Fair Maintainable Trade (FMT). She stated that unaudited financial statements had only been produced at Tribunal appeal stage and these indicated that the FMT utilised was reasonable. She introduced 6 comparators from the locality which showed that in the valuation scheme a factor of 10% was utilised throughout to convert FMT to NAV.

Ms. Duggan calculated the NAV as follows:

FMT €1,600,000 @ 10 % = €160,000 and noted that the actual turnover would produce a higher figure.

Findings

The Tribunal finds that

- 1) The rent reserved seems very low for the size of the property and may reflect other factors.
- 2) Licensed premises have always been valued in the market on the basis of a turn over or estimates of FMT and this method has been used by the Valuation Office and the Tribunal for some time and there is no reason to depart from it in this instance.
- 3) The comparators introduced by the Respondent are more persuasive than those introduced by the Appellant in this instance.
- 4) While the operator of this business obviously has considerable business acumen the FMT utilised by the Respondent reasonably reflects this.
- 5) The trading area is 317m² and in addition there is an exclusive covered smoking area and a shared yard area.

The Tribunal therefore determines that the NAV of €160,000 be affirmed.