

Appeal No. VA14/5/494

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

**O'Connell Street Inns Ltd**

**APPELLANT**

**And**

**Commissioner of Valuation**

**RESPONDENT**

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

Property No. 766685, Licenced Premises/Restaurant, Murrays, 33-34 O'Connell Street Upper, County Borough of Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 11<sup>TH</sup> DAY OF JULY, 2017**

BEFORE:

**Stephen J. Byrne - BL**

**Deputy Chairperson**

**Mairead Hughes – Hotelier**

**Member**

**Thomas Collins – PC, FIPAV, NAEA, MCEI, CFO**

**Member**

By Notice of Appeal received on the 4<sup>th</sup> day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value (NAV) of €163,000 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

*"The subject property's estimate of net annual value is excessive and inequitable."*

## **THE HEARING:**

The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 11<sup>th</sup> day of November 2015. At the hearing the Appellant was represented by Mr. Eamon Halpin, B.Sc. (Surveying), M.R.I.C.S., M.S.C.S.I. The Commissioner of Valuation was represented by Ms. Joanne Duggan, P.G.C., B.SC., M.R.I.C.S.,M.S.C.S.I.

## **APPELLANT'S EVIDENCE:**

Mr. Halpin gave evidence that the subject property, a licensed premises trading as Murray's, and located at 33-34 O'Connell Street Lower is in a secondary location at the quieter end of O'Connell Street with some degree of passing trade.

Mr. Halpin submitted that the property consists of:

1. A ground floor bar of 147sqm with kitchen, cold room and WC totalling 37.1 sqm.
2. A first floor lounge of 175.58 sqm with store of 3.6 sqm.
3. Decommissioned former basement lounge of 96.73 sqm with stores, cold room and WC totalling 86.51sqm.
4. External ground floor smoking area of 54.15 sqm and first floor smoking area of 24.04 sqm.

Mr. Halpin argued that the estimate of NAV is excessive based on rental evidence. He stated that the Commissioner's estimate places a 1.875% premium on the subject property versus its nearest comparator The Living Room, which is let for €75,000 per annum and is currently assessed by the Commissioner at €160,000 versus €163,000 for the subject property. He argued that the rental evidence implies a value of €76,400 for the subject.

Mr. Halpin advised that the kitchen in Murray's serves three properties and for accounting purposes all food sales from the kitchen are repatriated to Murray's. He argued that the hypothetical tenant would not have access to the food turnover by the amount supplied to the other properties and would discount the turnover to achieve a fair rent by this method. He further advised that 50% of revenue comes from food which he states is unusual in the context of Dublin pubs.

Mr. Halpin informed the Tribunal that the basement of the property is subject to periodic flooding and can no longer be used. He argued that this would reduce the bid made by a hypothetical tenant. He also argued that the Appellants are exceptional operators and it is the premises that should be valued and not the operator's business acumen.

Mr. Halpin relied primarily on 10 licensed premises as evidence of the tone of the list. He also included 1 retail and 1 office unit as evidence, arguing that the hypothetical tenant would incorporate these values in arriving at a value for the subject property.

Mr. Halpin proposed 3 methods of estimating NAV:

1. Turnover with Fair Maintainable Trade (FMT) giving a NAV of €96,000 and actual turnover a figure of €86,700.
2. Direct comparison giving a NAV of €95,000
3. Using retail zoned valuations levels and adding €10,000 pa for the licence giving a NAV of €93,400 or applying retail overall levels giving NAV of €88,200.

He requested that the NAV would be adjusted downwards to reflect the location and the market rental levels on the date of valuation.

**RESPONDENT'S EVIDENCE:**

Ms. Duggan gave evidence that the subject property is located in a prime city centre location with high footfall. She submitted that this premises has a large trading area including 2 covered smoking areas and a street furniture licence area giving a total floor area of 647.21sqm. In addition the premises shares a beer garden of c. 550 sqm. Ms. Duggan argued that the pub has maintained a stable turnover in recent years with current turnover in the region of €3million with an approximate 60:40 food to drink split.

Ms. Duggan introduced 8 comparators valued on the basis of fair maintainable trade.

Ms. Duggan submitted that the correct method of valuation has been utilised to arrive at a valuation of the subject premises i.e. the method of FMT and cited previous Valuation Tribunal judgements to support this including VA95/5/025 (Swigmore Inns Ltd t/a Doheny & Nesbitt, Baggot Street Lower, Dublin 2) and VA 95/5/024 (Nallob Limited t/a O'Donoghue's Merrion Row, Dublin 2).

Ms. Duggan calculated the NAV as follows:

Drink FMT: €1,000,000 @ 10%	= €100,000
Food FMT: €1,000,000 less €100,000 = €900,000 @ 7%	= €63,000
NAV	= €163,000

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed it's valuation history; having examined and considered the written evidence and having heard the oral evidence adduced before us by Mr. Eamonn Halpin for the Appellant and Ms. Joanne Duggan on behalf of the Commissioner of Valuation,

**DETERMINES**

That the net annual value of the subject property be set out as below:

Drink FMT: €1,000,000 @ 10%	= €100,000
Food FMT: €750,000 @ 7%	= € 52,500
	= €152,500

Say €152,000 (Decreased)

**The reason being:**

1. The Tribunal accepts that in the valuation of licensed premises the method of utilising turnover or an estimate of FMT is the fair and correct method.
2. The turnover figures provided by the Appellant for the subject property were also introduced as turnover figures for another property, the subject of an appeal by the same company. The Appellant was unable to provide an explanation for this.
3. There is a discrepancy between the turnover figures utilised by the Appellant and the Respondent in calculating the NAV.
4. The Tribunal utilised the turnover figures provided for 2011 in calculating NAV.
5. The Tribunal accepts that the subject property is located in an excellent city centre location.

6. There is a large trading area of 647.21sqm including the street furniture licence area and in addition a large shared beer garden.

And the Tribunal so determines.