

Appeal No. VA01/2/008

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

Arlington Hotel

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed hotel at Map Reference 23-25 (incl 20-25 Lotts), Bachelor's Walk, Sundry Townlands, North City, North City 1, Co. Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairman

Maurice Ahern - Valuer

Member

Michael McWey - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF APRIL, 2002

By Notice of Appeal dated the 10th day of July 2001, the appellant appealed against the determination of the Commissioner of Valuation in fixing a Rateable Valuation of £3,300.00 (€4,190.14) on the above described hereditament. The grounds of appeal were set out in the Notice of Appeal as follows:

"That the valuation is excessive, inequitable and bad in law."

1. The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay, Dublin 7, on the 16th November 2001.

2. At the oral hearing the appellant was represented by Mr. Joseph Bardon FSCS FRICS of Bardon and Company. Mr. Cyril Mulligan a director of the appellant company gave evidence in relation to the operation of the hotel. Mr. Frank O'Connor a District Valuer in the Valuation Office gave evidence on behalf of the respondent.
3. Prior to the oral hearing the valuers exchanged and forwarded to the Tribunal a written submission and valuation, which was adopted by them at the hearing as being their evidence in chief given under oath.
4. The Arlington Hotel is situated on Bachelor's Walk at the junction with Litton Lane overlooking the River Liffey and about 75 metres west of O'Connell Bridge. Bachelor's Walk is a busy one-way thoroughfare in an eastward direction and is one of the main arterial routes from the western suburbs into the City Centre and Dublin Port. It is subject to a heavy traffic flow during the working day and on-street car parking in the immediate vicinity is restricted. The hotel has frontage onto the Lotts at the back.
5. The Arlington Hotel which has a Three Star rating is a mainly five storey over basement building which is substantially purpose built behind the original Georgian Buildings which were retained and adapted to hotel use. The modern section at the rear has the benefit of a lift serving all levels but the bedroom accommodation comprising sixteen en-suite bedrooms, located within the Georgian section is not serviced by the lift.
6. The accommodation at ground floor level includes the principal public areas i.e. guest reception, dining room, bar/lounge and function room together with kitchens, toilets and stores. At basement level there is a nightclub, which has the benefit of a separate access and there are seven car parking spaces at this level with access from the Lotts. The bedroom accommodation comprises 115 en suite

bedrooms at 1st, 2nd, 3rd and 4th floor levels. The area of the building is agreed as being 6,542sq.m. (70,418sq.ft.), measured on a gross external area basis. Approximately 1,223sq.m. (13,164sq.ft.), is contained in the upgraded Georgian section.

7. The subject hereditament was first valued at the 1999/4 revision and the rateable valuation assessed at £3,300. No change was made at first appeal stage and it is against this decision that the appeal to this Tribunal now lies.

8. At the oral hearing Mr. Cyril Mulligan gave evidence that the hotel catered mainly for the cost conscious sector of the market and did not cater for the commercial sector. The majority of the guests came from the United Kingdom and America but there was also a small core of locally based custom. In 2001 the hotel trade was badly affected by the Foot and Mouth crisis but on a longer-term basis the trade is affected by the petty criminal activity associated with the O'Connell Street area. As a consequence of the latter, security and insurance costs are higher than those found on the south side of the city and this is an added cost of operation, which must be taken into account. From a business point of view Bachelor's Walk he said could not be compared to Temple Bar, which enjoyed an international reputation and attracted a wide number of tourists throughout the year. It should also be borne in mind that businesses in that area attracted double rent allowances and a ten year rates exemption.

Mr. Mulligan outlined how, as a condition of the planning permission the original Georgian section had to be maintained and integrated into the new building at the rear. This created a number of design and operational difficulties, which could not be satisfactorily resolved, and as a consequence the bedroom accommodation in the Georgian section could not be accessed by the lift. Whilst he accepted the fact that the bedrooms in the Georgian section were larger and more attractive, this could not be reflected in the room rate due to the lack of the lift service. Requirements to maintain the Georgian façade also give rise to added operational

cost, as there were three main entrances to the property from Bachelor's Walk, all of which had to be manned for security purposes. Mr. Mulligan also said that the seventeen car parking spaces were totally inadequate for a hotel with 115 bedrooms.

In relation to the comparisons introduced by Mr. O'Connor, he considered that these were inappropriate, particularly the Clarence and Morrison Hotels which catered for an altogether different sector of the market to the Arlington and were five star establishments. These hotels had a high profile in the market and were associated with catering for a well-known clientele.

Under cross examination Mr. Mulligan confirmed that the Georgian section of property was not demolished and rebuilt but was restored and upgraded in accordance with the conditions set down by the Corporation Planning Department. Mr. Mulligan also confirmed that the hotel is also held under a 35-year lease but pointed out that this was an arrangement between connected parties and did not represent an open market arms length transaction. The annual rent of £1.1 million included all fixtures and fittings and was set at a level in order to service borrowing costs. Turnover he said was in the order of £4 million per annum exclusive of VAT for the last 2 – 3 years.

9. Mr. Bardon having taken the oath adopted his written submission and valuation as his evidence in chief. In his evidence Mr. Bardon said that all hotels in the Dublin Corporation functional area were valued on a gross external area basis and it was only fair that the Arlington Hotel should be valued in a similar fashion. Mr. Bardon said that some allowance must be made for the fact that the Georgian section of the hotel did not have the benefit of a lift to the upper floors. He considered this to be a major drawback, which would affect the efficiency of the hotel and impose extra costs and therefore should be reflected in its net annual value.

Mr. Bardon expressed the view that whilst the hotel was located close to the city centre, Bachelors Walk was nonetheless a secondary location and suffered from the negative publicity associated with O'Connell Street. The heavy traffic flows during the working day interfered with the delivery of goods and presented difficulties to guests arriving at and departing from the hotel. This together with noise and fumes all militated against the attractiveness of the hotel from a location point of view.

In relation to the lease Mr. Bardon agreed with Mr. Mulligan that the rent did not represent an arms length transaction and hence this evidence must be treated with some caution.

Mr. Bardon in his evidence contended for a rateable valuation of £2,230 calculated as set out below:

Georgian Section	13,164 sq.ft.	@ £4.50 per sq.ft.	=	£59,238.00
Modern Section	57,254 sq.ft.	@ £5.00 per sq.ft.	=	£286,270.00
17 Car Spaces		@ £500.00 each	=	£8,500.00
Net Annual Value			=	£354,008.00
Rateable Valuation		@ .063%	say	£2,230.00

In support of his opinion of value, Mr. Bardon said he had examined the rateable valuations of a number of city centre hotels and details of these are set out in appendix one attached to this judgement. This examination he said indicated that £5.00 per square foot was the highest figure attributed to any hotel in the north side of the city. In arriving at his opinion of value he had regard to this fact and in particular he had relied on the details of the Academy Hotel on Cathal Bruagh Street, which was valued by this Tribunal at £5.00 per square foot and £600 for car parking spaces. VA00/1/010 – The Academy Hotel.

Under cross-examination Mr. Bardon said he did not have regard to the rent being paid under the lease as it was not a market rent as such. When asked to give an

opinion as to what the market rent might be Mr. Bardon declined and said he had no opinion to offer. Mr. Bardon said that in arriving at his opinion of net annual value he relied upon the comparative method as this was the best method to use in order to insure that the subject hereditament was valued in an equitable manner and that its valuation would be relative to the rateable valuation of other hotels in the City.

10. Mr. O’Conner having taken the oath adopted his written submission and valuation as being his evidence in chief given under oath.

In his evidence Mr. O’Connor contended for a rateable valuation of £3,300.00 calculated as set out below:

“Method 1 Comparative Basis

6544 sq metres	@ £79 per sq.m. (£7.35 per sq.ft.)	=	£516,976.00
17 Car Spaces	@ £500 each	=	£8,500.00
Net Annual Value		=	£525,476.00
Rateable Valuation	@ 0.63%	=	£3,310.00
		say	£3,300.00

Method 2 Rental Basis

Rent passing is £1.1 million at 1/11/1997 per lease.

Adjusting to November 1988 with J.L.W. retail and office indices and taking an average of both gives £729,000.00 rent.

Assuming for one moment that the property is let fully fitted out (as stated by Mr. Bardon), then the present N.A.V. of £508,000.00 leaves an excess of £221,000.00 per annum for fixtures and fittings, based on the above rent of £729,000.00.

(The capitalised value of this £221,000.00 p.a. for fixtures and fittings at say 7% yield is £3.1 million)

I submit that a N.A.V. of £508,000.00 at November 1988 is reasonable when consideration is given to a rent of £1.1 million in 1997 (even if one assumes it included all the fixtures and fittings needed for a fully fitted out hotel).

The alternative assumption is that the property is let with “all landlords fixtures and fittings”, (as stated in the lease), but not as a fully fitted out hotel.

If this is the case then the N.A.V. of £508,000.00 is fair based on the passing rent above”.

In support of his valuation Mr. O’Connor introduced three comparisons as set out in appendix two attached to this judgement.

In evidence Mr. O’Connor said that the rent passing could not be ignored in arriving at net annual value. He had examined the lease and there was nothing in it to the effect that the demise included all the furniture and furnishings etc. as stated by Mr. Bardon and Mr. Mulligan.

Under cross-examination Mr. O’Connor opined that the central core of the north side of the city was a good commercial area and from an office point of view was the home of the IFSC. Whilst he agreed that O’Connell Street had a reputation, he was of the opinion that the actual situation was not as bad as it was perceived.

When asked about Temple Bar, Mr. O’Connor responded by saying that the area was now subject to some negative publicity but agreed that redevelopment had changed a derelict part of the city into a busy tourist area with many attractions.

When questioned about how other hotels in Dublin were valued he said he could not recall any that were valued by reference to rent being paid notwithstanding the fact that there was a number of instances where there was evidence of rents being paid. He agreed that all his comparisons were valued on the comparative method i.e. at a rate of £’s per square metre. However insofar as the subject hereditament

was concerned he had had regard to the rent because he was of the opinion that the Tribunal considered rent to be the best evidence of net annual value.

Findings

1. This Tribunal must determine the rateable valuation of this hereditament in accordance with the relevant statutory provisions that is section 11 of the Valuation (Ireland) Act 1852 and section 5 of the 1986 Act. In this regard there is no requirement in law to use any particular method in order to arrive at net annual value and hence rateable value and the words of Kingsmill Moore J. in the Supreme Court case, *Roadstone –v- the Commissioner of Valuation 1961.IR239* are apposite in this regard *“a judge is not bound to use any particular method but may arrive at his determination in whatever way is most suitable to produce the required result”*.

2. It has been said that “where a hereditament is let at what is plainly a rack rent or where similar hereditaments in similar economic sites are so let, so that they are truly comparable, that evidence is the best evidence and for that reason is alone admissible, indirect evidence is excluded not because it is not logically relevant to the economic inquiry but because it is not the best evidence.” (*Robinson Brothers (Brewers) -v- Houghton and Chester-le-Street, Assessment Committee (1937) 2KB 445 (C.A.)*). In this appeal there is a passing rent payable on a lease between connected parties and uncontested evidence was given that the rent specified in the lease is in the nature of a capital transaction or funding arrangement. In the circumstances therefore it is not representative of a market rent agreed between unconnected parties. Hence in the absence of evidence of rents being paid for similar properties, the Tribunal considers that the rent in this instance must be disregarded. Accordingly therefore the only evidence available to the Tribunal is the comparative evidence adduced by both valuers.

3. Mr. O'Connor introduced three comparisons including the Clarence and Morrison Hotels. This Tribunal accepts the evidence of Mr. Mulligan and Mr. Bardon that these are at the upper end of the market and should not be considered as being truly comparable to the subject property.
4. Mr. Bardon gave brief details of no less than 13 hotels located within the central business core of Dublin City as set out in the appendix one attached to this judgement. An examination of the details referred to by Mr. Bardon indicated that the net annual value of these establishments was determined on a square foot rate ranging from a low of £3.70 (£39.81 per square metre) for the Ashling Hotel to a high of £7.00 per sq.ft. (£75.32 per square metre) for the Clarence Hotel.
5. Evidence was given by Mr. Mulligan that the subject hotel is in the nature of a budget hotel and in the opinion of the Tribunal the most relevant comparisons are the Ormond Hotel and the Academy Hotel both of which are located on the north side of the city and The Temple Bar Hotel on the south side of the city. The first two of these comparisons are valued at £5.00 per square foot (£53.80 per square metre) and The Temple Bar Hotel at an average of £6.44 per square foot (£69. per square metre).
6. The subject hereditament, in the opinion of the Tribunal does not occupy as good a location as the Temple Bar Hotel, but is better located than either the Ormond or the Academy Hotels. The fact that the rooms within the reconstructed Georgian Section do not have a lift service is something that a hypothetical tenant in the market would take into account together with a number of other factors such as the basement nightclub and its central location close to O'Connell Street in arriving at an opinion of rental value as envisaged under section 11 of the 1852 Act.

Determination

Having regard to the above while taking into account all the evidence and arguments adduced including the details of the comparisons, the Tribunal determines the rateable valuation of the subject hereditment to be €3,168.00 calculated as set out below.

Hotel	6,544	@	£59.18 per sq.m	=	£387,274.00
Cars	17	@	£500 each	=	£8,500.00
Net Annual Value				=	£395,774.00
				say	£396,000.00
Rateable Valuation		@	.63%	=	£2,495.00 (€3,168.00)