

**Status of Judgment: Draft**

Appeal No. VA01/3/007

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

**Mr. John Spelman**  
**APPELLANT**

**and**

**Commissioner of Valuation**  
**RESPONDENT**

RE: Guesthouse Apartment and Land at Map Reference 26A Townland: Lung , ED:  
Ballaghaderreen RD: Castlerea, County Roscommon

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairman**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**Patrick Riney - FSCS. MIAVI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 17TH DAY OF DECEMBER, 2002**

By Notice of Appeal dated the 27th day of September 2001, the appellant appealed against the determination of the Commissioner of Valuation in fixing a Rateable Valuation of €190.46 on the relevant property described above. The grounds of appeal as set out in the Notice of Appeal are that the valuation is excessive, inequitable and bad in law.

1. This appeal proceeded by way of an oral hearing held in the offices of the Tribunal at Ormond House, Ormond Quay Upper, on the 22<sup>nd</sup> of April 2002.
2. At the hearing the appellant was represented by Mr. Patrick J. Nerney BE Chtd. Eng. MIEI. MIAVI, and the respondent by Mr. Frank O'Connor MSCS MIAVI a District Valuer in the Valuation Office.
3. Prior to the oral hearing the valuers exchanged written submissions and valuations a copy of which were forwarded to the Tribunal and subsequently received into evidence at the oral hearing.
4. The property which is the subject of this appeal is a complex of buildings comprising "Spelman's B&B", together with six apartments and stores located on the main Dublin to Castlebar Road, just outside Ballaghaderreen.  
The property was originally built in or about 1976 and extended in 1982 and 1999. The apartments were built in 1983. The accommodation provided in the main building now comprises an entrance hall, reception, kitchen, sitting room, dining room, toilets and thirty guest bedrooms. The area of the main building is agreed as being 1,628m<sup>2</sup>.

#### **5. Valuation History**

- a. The subject was first valued in 1978 and the rateable valuation assessed at £40 and described in the Valuation List as "Guest House, Motor House and Out Office". At the time the property was not a registered guesthouse with Bord Fáilte.
- b. At the 1989 revision the rateable valuation was increased to £85, which figure was reduced to £70 at first appeal stage and the property was again described in the Valuation List as "Guest House". Mr. Nerney acted for the appellant at the 1989 revision and at that time he considered that the property was not a guesthouse but took no further action when the property was described as such following the first appeal.
- c. At the 2000/4 revision the rateable valuation was increased to £150 and no change was made at first appeal stage. Once again the property was

described in the Valuation List as “Guesthouse”. It is against this decision that this appeal to the Tribunal lies.

#### 6. Evidence for the Appellant.

At the oral hearing Mr. Nerney having taken the oath adopted his written submission and valuation previously received by the Tribunal as being his evidence in chief.

In his evidence Mr. Nerney contended for a rateable valuation of £102 calculated as set out below.

Buildings	1,628 sq m	@	£12.50	=	£20,350
Rateable Valuation		@	0.5%	=	£102

Mr. Nerney introduced no comparisons to support his opinion of Net Annual Value.

7. In evidence Mr. Nerney drew attention to the following: -

- The subject property is somewhat unique in that most bed and breakfast establishments are essentially private dwellings with perhaps two or more rooms being available for guest accommodation.
- The subject having thirty guest rooms does not alter the fact that it is a domestic property. It is not referred to as a guesthouse and in accordance with Section 34 of the Tourist Traffic Act 1939 it is unlawful for “ a proprietor of any premises to describe or hold out or permit any person to describe or hold out such premises as a guesthouse unless such premises are registered in the register of guesthouses and such proprietor is registered in that register as the registered proprietor of such premises.” It is a matter of fact Mr. Nerney contended, that the subject premises is not registered under the terms of the Act.
- The Rateable Valuation of the Percy French Hotel in Strokestown was fixed at £145 at the 1997 revision. The net annual value of this property was calculated on the basis of 1160sq.m @ £25 per

sq.m. This is a fully licensed hotel with restaurant, bar and function room in addition to bedroom accommodation.

8. Under cross-examination Mr. Nerney agreed that the description of the property in the Valuation List following the 1989 revision first appeal stage was “Guesthouse” but said that this did not accurately describe the nature of the property. He also agreed that the appellant had described the property as a hotel when seeking planning permission in April 1997, which gave rise to the 2000/4 revision. Mr. Nerney also agreed that meals were served on the premises to persons other than guests and that the property was not a private domestic dwelling.

**9. Evidence for the Respondent.**

Mr. O’Connor having taken the oath adopted his written submission and valuation which had previously been received by the Tribunal as being his evidence in chief.

In evidence Mr. O’Connor contended for a rateable valuation of £150 calculated as set out below.

6 Apartments	285m <sup>2</sup>	@ £18.83m <sup>2</sup>	=	£5366
Guest accommodation	1300m <sup>2</sup>	@ £18.83m <sup>2</sup>	=	£24479
Store at rear	43m <sup>2</sup>	@ £10.76m <sup>2</sup>	=	£462
Total NAV			=	£30,307
R.V. @ 0.5%			=	£151.5
Say			=	£150 (€190.46)

In arriving at his opinion of Net Annual Value Mr. O’Connor said he relied upon the assessment of the subject property as agreed at the 1989 first appeal as set out below:

Guesthouse	349m <sup>2</sup>	@ £18.83m <sup>2</sup>	=	£6572
Store	53m <sup>2</sup>	@ £9.42m <sup>2</sup>	=	£499
6 apartments	285m <sup>2</sup>	@£24.56m <sup>2</sup>	=	£7000

Total NAV		=	Say	£14,000
R.V.	@	0.5%	=	£70

10. In his evidence Mr. O'Connor said that "Guesthouse" best described the nature of the operation carried on in the premises and that it had been so described in the Valuation List since 1978. In support of this description he took into account the fact that meals were provided to non-residents during the day and he considered this to be material and distinguished it from a normal bed and breakfast establishment. To the best of his knowledge there were no guesthouses registered with Bord Fáilte or guest accommodation in a bed and breakfast format similar to the subject property in the county.

11. Mr. O'Connor under cross-examination was asked about an internal Valuation Office guidance note number 6/01 entitled "Guesthouse Description". Mr. O'Connor said that nothing contained in this document precluded the description of Guesthouse being attributed to the subject property.

Mr. Nerney put it to Mr. O'Connor that his devaluation of the subject property following the 1989 appeal as set out in his précis of evidence was incorrect in as much as the rateable valuation of £70 was arrived at using a reduction figure of .63% and not .5% as put forward by him. Mr. O'Connor agreed that indeed this was the case and that the net annual value at the time was calculated as follows:

Guesthouse	349m <sup>2</sup>	@	£14.94	=	£5214
Store	53m <sup>2</sup>	@	£7.47	=	£396
Apartments	285m <sup>2</sup>	@	£19.49	=	£5555
NAV		=	£11,165		
RV	@	0.63%		=	say £70

## Findings

1. Mr. O'Connor in arriving at his estimate of Net annual value said that he had relied solely upon the net annual value of the subject property as determined at the 1989 first appeal. Under cross-examination it emerged that the rateable valuation of £70 was based upon a net annual value of £11,165 and not £14,071 as stated by

- him in his evidence in chief. In the circumstances therefore the Tribunal rejects Mr. O'Connor's valuation as set out in his evidence.
2. On the facts presented at the oral hearing it is clear that this property is most certainly not a private dwelling house in the accepted sense of the word, nor is it a private dwelling with a few rooms available for guest accommodation. On the contrary it is an establishment operating solely on a commercial basis offering overnight accommodation and food to paying guests and other members of the public.
  3. As stated in the internal Valuation Office guidance note 6/01 it is the policy of the Commissioner of Valuation to describe the hereditament appearing in the Valuation List as accurately as possible and as far as guesthouses were concerned this would be established by:
    - (i) The use of the premises.
    - (ii) The signage either on the property or directing the public to the property.
 Notwithstanding the fact that the signage on the property clearly says "Spelman's B&B Accommodation" Mr. O'Connor after due consideration of the use of the property came to the view that this did not accurately reflect the nature of the establishment which in his opinion had all the attributes of a Guesthouse. The Tribunal accepts his opinion in his regard and in so doing the Tribunal does not necessarily consider itself to be constrained by the provisions of the Tourist Traffic Acts. As far as the Valuation Acts are concerned the description appearing in the Valuation List is descriptive only and has no legal effect as far as any other enactments are concerned.

### **Determination**

Having regard to all the evidence and argument adduced the Tribunal determines the Rateable Valuation of the subject of this appeal to be €160, calculated as set out below:

6 Apartments	285m <sup>2</sup>	as per 1989 first appeal		€7053
Guesthouse	1300m <sup>2</sup>	@	€19m <sup>2</sup> =	€24,700
Store	43m <sup>2</sup>	@	€10m <sup>2</sup> =	€430

NAV = €2,183 say €2,000  
RV @ 0.5% = €160