

Appeal No. VA06/3/009

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

**Orlego Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Hotel, Grounds at Lot No 4B, Gallowshill, Athy Rural, Athy 1, Kildare, County Kildare

**B E F O R E**

**John Kerr - BBS. ASCS. MRICS. FIAVI**

**Deputy Chairperson**

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

**Member**

**Michael F. Lyng - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 12TH DAY OF JANUARY, 2007**

By Notice of Appeal dated the 14th day of July, 2006, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €70.00 on the above described relevant property.

The grounds of Appeal as set out in the Notice of Appeal are:

"(a) The hotel is situated outside the town of Athy. (b) The hotel does not have a leisure centre."

The appeal proceeded by way of an oral hearing, which initially took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 17<sup>th</sup> October, 2006. The Appellant was represented by Mr. Nicholas McAuliffe, ARICS, and the Respondent by Mr. Bríain Ó'Floinn, a District Valuer with 31 years experience in the Valuation Office. At the commencement of the hearing the Appellant's Consultant Valuer informed the Tribunal that he had not seen or received a copy of the précis of evidence or written submission of the Respondent. It then became clear that the Respondent had similarly not seen or received a copy of Mr. McAuliffe's précis of evidence. Following a short debate on the issue, the Tribunal had no choice but to order an adjournment of the hearing to provide for exchange and review of each party's submissions and to agree the floor areas of the subject property, and the hearing was re-scheduled to 2<sup>nd</sup> November, 2006, at the same location.

In accordance with the Rules of the Tribunal, the parties exchanged their respective précis of evidence prior to the commencement of the re-scheduled hearing and had previously submitted same to this Tribunal. At the oral hearing of 2<sup>nd</sup> November, 2006, both parties, having taken the oath, adopted their précis as being their evidence in chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

In addition, the Tribunal was provided with supplementary photo images by the Respondent numbered as figures 41 – 47 inclusive, all of various elevations of The Heritage Hotel, Portlaoise, attached to a covering note from the Revision Officer, Mr. Ó'Floinn, addressed to the Registrar, with a copy to the Appellant's Consultant dated 23<sup>rd</sup> October, 2006, which also included 3 No. corrections to errors in Mr. Ó'Floinn's submission, all of which are copied hereto as Appendix No. 1. As there appeared to be a disparity in the measurement of the floor areas, as outlined in the submissions of both parties noted at the first sitting, the Registrar made contact with the Appeal Officer in the Valuation Office, who in turn replied by e-mail on 31<sup>st</sup> October, 2006, with a copy again also to the Appellant's Consultant, confirming that the floor areas had been agreed, as follows:

Hotel:	3,600 sq. metres
Enclosed Courtyard:	59.5 sq. metres
Bottle Store:	12.1 sq. metres
Enclosed Yard:	20.7 sq. metres

In consequence to the foregoing, the Valuation Office informed the Valuation Tribunal that the Rateable Valuation on the property would accordingly be adjusted down from €770 to €750.

### **The Property**

The property, trading as The Clanard Court Hotel, is described as a Bord Fáilte registered modern, purpose built, two storey 38 bedroom hotel with 10 bedrooms set out with double beds and the remainder each with a double and a single bed. A modern Reception area features a high ceiling and apex dome light, as well as a fireplace and marble tiled floors. The function room offers a capacity for 220 sit-down patrons, or 400 in a theatre style layout, and a meeting room capable of catering for from 50 – 80 patrons. The restaurant overlooking the internal courtyard provides seating for 70 people. There is a lift in the building, which was completed in 2005. An external surface car park provides 200 car spaces.

The construction cost, excluding site value, was reported at six million Euro.

The property is located between 1 and 2 kilometres north of the town of Athy and just off the N78 route to Dublin and enjoys good visibility from the main road. The site comprises of circa 8 acres, part of which abuts the N78.

Accommodation includes at ground floor: lobby, administration offices, toilets, bar, cold room and beer store, function room, chair store, kitchen, staff toilets and changing rooms, goods stores, boiler house, 2 no. meeting rooms, restaurant, linen cupboard and 17 no. bedrooms. First floor includes 21 no. bedrooms, laundry and store room. The floor areas were agreed, as noted above.

### **Tenure**

The relevant property is held freehold or alternatively by lease between connected parties.

### **Valuation History**

This property was first revised in 2005 and a Draft Valuation Certificate was issued on 2<sup>nd</sup> November 2005, with an RV of €780. Following representations received from the Appellant's Agent relating to a challenge on floor area calculations, a Certificate of Valuation was issued by the Commissioner of Valuation on 13<sup>th</sup> December, 2005, with an RV of €770.

Orlego Ltd., through their Agents Kenneally McAuliffe, filed an Appeal on the RV, dated 13<sup>th</sup> January, 2006.

Without a change being effected by the Commissioner of Valuation on the RV figure of €770, the Appellant, again through its Agent, filed a Notice of Appeal to the Valuation Tribunal dated 16<sup>th</sup> July, 2006, seeking a reduction in the Rateable Value from €770 to €439. Then, as noted above, the Commissioner advised the parties prior to this hearing, that the RV would be further reduced as a result to an adjustment on the floor areas, to a figure of €750.

### **Appellant's Case**

Proceedings commenced when Mr. McAuliffe assumed his position in the stand, took the oath, formally adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission. Mr. McAuliffe confirmed that there was an agreement now reached with the Commissioner of Valuation on the calculation of the floor area of the hotel, and also acknowledged that he had received advice prior to the hearing, that the RV would be reduced to €750 based on the foregoing revised measurements. He then summarised his précis, highlighting the following issues:

- The hotel is located approximately 2 kilometres out of town.
- Access for locals in terms of bus and taxi services is poor and there is no pedestrian path from the town to the property.
- The projected annual turnover figure of €3.5 million was not achieved and the actual figure was reduced to a lesser sum, which resulted in a substantial accumulated loss figure, such figures were disclosed at the hearing.
- 62 Wedding Receptions were held in the subject relevant property during the first fourteen months of operations.
- The success of the hotel was primarily dependent on wedding business.

In referring to his comparison properties identified at Appendix 2 attached hereto, he noted that all four were located in Co. Kildare, and confirmed that his primary comparison would be the Liffey Valley House Hotel, located approximately 12 miles from Dublin city centre, with 27 bedrooms and an RV (1999) of €380. He also reviewed details of the other three comparison properties he offered, namely The Ardenode Hotel, being a 17 bedroom facility in Ballymore Eustace, The Hazel Hotel in Monasterevin, with 24 bedrooms, and the 43 bedroomed Straffan Court Hotel in Maynooth.

Mr. McAuliffe informed the Tribunal that trade at his client's property was disappointing, the effect of which was a closing of the restaurant during the week and opening only at the weekends, which in turn negatively impacted on the Bord Fáilte rating from 4 Star, as originally aspired to, down to a 3 Star classification. Mr. McAuliffe acknowledged that the subject premises is well designed and built, but drew the attention of the Tribunal to the fact that, without leisure facilities, the hotel owners were unable to attract families to stay overnight or longer in the premises.

Mr. McAuliffe reported that he had calculated the proposed Rateable Valuation figure adopting a comparable method on a square metre basis, determining the Net Annual Value of the hotel to be the gross floor area of the subject property multiplied by €25 per sq. metre and applying the appropriate reduction factor of 0.5% to calculate a projected Rateable Valuation of €439.

### **Cross-examination**

Mr. Bríain Ó'Floinn then commenced cross-examination of Mr. McAuliffe by querying the details the latter reported earlier on a hotel allegedly for sale within Athy town, who confirmed that the only information he had available was that which he noted from an advertisement. Mr. Ó'Floinn asked if the trading figures of the subject relevant property for the 18 month period ending 30<sup>th</sup> April, 2006, were audited, to which the Consultant Valuer advised in the negative, and also confirmed to the District Valuer that no accounts had been submitted at First Appeal. Mr. McAuliffe could not explain the difference in rack rate of €20 i.e. €95 viz. €75 quoted to Mr. Ó'Floinn on the Appellant's Comparison property No. 1, which Mr. Ó'Floinn also advised was not a Bord Fáilte rated hotel. Mr. McAuliffe was also apparently not aware if the car park at The Ardenode Hotel was hard surfaced or not, which Mr. Ó'Floinn noted while referring to his photo images No's 29 – 32 inclusive, is a dower house type Georgian hotel with a rear extension and graveled car park. Mr. McAuliffe, while maintaining that The Ardenode Hotel, in his opinion, was similar to the subject property, was not able to reply to questions on access or population of Ballymore Eustace put to him by Mr. Ó'Floinn.

Addressing the Comparison property no. 2 in the Appellant's submission, being The Hazel Hotel, Mr. Ó'Floinn noted that the quoted B & B rates were similar to those of the subject. Mr. McAuliffe acknowledged that the condition of The Hazel Hotel appeared "a little tired"

and would benefit from improvement works, and acknowledged that it is a 2 Star graded hotel. Viewing images 19 – 24 provided by the Respondent, Mr. McAuliffe could not confirm if the Hazel Hotel appeared different or similar to the subject, at which Mr. Ó'Floinn queried Mr. McAuliffe's knowledge of the false roof at the front elevation, which gave the appearance of a pitched roof to The Hazel Hotel.

Mr. Ó'Floinn asked if the subject hotel was designed and built to 4 Star standard, to which the Consultant Valuer replied that the aspiration of the owners was to achieve a 4 Star classification, but due to circumstances earlier noted, does not now merit same. In reply to a further query from Mr. Ó'Floinn, the Consultant Valuer acknowledged that his Comparison property No. 3, being The Straffan Court Hotel was classified as a 2 Star Hotel, and located outside the village of Maynooth, but he was not aware of its history or that it was apparently formerly part of a Stud Farm operation, or that the hotel floor area had its NAV determined at a rate of €42.91 per sq. metre.

At the conclusion of his cross-examination, Mr. McAuliffe confirmed that he had never seen The Liffey Valley House Hotel, being Comparison No. 4, but assumed that it was built within the last twenty years. He confirmed to Mr. Ó'Floinn that he was not aware that this property was a Georgian house, dating back to 1770, and acknowledged that it was not in the heart of Leixlip village as outlined in his submission, but on the outskirts of Leixlip.

Having regard to the agreed gross floor area measurement of the hotel, Mr. McAuliffe then confirmed that his client would adjust the RV being sought, from a figure of €435 in his written submission, to €450.

### **Respondent's Case**

Mr. Ó'Floinn then assumed his position in the stand, took the oath, formally adopted his précis as his evidence-in-chief and reviewed his submission. He commenced by noting the description of the property, referring to a Bord Fáilte Guide, which indicated that the hotel was "built to 4 Star standard" on 8 acres. He noted the rack rate quoted at €99 per night pps or €109 B & B, whereas The Hazel Hotel in the same Guide indicated €55 per night pps, or €65 twin room pp, or €70 for a single room, and also noted that The Adenode Hotel was quoted at €75 per night pps. In referring to the five comparison properties set out in his own précis, attached herewith as Appendix 3, he advised that all were valued at approximately the

same time and they were chosen by him as suitable comparable hotel properties. He stated that he did not include The Courtyard in Leixlip, which was revised in 2005 at €54.66 per sq. metre and which is mostly a new build structure. Referring to The Keadeen Hotel in Newbridge, which he used as his Comparison property No. 1, he provided the Tribunal with details of its valuation when valued in 1997 as a 55 bedroom 3 Star hotel property, the hotel portion of which was calculated on the basis of €35.54 per sq. metre at that time, which formed part of an agreed valuation. Addressing his second comparison property, being The Heritage House Hotel in Portlaoise, he confirmed that the property was 3 Star rated, was a much larger premises and this hotel, located next to the Rail Station and near the Golf Course, was valued for rating purposes at €41 per sq. metre, which was the same level applied to the newer blocks of his Comparison property No. 3, being The Seven Oaks Hotel, on the Athy Road in Carlow, and also The Dolmen Hotel in Co. Carlow. On his Comparison No. 5, namely The Hamlet Court Hotel at Johnstown Enfield in Co. Kildare, Mr. Ó'Floinn advised that this 3 Star classified property was valued on the basis of €37.58 per sq. metre and described it as a former large dwelling, recently extended to include a total of 36 bedrooms, located in the middle of a street next to a Centra Supermarket. Mr. Ó'Floinn kindly provided the Tribunal with a series of 32 photo images in addition to those noted earlier, of four of his five comparison properties, excluding The Hamlet Court Hotel, and also images of Comparisons No's 1 and 2 in the Appellant's précis, namely The Ardenode Hotel and Hazel Hotel, both in Co. Kildare.

The Tribunal was informed of the following 2002 census of population statistics for a number of Kildare towns.

Newbridge	16,739
Athy	6,049
Maynooth	10,521
Monasterevin	2,583

However, Mr. McAuliffe contended that the rate of growth in population in Athy from 2002 to 2005 was only 18%, whereas the relative increase in population in the other Kildare towns noted above, was much greater.

### **Cross-examination**

At the commencement of his cross-examination of Mr. Ó'Floinn, Mr. McAuliffe asked him about the admissibility of those of his comparisons located outside the rating authority area of Kildare County Council in which the subject property is located. In reply Mr. O'Floinn referred to the determination of the Tribunal in **VA06/2/045 - Orange Tree Limited** and read the following extract from page 11 therein:

*“Section 49 (1) may be paraphrased as saying that the value of the relevant property shall be determined in accordance with the “tone of the list”. In effect this means that the determination shall be made “by reference to the net annual values of properties....on 1 November 1988.” This is borne out by the wording of Section 49(2)(b), although this section may not of itself be relevant in this appeal.”*

He then went on to quote in full section 49(2)(b) of the Valuation Act and the interpretation of “existing valuation list” and of “valuation list” from section 3 of the Act. He said that he understood all of the foregoing – i.e. the **Orange Tree Ltd** determination and the cited sections of the Act - to mean that, in terms of arriving at a NAV for the subject property, he was not confined to comparisons from the rating authority area in which the subject was situated but that he was so confined in arriving at its rateable valuation.

Mr. McAuliffe then contended that he could not accept Mr. Ó'Floinn's views on Net Annual Values, albeit on similar comparison properties, from beyond the Kildare Co. Council Local Authority area. He put it to Mr. Ó'Floinn that The Keadeen Hotel was long established, enjoying significant trade with the horse racing community which Mr. Ó'Floinn confirmed in the affirmative and provided a similar reply to a request for confirmation by Mr. McAuliffe that The Heritage Hotel in Portlaoise is at a town centre location, which offers significant benefits to its trading performance. The Consultant Valuer then queried the relative level of use of the car park at the subject, in reply to which Mr. Ó'Floinn stated that on both of his visits there, the car park was quite busy and he viewed it as not merely a necessity to the hotel operation, but an enhancement feature. Mr. McAuliffe questioned Mr. O'Fhloinn on the location of The Seven Oaks Hotel in Carlow, The Dolmen Hotel and The Johnstown Hotel, to which Mr. Ó'Floinn replied that the former and the latter were within urban conurbations and The Dolmen Hotel was sited approximately two miles from Carlow on the Kilkenny Road. Mr. Ó'Floinn, also in response to a query by Mr. McAuliffe, replied that he could not accept evidence that the projected turnover figure at the subject property had not been achieved



unless same was confirmed by an Auditor. Mr. Ó'Floinn also would not agree that The Clanard Court Hotel operation was overly reliant on wedding business, a matter contended for by the Appellant Consultant. Mr. McAuliffe put it to Mr. Ó'Floinn that the cost of building the structure had little to do with the value of the property, to which Mr. Ó'Floinn replied that he did not equate cost to value, in this exercise. Queried by a Tribunal member, Mr. Ó'Floinn declined to specify any of his five comparison properties as being most appropriate for the purpose, indicating that in his view as a Valuer, the exercise of valuing a hotel is a "synthesis of experience". In reply to a further query from a Tribunal member on the attributes of Athy as a trading centre, Mr. Ó'Floinn expressed the view that, scenically, the town is very attractive, with a river running through the centre and noted that the town is registered as a Heritage town. He also acknowledged that The Heritage and Keadeen hotels are 4 Star hotels and that the subject is a 3 Star hotel, though he had earlier said that it was registered as a 4 Star property.

### **Findings & Determination**

1. In accordance with the Valuation Act 2001, and given the available comparison properties on the Valuation List within the Local Authority area, the comparison properties beyond Co. Kildare, being No's 2, 3 and 4 in the Respondent's submission, are considered inappropriate in this circumstance.
2. The Tribunal is of the view that The Hamlet Court Hotel at Johnstown Enfield, in Co. Kildare, being Comparison No. 5 in the Respondent's submission, may be the most comparable of all of the comparison properties offered, to the subject, notwithstanding its street centre location, the difference in age of part of the structure, and the inclusion of the Night Club.
3. The hotel part of the subject property was rated on the basis of an NAV calculated at €37.58 per sq. metre.
4. The Tribunal notes the agreement between the parties on the area of the hotel calculated at 3,600 sq. metres.
5. As there was not a challenge to the rate per sq. metre calculated by the Commissioner on the courtyard, bottle store and enclosed yard, the RV of €5.60 remains.

6. Trade at the subject property is heavily dependent on securing wedding receptions and group business, in part due to the absence of a modern Leisure Centre.
7. The stand-alone location of the subject property poses real challenges to the successful operation of the hotel, in its present form.

### **Determination**

Mindful of the contents of the respective written submissions, the evidence adduced at the resumed hearing and agreed revisions as noted to the respective précis of evidence, together with all of the replies to queries raised during cross-examinations by both parties, and responses to the Members of the Tribunal at the hearing on 2<sup>nd</sup> November, 2006, the Tribunal hereby calculates the Rateable Valuation of the subject relevant property, as follows:

<b>NAV</b>	
3,600 sq. metres (hotel) @ €1 per sq. metre	= €11,600
@ 0.5% =	€58.00
Plus	
Unchallenged RV on courtyard, bottle store & enclosed yard of:	<u>€ 5.60</u>
Total RV =	€63.60

**Say: RV €64.00**

And the Tribunal so determines.