

Appeal No. VA06/3/051

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

B. O'Reilly, M. Blake t/a Mooncoin Residential Care Centre

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Nursing Home at Lot No. 14C/2, Pollrone, Waterford No. 2, County Kilkenny.

B E F O R E

John Kerr - BBS. ASCS. MRICS. FIAVI

Deputy Chairperson

Leonie Reynolds - Barrister

Member

Maurice Ahern - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF FEBRUARY, 2007

By Notice of Appeal dated the 10th day of August, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €374.00 on the above described relevant property.

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

"Valuation excessive and inequitable as insufficient regard had to levels on other nursing homes in the vicinity.

Planning requirements for dementia unit for which there is no demand."

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 19th day of December, 2006. The appellant was represented by Ms. Sheelagh O Buachalla, B.A, A.S.C.S. and Director of Messrs. GVA Donal O Buachalla and the respondent by Ms. Orlaith Ryan, B.Sc (Surveying), Dip. (Property Economics) a Valuer in the Valuation Office. Mr. Donal O'Reilly, proprietor of the subject property, gave evidence on behalf of the appellants.

The Property Concerned

The property is a new modern single storey purpose-built nursing home. It comprises 48 ensuite bedrooms, 5 day rooms, sitting room, crafts room, oratory, 2 dining rooms, kitchen, laundry room, staff room, two assisted bathrooms and a reception with office. There is a small external store, two secure internal courtyards and 37 car parking spaces.

Location

The property is situated in the village of Mooncoin. Mooncoin is located on the main Waterford/Limerick road and is approximately 15 kilometres from Waterford city and 45 kilometres from Kilkenny city.

Title

The property is held freehold.

Agreed Areas

The areas have been agreed as follows:

Nursing Home: 1,905.10 sq. metres.

External Store: 37.44 sq. metres.

Valuation History

The subject property was first assessed at an RV of €398.00. Representations were made following which the valuation was reduced to €374.00 to take account of inclusion of courtyards. An appeal was lodged to the Commissioner of Valuation following which the valuation issued unchanged at €374.00. It is against this decision by the Commissioner that the appeal to this Tribunal lies.

Appellant's Evidence

Mr. Dónal O'Reilly, proprietor of the subject property, gave sworn evidence to the Tribunal. He outlined to the Tribunal the background to the purchase of the site upon which the nursing home is built. He indicated that initially there were a number of problems with the site, in particular in relation to planning difficulties and services, which were eventually overcome. He also stated that, following discussions with the Health Board, a 12 bedroom dementia unit was constructed. As part of the requirements of the unit, it was necessary to construct two day rooms and a dining room, assisted bathroom and nurses' station comprising 82.7 sq. metres. Whilst it was initially expected that demand would be high for places in the unit, it subsequently transpired that this was not the case and a decision has now been made to phase out the use of this area as a dementia unit and to use it for ordinary patients. He also highlighted what he felt were the disadvantages with regard to the location of the nursing home on the basis that, whilst it is situated in close proximity to Waterford, it does not have the advantage of being close to the city due to its remote location and the fact that there is no bus or train service in the area.

Under cross examination Mr. O'Reilly accepted that he wasn't obliged to build the dementia unit but did so on the basis of the Health Board's enthusiasm for it. Whilst he accepted that the nursing home is located just off the N24, he insisted that they needed to advertise it to let people know where they are situated.

Ms. Sheelagh O Buachalla, also gave evidence on behalf of the appellant. Having taken the oath, she adopted her précis of evidence which had been previously furnished to the Tribunal as her evidence-in-chief. She suggested that a number of factors should be taken into account in fixing the RV of the property in question. The first matter of concern was the issue of location. She described Mooncoin as a very rural area with a small population of approximately 800 people. She indicated that whilst the nursing home was in close proximity to Waterford City, it did not benefit from the advantages of being close to the city, due to its remote location and the difficulty with transport services.

Secondly, she noted that whilst the nursing home has a 12 bedroom dementia unit constructed with the incumbent requirements of 2 day rooms, dining room, assisted bathroom and nurses' station, there has not been demand for this unit and it is not fully utilised.

Thirdly, she outlined the additional charges. The nursing home must pay for their own waste and refuse disposal.

Further she outlined that she had made provision for a quantum allowance in arriving at her valuation as set out in her précis of evidence, having regard to the fact that the comparators put forward by her were smaller than the subject property and in circumstances where the dementia unit was under-utilised.

Under cross examination Ms. O Buachalla accepted that whilst she had contended in her précis that account should be taken of the fact that one of the proprietors is a nurse who works over 100 hours a week in the nursing home and that this is a cost which is not factored into the accounts, that this is not a matter which would affect the RV of the subject property. It was also put to her that she had put forward no evidence to suggest that a quantum allowance should apply in the instant case. In particular, it was suggested to Ms. O Buachalla that her comparator No. 6 was a property which had been extended to a similar size as the subject property and that no quantum allowance had been made. Ms. O Buachalla accepted this was the case. Further, Ms. Ryan put it to Ms. O Buachalla that her comparator properties at numbers 4, 5 and 6 of her précis were not located within the same local authority area and therefore were not valid comparators under the Valuation Act, 2001 and she accepted this. The relevant comparators, she accepted, were therefore the comparators as set out at numbers 1, 2 and 3 of her précis of evidence, which said comparators had also been utilised by the Valuation Office. Ms. O Buachalla's comparisons are at Appendix 1 hereto.

Ms. O Buachalla contended for a rateable valuation of €263.00, amended at hearing to €267.00 calculated as set out below:

Nursing Home	1,905.10 sq. metres @ €27.75 =	€52,866.00
Outside Store	37.44 sq. metres @ €13.67 =	<u>€511.80</u>
NAV		€53,378.00
@ 0.5%		= RV €267.00

Respondent's Evidence

On behalf of the respondent, Ms. Orlaith Ryan gave evidence. Having taken the oath, she adopted her précis as her evidence-in-chief. She referred the Tribunal to the three comparator

properties as set out therein, namely, Archersrath Nursing Home, Drakelands Nursing Home and St. Joseph's Nursing Home, all located within County Kilkenny. She contended that the two latter properties were inferior to the subject property on the basis that the subject property was a new purpose-built facility with all 48 bedrooms ensuite and on the one floor, whilst these comparator properties were older converted buildings with inferior facilities and higher maintenance costs. Ms. Ryan relied on Archersrath Nursing Home as her prime comparator which was a similarly newly constructed purpose-built building with all bedrooms ensuite. She stated that full regard had been given to the size and location of the subject property when applying an NAV per square metre and that full regard was had to the tone of the list in the area. Ms. Ryan's comparisons are at Appendix 2 hereto.

Under cross examination it was suggested to Ms. Ryan that the location of the property was such that it would not acquire a passing trade but Ms. Ryan disagreed and stated that it was situate in the village and was not difficult to find. Further, Ms. Ryan disagreed with Ms. O Buachalla's proposition that an allowance should be made for the fact that the dementia unit is under-utilised on the basis that the unit can be used by other patients and is being used by other patients.

Ms. Ryan contended for a rateable valuation of €374.00, calculated as set out below:

Nursing Home:	1,905.10 sq. metres @ €38.95 per sq. metre =	€74,203.65
External Store:	37.44 sq. metres @ €13.67 per sq. metre =	<u>€111.80</u>
NAV Nov 88		€74,715.15
RV @ 0.5%		€73.58
Say		€374.00

The Issue

The only issue before the Tribunal is the issue of quantum.

Findings

The Tribunal having carefully considered all the evidence and arguments adduced by the parties makes the following findings:

1. Of the 6 comparators used by the appellant, only 3 are within the same rating area and are clearly the only comparators of relevance under the Valuation Act, 2001.

2. The remaining comparators as used by the appellant are common comparators also used by the Valuation Office.
3. The Tribunal has noted the appellant's expressed concerns with regard to: the distance of the subject property from major conurbations such as Waterford and Kilkenny; the relative lack of nearby medical and pharmacy services; the limited population of the immediate hinterland and its effects on staffing requirements as well as on a target market for the Nursing Home to serve. Nevertheless, it was acknowledged at hearing that occupancy levels remain high and, from time to time, reach as much as 90%. All things considered, the Tribunal is of the view that the hypothetical tenant would have primary regard to this fact.
4. The Tribunal is satisfied that full regard has been given to the size and location of the subject property when applying an NAV per square metre and that full regard has been had to the tone of the list in the area.

Determination

In view of the foregoing, the Valuation Tribunal affirms the valuation of the respondent as fair and reasonable.

And the Tribunal so determines.