

Appeal No. VA10/1/004

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

An Grianan Hotel

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2004660, Hotel at Lot No. 9C, Speenoge, Burt, Inishowen, County Donegal

B E F O R E

John O'Donnell - Senior Counsel

Chairperson

Mairéad Hughes - Hotelier

Member

Damian Wallace - QFA, MIPAV, Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF JULY, 2010

By Notice of Appeal dated the 11th day of January, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €650.00 on the above described relevant property.

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

"Not valued in accordance with Valuation Acts. Comparisons relied upon by Valuation Office does not reflect Tone of the List of comparable properties; comparable properties in the immediate area, location of this property. NAV does not reflect 1988 values. Valuation is excessive, inequitable and bad in law."

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 1st March 2010. The appellant was represented by Mr. Patrick McCarroll, Chartered Valuation Surveyor. The respondent was represented by Mr. Viorel Gogu, a valuer with the Valuation Office.

The Issue

The only issue between the parties was the issue of quantum, the appellant maintaining that the rateable valuation of €650.00 was excessive.

The Property

The property is situated in the townland of Burt and is located on the N13 being the main route connecting Derry and Letterkenny. The well-known Burt Circular Chapel and the access road to Grianan of Aileach is 300m east of the premises. The property is some 12 miles from Letterkenny and approximately 18 miles from the City of Derry Airport. It is at least an hour from Donegal Airport, if not more.

The property is essentially rural in location. This limits its local night-time business. However, the property incorporates a heritage centre and appears also to have a conference centre (with seating for up to 500 delegates) and a conference suite (with facilities for up to 100 delegates). The premises has 43 bedrooms and is a 3 star hotel.

The agreed area of the premises is 3,815.72 sq. metres. The premises has a car park with 150 car spaces.

The Appellant's Evidence

On behalf of the appellant, Mr. Patrick McCarroll gave evidence. Mr. McCarroll adopted his report as his evidence. He emphasised that the location of the premises made it a rural rather than urban premises. As a result, because of the legislation relating to drink driving, it did not have a local pub trade. This made it less attractive than other hotels in urban areas, in his view. In addition, the hotel has its own sewage treatment plant which was an additional cost which would have to be borne by respective tenants; again, this sort of cost would not necessarily be imposed on tenants in urban locations who would not have their own separate sewage treatment plant. Mr. McCarroll highlighted the difficulties in the hotel business and suggested that the average occupancy between January and December of 2009 was 27.7%.

Mr. McCarroll also indicated that the final Valuation Certificate had issued on 12th May 2009 with an RV of €708.00, though this had been reduced by the Appeal Officer on 16th December 2009 to €650.00 which decision has now, in turn, been appealed. The euro per sq. metre rate adopted by the respondent was €34.16 per sq. metre.

Comparisons

Mr. McCarroll drew the Tribunal's attention to 5 different comparisons, being:

- (a) McNamara's Hotel, Moville, Co. Donegal.
- (b) Clanmaca t/a The Holiday Inn, Letterkenny, Co. Donegal.
- (c) Inishowen Gateway Hotel, Buncrana, Co. Donegal.
- (d) Ostann Gaoi Doire, Derrybeg, Co. Donegal.
- (e) Shandon Hotel, Marble Hill, Co. Donegal.

Mr. McCarroll pointed out that comparisons (a), (b) and (c) were located at or close to towns. Comparisons (b) and (c) had a leisure complex and a swimming pool and indeed comparisons (d) and (e) had swimming pool and leisure complex respectively. Mr. McCarroll suggested that even in respect of the premises located in a town, the rate per sq. metre never exceeded €30.06 and in the case of comparison (a) fell below at €27.33 which was the rate also used in comparisons (d) and (e) which were in less central (though well established) tourism locations.

In response to a question from the Tribunal, he accepted that the subject property was open all year round whereas comparisons (d) and (e) were open on a seasonal basis. In cross-examination, he agreed that the subject property had a view which would be appreciated by guests and was a modern built hotel. He suggested that there might be some degree of exaggeration on the website of the subject property as to just how easily it might be accessed from e.g. Donegal Airport. He acknowledged that Bord Fáilte advertised widely to catch more than just local trade but indicated that in any hotel business there were two elements, being:

- (i) Local trade; and
- (ii) Travelling trade.

In his view, this hotel had virtually no local trade because of its location.

Mr. McCarroll accepted that the premises had not been valued on the basis of turnover but said that the occupancy rate is always relevant to any potential landlord and tenant since the rate of occupancy will reflect the perceived profitability of the business. He expressed the view that the sewage treatment plant would represent an additional overhead which would have to be discharged by the tenant; this, he felt, would be likely to lower the relevant rent which such tenant would pay.

He accepted that relevant comparisons under Section 49(1) must be within the same rating authority area. He accepted that comparison (b) was now in the Letterkenny urban area though it had been in the Letterkenny rural area at the time of valuation. He accepted that comparison (c) was in a different rating area (being Buncrana Town Council) but contended that properties outside the rating authority area have been considered in the past by the Valuation Tribunal and by the Valuation Office. He indicated that the business for comparisons (d) and (e) was almost entirely dependent on seasonal trade. In answer to the Tribunal, he expressed the view that the subject property attracted additional (if somewhat limited) business by virtue of the heritage centre.

The Respondent's Case

On behalf of the respondent, Mr. Viorel Gogu gave evidence. He adopted his report as evidence. He emphasised that the subject property had two conference venues and was also a popular wedding venue.

He also referred to five comparisons being:

- (i) Seaview Hotel, Bunbeg, Co. Donegal;
- (ii) Loch Altan Teo, Gortahork, Co. Donegal;
- (iii) The Downings Bay Hotel, Downings, Co. Donegal;
- (iv) McGrory's of Culdaff Hotel, Culdaff, Co. Donegal;
- (v) Malin Hotel, Malin, Co. Donegal (which he indicated was a 2 rather than 3 Star hotel).

All of these premises were valued at rates per sq. metre at or in excess of €34.16. In his view, the rateable valuation of €50.00 was fair and reasonable. He did not think that the subject

property was disadvantaged by its location.

Under cross examination Mr. Gogu accepted that there was no beach area readily available to the subject property. He also agreed that the property was somewhat further from the sea than the other comparisons he had referred to. He indicated, however, that he did not believe the profile of the hotel was based on proximity to the beach.

Mr. Gogu accepted that his comparison (i) was valued on the basis of turnover and that it had achieved a high level of turnover which was attributable to liquor sales and its disco activity, neither of which applied to the subject property. In the course of cross examination it transpired that Mr. Gogu had not visited any of the five comparisons he had referred to in his report, but rather had downloaded photographs of the premises from the internet and had taken the relevant rating information in respect of each comparison from records of the Valuation Office. When it transpired, in cross examination, that Mr. Gogu had not visited the premises in question; Mr. McCarroll applied to the Tribunal to have all evidence in relation to Mr. Gogu's list of comparisons deemed inadmissible. The Tribunal indicated that it would admit the evidence in question in relation to the comparisons. However, it made clear that the comparisons could be of only limited assistance to the Tribunal if Mr. Gogu had no knowledge of them. Mr. Gogu was only able to deal in a limited way with questions put to him in relation to the five comparison properties offered by him. He contended, however, that the valuations and the rates per sq. metre which had been calculated by other valuers were relevant to the Tribunal in making its determination.

In cross-examination Mr. Gogu accepted that all five of his comparison properties were located in urban rather than rural areas. His view, however, of the "*market*" which the subject property was seeking to attract was the wedding and conference centre market rather than the seaside holiday market. However, he was unable to say how many conferences had been held in the subject property last year.

Both Mr. McCarroll and Mr. Gogu made brief closing submissions.

The Issue: Quantum of Valuation

It may be appropriate to set out Section 49(1) of the Valuation Act of 2001. It reads as follows:-

“If the value of a relevant property (in subsection (2) referred to as the “first mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property”.

Mr. Gogu drew the Tribunal’s attention to the provision of Section 49(1) and, of course, he was quite correct to do so. It is thus clear that little or no weight can be attached to properties outside of the relevant rating authority area at the time of the valuation. Thus, we attach little weight to comparison (c) put forward by the appellant and only slightly more weight to comparison (b) proffered by him, though we note that it was deemed to be in the rural area of Letterkenny when originally assessed.

It appears to the Tribunal that the subject property is in a location which is significantly different to the locations of the comparison properties put forward by the respondent. The respondent’s comparisons are located at good seaside locations and are undoubtedly more likely to attract holiday makers (who are also likely to stay for longer) than the subject property. We note that the subject property is some distance from the nearest towns (though it is not far from the border) and is therefore likely to have a less intensive local (and particularly night-time) trade than properties in urban locations. We noted that the evidence suggests that the subject property is a very popular wedding venue and also has the ability to host conferences of various sizes. However, we have no evidence of number of weddings or conferences held in the premises. Therefore, it is not easy for us to say whether the wedding and conference trade in some way makes up for the somewhat isolated (in comparison to the other seaside or urban properties) location.

It does appear to the Tribunal, however, that the subject property is a significantly better property than the Moville, Derrybeg and Marble Hill properties [(a), (d) and (e)] suggested by the appellant as being appropriate comparisons. As already pointed out, the usefulness of comparisons (b) and (c) to the Tribunal, having regard to the provisions of Section 49(1), is limited.

The Tribunal also notes that the subject property has its own sewage treatment plant. In our view, the cost of maintaining this is likely to be a cost which would have to be borne by a prospective tenant and is more likely to be regarded by such a prospective tenant as a drawback than an advantage because of this increased cost.

The Tribunal notes that Mr. Gogu inspected the subject property and downloaded certain extracts from the subject property's website for insertion into his report. We see no reason whatsoever why extracts from the website of the subject property should not be utilised, though of course they should be identified as being such. Any inconsistency between the appellant's website information and the evidence tendered on appeal by the appellant is a matter for the appellant's representative to deal with.

However, the Tribunal was concerned that Mr. Gogu had not visited any of the premises which he had sought to use as comparisons. While the respondent is, of course, entitled to use the information in its own records (such as the rate per sq. metre) and any other information of relevance, it seems to us that a valuation of a comparison property proffered by a respondent's valuer (or indeed an appellant's valuer) who has not actually visited the premises is of extremely limited assistance to the Tribunal. It does not make the evidence of itself necessarily inadmissible in the case of the respondent if some other valuer of the respondent has visited the premises. However, it seems to us that very little weight indeed can be attached to the proffering by a party's valuer of a property as a comparison property to a subject property if the valuer has not visited the comparison property in question at some stage. It seems to us that in order to compare the subject property with the other relevant local properties it is necessary to have visited those other properties also. In saying this, we make no criticism of Mr. Gogu personally.

Conclusion

In our view, the subject property is in a rural and somewhat isolated location. We believe its "*local trade*" is likely to be limited by comparison with properties located at or very near a town or village. It does not appear to us to be comparable to any hotel property in a seaside location. It seems to us that the appropriate rate per sq. metre is €31.00, a reduction from €4.16 per sq. metre.

Determination

For the reasons set out above, the Tribunal determines the net annual value of the subject premises to be €90.00 calculated as set out below:

3,815.72 sq. metres @ €1.00 per sq. metre =	€18,287.32
Net Annual Valuation Say	€18,290.00
Rateable valuation @ 0.5%	= € 591.45
RV Say	€90.00

And the Tribunal so determines.