

Appeal No. VA11/4/016

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

**Aodán McGrath**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2208833, Nursing Home at Lot No. 12EA, Park, Spiddal, Galway,  
County Galway.

**B E F O R E**

**John F Kerr - BBS, FSCSI, FRICS, ACI Arb**

**Deputy Chairperson**

**Mairead Hughes - Hotelier**

**Member**

**Michael Connellan Jr - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 15TH DAY OF JUNE, 2012**

By Notice of Appeal received on the 20th day of December, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €240 on the above described relevant property.

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

*"On the basis that the RV as assessed is excessive and inequitable." "The estimated NAV is over stated given the number of beds in this facility & relative value of the property when viewed against other comparable properties already in the List".*

The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Holbrook House, Holles Street, Dublin 2 on the 4th day of April, 2012. The appellant was represented by Mr. Eamonn Halpin, BSc Surveying, ASCS, MRICS, MIAVI, and the respondent was represented by Mr. Don Donovan, BSc (Property Management & Valuation Surveying), MIAVI, valuer at the Valuation Office.

In accordance with the rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. From the evidence presented, the following emerged as being the facts relevant and material to this appeal.

### **The Issue**

The issue between the parties was that of quantum, the appellant maintaining that a discount should be allowed due to certain considerations as directed by the Health Information and Quality Authority (HIQA) for the subject property.

### **Valuation History**

The property was listed for revision in December 2010 following a request by Galway County Council. A Valuation Certificate (proposed) was issued in January 2011 with an RV of €240, and following representations by the appellant the valuation remained unchanged. An appeal was subsequently lodged with the Commissioner of Valuation, and following this, the Appeal Officer made no change. On 20<sup>th</sup> December 2011, a Notice of Appeal was lodged with the Valuation Tribunal.

The net annual value (NAV) was assessed as follows:

(Level 0) Nursing Home	908 sq. metres	@ €30.75 per sq. metre	=	€27,921.00
(Level 1) Nursing Home	750 sq. metres	@ €27.00 per sq. metre	=	<u>€20,250.00</u>
TOTAL				€48,171.00
RV =				€240.855
RV Say €240				

### **The Property**

The subject property is located on the R336 in the townland of Pháirc between Furbo and Spiddal in County Galway, which is described as being rural and coastal with a low density population. The property is a new good quality modern purpose-built nursing home on two levels, comprising 45 bed spaces and 38 bedrooms. HIQA has now reduced the number of beds to 40. The nursing home operates the ‘Fair Deal’ nursing scheme, whereby patients receive an all in nursing care service for a weekly charge of €876. However, the parties advised that this scheme is no longer available to new entrants of nursing home.

### **Accommodation**

The Gross External areas of the premises were agreed between both parties as follows:

Level 0	908 sq. metres
Level 1	750 sq. metres

### **The Appellant’s Case**

Mr. Eamonn Halpin stated at the outset that he accepted that nursing homes are valued for rating purposes on a per sq. metre basis. However, he argued that for rating valuation purposes one must compare like with like. He described the subject property as being in a very scenic rural location and built in line with HIQA regulations which now require approved nursing homes to provide extra floor space for each resident. He described his comparison properties as pre-dating the subject, and while they all reflect the ‘tone of the list’, he argued that other considerations such as location, private clients or “Fair Deal”, the number of beds and the costs associated with operating the business must be taken into account. He said that there is now a new factor to be considered, specifically the aforementioned HIQA standard known as the “Criteria for newly built designated centres, new extensions and first time registrations” (*National Quality Standards for Residential Care Settings for Older People in Ireland*, ‘HIQA Standard’ 25.44 – 25.58 inclusive).

Mr. Halpin also contended that consideration should be given to the additional floor area provided in the subject property as required by the foregoing HIQA standard, i.e. an imperative to compliance, and that when the comparison is made with properties that were revised on the standards which preceded the above the difference between the subject and those properties is readily apparent. Whilst he agreed that pre HIQA Standard 25 there was a

trend to increase the size of rural nursing home bedrooms, he argued that the increase in the floor areas to the subject's rooms was not in consequence to market demand, but rather by interpretation of imminently anticipated regulatory changes.

### **Comparisons**

In support of his valuation Mr. Halpin introduced six comparisons, as follows:-

1. Lough Corrib Private Nursing Home.
2. Mount Bellew Private Nursing Home.
3. Greenpark Nursing Home, Tuam.
4. Teach Altranais Charna (Carna Nursing Home).
5. An Teaghlach Uilinn, Moycullen.
6. The Holy Family Nursing Home.

Details of these properties are set out at Appendix 1 attached hereto.

He noted that all of these comparison properties are located close to population centres and therefore are better located than the subject, were built prior to the new HIQA Standard 25 regulations, and were not subject to the same restrictions as the subject. Rates per sq. metre, established by the Valuation Office, on the ground floors of each of the foregoing, for the nursing home areas, range from €28.21 to €30.75 with five of the six set at the latter level. Details of these rates are set out at Appendix 1 of this judgment.

### **Cross-Examination of the Appellant**

In response to questions put by Mr. Donovan and the Tribunal, Mr. Halpin stated the following:-

When asked if the subject property was the first of its type as a HIQA Standard 25 compliant nursing home revised by the Valuation Office in County Galway, he expressed his belief that such was the case. He argued that the additional space the subject occupies as a result of HIQA Standard 25 compliance regulations should be disregarded in order to value it in line with the older comparables which form the 'tone of the list'. He said that it was correct to have a uniform level of valuation, but it was not always appropriate to follow such a guide if a situation were to arise which might give effect to a material change in how the property were to be valued. He pointed out that the subject has 40 bed spaces and is assessed with an

RV of €240. He noted that his comparison 5 (An Teaghlach Uilinn, Moycullen, and assessed in 2011) has 49 bed spaces and an RV of €177. He declared that the hypothetical tenant would not pay more rent for any extra physical space in the subject, but conversely would consider the number of permitted bed spaces provided together with the nature and location of the property as the basis on which he might consider his bid. He concluded his evidence by saying that suitable allowances should be made for the HIQA Standard 25 regulations and contended for an RV of €194.

### **Respondent's Evidence**

Mr. Donovan outlined the valuation history of the subject as already detailed here in this judgment. In support of his opinion of Net Annual Value, he introduced 10 comparison properties, as follows:

1. Portumna Retirement Village.
2. An Teaghlach Uilinn, Moycullen.
3. Owen Riff Nursing Home, Oughterard.
4. Oranmore Nursing Home.
5. Charna Nursing Home.
6. Castleruain House Nursing home, Athenry.
7. Flannery's Nursing Home, Abbeyknockmoy.
8. Kilcolgan Nursing Home.
9. Holy Family Nursing Home, Magheramore.
10. Moycullen Nursing Home.

Details of these properties are set out at Appendix 2 attached hereto.

### **Cross-Examination of the Respondent**

In reply to various questions asked by the Tribunal and the appellant's agent, Mr. Donovan responded as follows:

1. Comparison no. 1 above should be removed from his schedule of comparison properties as an appeal as same is currently under consideration by the Valuation Tribunal.
2. He said that there was an established 'tone of the list' for rural modern purpose-built

nursing homes in County Galway and that all of his chosen comparisons were valued at a level of €30.75 per sq. metre except for comparison properties 5 and 6 which are valued at a rate of €28.21 and €29.05 respectively.

3. He stated that all of his comparisons were similar in many regards to the subject and, accordingly, chosen by him.

He concluded his evidence by informing the Tribunal that while the subject property is the only HIQA Standard 25 compliant nursing home to be revised in County Galway, nevertheless the Commissioner believes that no allowance or discount per sq. metre should be provided for in recognition of the additional floor area requirements pertaining to HIQA Standard 25.

### **Findings**

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

1. The parties agreed that nursing homes are valued for rating purposes on a per sq. metre basis.
2. It is mindful that the parties accepted that the subject property is the first in County Galway to be valued for rating purposes as a property compliant with the new HIQA Standard number 25 for nursing homes.
3. The parties agreed that the gross floor areas of the subject and those in particular of the common areas, meeting rooms and bedrooms, are larger than corresponding areas of comparison properties referred to by both parties in their evidence.
4. The parties could not advise the Tribunal of the percentage increase in floor areas resulting directly from the application of the HIQA Standard 25 for nursing homes, but acknowledged that a portion of the incremental floor area was provided at the discretion of the occupier in the subject property.
5. It is of the view that the findings in **VA07/1/006 – The Village Nursing Care Centre** in Gort, and recited at page 13 of the respondent's précis, and in particular findings 1, 2, 4 and 5 apply also in this case.
6. As the parties concurred that the foregoing Tribunal decisions were determined on properties revised on standards pre-dating 'HIQA Standard 25' (*National Quality Standards for Residential Care Settings for Older People in Ireland*) the Tribunal, in

this particular case, considers that the additional required floor area provided merits consideration and sets the subject apart from those similar properties on the Valuation List which were referred to by the parties in their respective précis.

### **Determination**

Mindful of the foregoing, together with all the evidence submitted and advanced at hearing, the Tribunal considers it appropriate to grant a reduction of 5% on the Net Annual Value on the subject, as follows:

(Level 0) Nursing Home 908 sq. metres @ €30.75 per sq. metre	=	€27,921
(Level 1) Nursing Home 750 sq. metres @ €27.00per sq. metre	=	<u>€20,250</u>
NAV	=	€48,171
Less 5%	=	<u>€ 2,408.55</u>
Total NAV	=	€45,762.45

Accordingly, the rateable valuation calculates to a sum of €228.81 by employing the reduction factor of 0.05%.

RV Say €228

And the Tribunal so determines.