

Appeal No. VA12/3/029

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

**Damien Henry**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2210771, Guesthouse at Lot No. 16K, Carrowbunnaun, Knocknaree, Sligo, County Sligo

**B E F O R E**

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

**Deputy Chairperson**

**Aidan McNulty - Solicitor**

**Member**

**Patricia O'Connor - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 22ND DAY OF FEBRUARY, 2013**

By Notice of Appeal received on the 27th day of August, 2012, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €130 on the above described property.

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

*"On the basis that the proposed NAV is excessive & inequitable. The Commissioner has failed to make sufficient allowance for the subjects[sic] location & the nature of the business." "The property enjoys a seasonal trade only due to its location outside Strandhill. Additionally it has no bar or restaurant or other facilities and relies only on its bedrooms for income - all of these points must be factored in to the assessment."*

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal, located on the third floor of Holbrook House, Holles Street, Dublin 2, on the 25<sup>th</sup> day of October, 2012. The appellant was represented by Mr. Eamonn S. Halpin, BSc (Surveying) MRICS, MSCSI, and the respondent was represented by Ms. Olwen Jones, BSc (Hons.) Real Estate Management, a 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. This evidence was supplemented by additional evidence given either directly at the hearing or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

### **At Issue**

Quantum.

### **The Property**

The subject relevant property is a 4-star rated modern, purpose-built guesthouse, which opened for trade in March 2011. The property is finished to a very high standard and accommodation includes reception, kitchen, dining room, lounge, TV room, 18 large en-suite bedrooms and three suites, laid out as follows:-

|               |   |
|---------------|---|
| Ground Floor: | Reception, kitchen, dining room, lounge, TV room and 8 double/twin en-suite bedrooms.     |
| First Floor:  | 10 double/twin en-suite bedrooms and duty manager's accommodation.                        |
| Second Floor: | 3 suites, each consisting of a bedroom, bathroom and open-plan lounge/dining/kitchenette. |

Many of the bedrooms have access to either the gardens or a balcony. All floors are serviced by a lift.

Note: The duty manager's accommodation is excluded from the valuation.

### **Location**

The subject property is located in Strandhill on the west coast of County Sligo. Strandhill is approximately 9 kms west of Sligo town and approximately 1.6 kms from Sligo Airport. The

property is situated on the R292, also known as Top Road and is within walking distance of Strandhill beach.

### **Services**

The subject relevant property is understood to be served with mains power, water, telephone, storm and foul sewer.

### **Tenure**

The property is understood to be held on a freehold basis.

### **Floor Areas**

Both the appellant's and respondent's submissions confirmed that the floor areas of the subject guesthouse property were measured on a Gross External Area (GEA) basis and the computed figures agreed are as follows:-

|              |                     |
|--------------|---------------------|
| Ground Floor | 542.15 sq. metres   |
| First Floor  | 471.92 sq. metres   |
| Second Floor | 245.77 sq. metres   |
| Total        | 1,259.84 sq. metres |

Plus 20 Car Parking Spaces

### **Valuation History**

|                 |  |
|-----------------|--|
| August 2011:    | Property inspected.  |
| September 2011: | Valuation Certificate (Proposed) issued with an RV of €172.  |
| October 2011:   | The appellant made representations to the Commissioner of Valuation through his agent.   |
| December 2011:  | Valuation Certificate issued with an RV of €139.   |
| December 2011:  | Subject property entered onto the Valuation List.  |
| January 2012:   | Appeal submitted to the Commissioner of Valuation by the appellant's agent.  |
| July 2012:      | The valuation was amended to €130 at First Appeal following agreement of areas, but no agreement was reached on the actual rateable valuation of the property. |

August 2012: The decision of the Commissioner of Valuation was appealed to the Valuation Tribunal.

### **Appellant's Case – Evidence of Mr. Eamonn Halpin**

Mr. Eamonn Halpin took the oath, adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission, making the following points:-

- The subject, as described above, is a modern, 4-star registered three-storey guesthouse built and designed for purpose.
- The guesthouse is positioned in a coastal rural location and enjoys seasonal trade only.
- The subject guesthouse caters primarily to the overnight accommodation needs of the residents and offers limited cold food breakfast menu choices only.
- The property has no bar, function room or restaurant of any kind.
- The property offering is considered inferior to licensed guesthouses and unregistered licensed Bed & Breakfast establishments (B&Bs).
- There is only one other noteworthy modern registered guesthouse in the Valuation List for Co. Sligo, identified below as Patrick Cawley's in Tobercurry and the latter is valued with an adjoining licensed premises.
- The Commissioner of Valuation erred by not sufficiently considering the impact on turnover associated with the public commercial licensed element of Cawley's guesthouse when viewed as a comparator with the subject relevant property.
- Mindful of the single comparator property noted above, the valuation of suitable properties comparable beyond the Sligo County Council Rating Authority area should be considered in the subject appeal.
- The hypothetical tenant, in considering his bid for the subject, would carefully heed and set his bid to reflect the fact that unregistered guesthouses or B&Bs are not currently assessed for commercial rates such as competitor properties trading in the Strandhill area.
- Bookings from Bord Fáilte for accommodation at the subject guesthouse generate not more than 1.5% of the turnover at Mr. Henry's premises and this is of grave concern to the appellant in the context of a very sparse local population and available trading base.
- The subject property, when considered on a gross external area basis, is considerably larger than its competitor properties as it was built to comply with recent building

regulations & controls. This factor has not been considered by the Commissioner of Valuation.

- The appellant wishes to have the assessment of the Net Annual Value of the subject reduced to more fairly reflect in his view its value relative to other comparable properties, mindful of the mid-terrace location of the subject, its actual location at Strandhill and the values applied to other accommodation units within the subject Rating Authority Area and beyond.

### **Appellant's Comparison Properties**

#### Comparison No. 1

Property: Patrick Cawley, Tobercurry, Co. Sligo.  
 Property No: 1994317  
 RV: €107.93 (1999)  
 Description: Guesthouse & Licenced House with an area of 955.04 sq. metres.

#### Comparison No. 2

Property: McCarthy's Lodge (Michael & Geraldine Foy), Quay Street, Westport, Co. Mayo.  
 Property No: 1342958  
 RV: €18 (Valuation Tribunal ref: **VA01/2/041 – Michael & Geraldine Foy**)  
 Description: Guesthouse and Licensed House in Co. Mayo.

#### Comparison No. 3

Property: John Spellman, "Spellman's B & B", Ballaghaderreen, Co. Roscommon.  
 Property No: 103311  
 RV: €160 (Valuation Tribunal ref: **VA01/3/007 – Mr. John Spellman**)  
 Description: Guesthouse, 6 Apartments and Store.

Based on the foregoing Mr. Halpin concluded that the rateable value of the subject should now be determined as follows:-

### **Valuation by the Appellant**

#### **Comparative 1988 Basis:**

Cawley's Guesthouse & Licensed House: 955.04 sq. metres @ €22.55 per sq. metre = €21,536  
 Less Licence (£4,000\*): € 5,079

€16,457

Therefore Effective Rate in Cawley's = €16,457 / 955.04 sq. metres = €17.23 per sq. metre.

### **Subject Property**

|  |  |                 |
|--|--|-----------------|
| Ground Floor:  | 542.15 sq. metres @ €17.23 per sq. metre = € | 9,341           |
| First Floor:   | 471.92 sq. metres @ €17.23 per sq. metre = € | 8,131           |
| Second Floor:  | 245.77 sq. metres @ €17.23 per sq. metre = € | 4,235           |
| Less 20% (to reflect the lack of public commercial element): |  | <u>€- 4,341</u> |
|  |  | €17,366         |

Total NAV = €17,366 @ 0.5% = RV €86.83

**Rounded to: €87**

\* Appellant noted the following:- *“License Value derived from common rating practice in the cases of rentalised public house valuations see Valuation Tribunal Case: VA11/3/012 – Glow Wise Ltd. and decisions of the Commissioner: Property Nos. 587602, 750187, 588353 etc.”*

**OR**

### **Estm. Nav of 1988 Basis:**

|               |  |              |
|---------------|--|--------------|
| Ground Floor: | 542.15 sq. metres @ €13.67 per sq. metre = € | 7,412        |
| First Floor:  | 471.92 sq. metres @ €13.67 per sq. metre = € | 6,451        |
| Second Floor: | 245.77 sq. metres @ €13.67 per sq. metre = € | <u>3,360</u> |
|               |  | €17,223      |

Total NAV = €17,223 @ 0.5% = RV €86.12

**Rounded to: €86**

Mr. Halpin expressed his view as agent for the appellant that the best comparison property above is that of Patrick Cawley's and contended that the license and commercial element of the assessment attributed to same should be ignored when making its valuation relative to that of the subject property so that the respective values refer exclusively to room sales turnover.

### **Cross-examination of Mr. Halpin**

In response to questions put by Ms. Jones and the Tribunal, Mr. Halpin stated that:-

- Only cold breakfasts are provided to the residents at the subject property.

- The trade is seasonal and the property competes with many non-rated Bed & Breakfast establishments and Town & Country houses.
- Reflecting the seasonality of the trade conducted at the subject and noting that the premises were closed during December, January, February and March, an occupancy level of 36% was attained for y/e 2011 and a similar threshold achieved year to date 2012.
- He confirmed that Cawley's is a 2-star graded premises and disagreed with Ms. Jones' contention that the valuation of the licensed premises adjoining same was primarily set by reference to the values of licensed premises in the Dublin region, as well as in some other locations throughout the country.

### **Respondent's Case – Evidence of Ms. Olwen Jones**

Ms. Jones then took the oath and formally adopted her précis as her evidence-in-chief.

The location, description and accommodation details provided by the respondent were common case to those provided above by the appellant.

- She opened her case by noting for the information of the Tribunal that when the common comparator property, Cawley's, was revised, not all of the bedrooms in that establishment were fitted with en-suite bathrooms or shower rooms but acknowledged that it did have a function room, unlike the subject.
- Ms. Jones provided the Tribunal with a summary of her written précis and explanatory details on the nature, location and operation of the five comparison properties cited in her evidence, as outlined below.
- Ms. Jones verified that the property was valued under Section 49(1) of the Valuation Act, 2001, and that all of the comparisons referred to in her précis were drawn from the same Rating Authority area, namely County Sligo.
- She confirmed that the only other registered rate paying guesthouse property on the Valuation List for Co. Sligo is that as acknowledged by both parties, namely Patrick Cawley's of Tobercurry, noting that it is a) an older building than the subject, b) the accommodation is not up to the standard of the appellant's and c) is rated by Fáilte Ireland as a two-star property.
- Ms. Jones confirmed that the other four comparison properties in her précis are small hotels ranging from one-star through to three-star graded. She added that unlike the

smaller properties among her comparisons (i.e. nos. 1, 2 and 3) her comparison property no. 5 is over three times the size of the subject.

- Ms. Jones also indicated that as a cross-check measure on the valuation applied by the Commissioner of Valuation to the subject property, she examined valuation assessment details on some other guesthouses in Co. Leitrim and Co. Mayo and was satisfied that the Net Annual Value assessed on the subject Strandhill property is both fair and reasonable.

### **Respondent's Comparison Properties**

#### Comparison No. 1

Property: 19 – 23 Emmet Street, Tobercurry, Co. Sligo.  
 Occupier: Patrick Cawley  
 Property No: 1994317  
 RV: €107.93  
 Description: House, Licensed House, Guesthouse, Rooms

#### Comparison No. 2

Property: Top Road, Strandhill, Co. Sligo.  
 Occupier: Damien and Mary Henry.  
 Property No: 1993951  
 RV: €76.18  
 Description: Hotel, House, Yard

#### Comparison No. 3

Property: Top Road, Strandhill, Co. Sligo.  
 Occupier: Shay Burke  
 Property No: 1993950  
 RV: €121.33  
 Description: Hotel, Land

#### Comparison No. 4

Property: Coach House Hotel, Grattan Street, Ballymote, Co. Sligo.  
 Occupier: John Perry  
 Property No: 1577204  
 RV: €218  
 Description: Hotel, Car Park.



Comparison No. 5

Property: Ocean Sands Hotel, Enniscrone, Co. Sligo.  
 Occupier: Atlantic Ocean Sands Hotel Ltd.  
 Property No: 2205910  
 RV: €490  
 Description: Hotel

**Valuation by the Respondent**

The following represents the valuation details of the subject property computed by the respondent:-

| <b>Floor</b>  | <b>Area<br/>(sq. metres)</b> | <b>Rate per<br/>sq. metre</b> | <b>NAV</b>        |
|---------------|------------------------------|-------------------------------|-------------------|
| Ground        | 542.15                       | €1                            | €1,385.15         |
| First Floor   | 471.92                       | €1                            | € 9,910.32        |
| Second Floor  | 245.77                       | €1                            | € 5,161.17        |
| <b>Total:</b> | <b>1,259.84</b>              |                               | <b>€26,456.64</b> |

Total NAV = €26,456.64 @ 0.5% = €132.28

**Rounded to: €130**

**Cross-examination of Ms. Jones**

In reply to various questions asked by the Tribunal and the appellant's agent, Ms. Jones responded that:-

- 1) The transition from three to four star grading of a guesthouse is not linked *per se* to property specifications but is linked specifically to services, which might include teas and coffees being made available to residents throughout the day, porter and bag handling services and generally to a higher level of interaction for the residents with the management of the establishment.

- 2) Her Comparison No. 5, namely the Ocean Sands Hotel at Enniscrone, Co. Sligo, is a substantial and established wedding venue.
- 3) She made allowances for the contribution to value of the bar trade in each of her comparison properties when assessing the Net Annual Value of the subject and also considered the effect of the extra large footprint and gross external area measurement of the subject but contended that the incremental costs of providing same were mitigated by the additional value created by the provision of larger rooms and circulation areas within the appellant's property.
- 4) The Patrick Cawley property remains open throughout the year and seasonality, accordingly, is not a factor for consideration at that premises.

### **Summations**

Both the appellant and the respondent availed of the opportunity to provide summation statements which were a synopsis of the foregoing arguments and positions employed by them in both their précis of evidence and adduced at hearing.

### **Findings**

The Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions. The Tribunal finds that:-

1. The parties agreed that there is only one other registered guesthouse on the Valuation List for Co. Sligo, namely Patrick Cawley's of Tobercurry.
2. The similarities and differences as noted above between Patrick Cawley's and the subject property warranted particularly careful consideration in the instant case.
3. The impact of a) the lower star grading, b) older construction specification, layout and nature of Cawley's premises and c) year round trade (excluding the assessed value contribution of the associated bar) may be offset by the (i) the incremental capital costs associated with the purpose-designed and modern build specifications of the subject property taken together with (ii) its coastal location and (iii) the issue of seasonal trading opportunities. Based on the evidence submitted and adduced at hearing, such matters when weighed with and against each other in valuation terms, the consequences for the rating hypothesis appear to this Tribunal to be very similar.
4. It follows that the Tribunal is satisfied that the value assessed on the bar licence at Patrick Cawley's should be subtracted from its NAV to make the rental assessed per sq. metre relative to the subject relevant property.

5. The Tribunal does not consider a further reduction in value of the subject property is warranted and accordingly rejects the reduction requested by the appellant of 20% “*to reflect the lack of public commercial element*”.
6. The Tribunal is not of the view that the respondent was correct in his comparison of the subject property with four hotels in the County Sligo area.
7. Similarly, the Tribunal is not satisfied that the appellant followed the provisions prescribed in the Valuation Act, 2001 by seeking to rely on the valuation of similar properties in other Rating Authority areas due to the paucity of comparable properties on the Valuation List for Co. Sligo.

### **Determination**

Mindful of all of the above, the Tribunal considers that a fair and reasonable rateable valuation on the subject relevant property should be calculated as follows:

|              |   |                   |
|--------------|---|-------------------|
| Ground Floor | 542.15 sq. metres @ €17.25 per sq. metre =        | € 9,352.09        |
| First Floor  | 471.92 sq. metres @ €17.25 per sq. metre =        | € 8,140.62        |
| Second Floor | <u>245.77</u> sq. metres @ €17.25 per sq. metre = | <u>€ 4,239.53</u> |
| Total        | 1,259.84 sq. metres                               | €1,732.24         |

Total NAV = €1,732.24 @ 0.5% = €108.66

RV say €109

And the Tribunal so determines.