

Appeal No. VA02/2/037

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

Milford Inns Ltd.,

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Hotel at Map Reference 2B, Loughnaky, ED: Glenalla, RD: Milford, County Donegal

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

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

Member

Maurice Ahern - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF FEBRUARY, 2003

By Notice of Appeal dated the 25th day of April, 2002, the appellant appealed against the determination of the Commissioner of Valuation which fixed a rateable valuation of €761.84 on the property concerned. The grounds of appeal as set out in the Notice of Appeal are that:

"The rateable valuation is excessive having regard to the location & size of the property, the nature of the business therein, the tone of the list and the fact that the R.V. on the main section of the property was recently settled on appeal at R.V. £250. Ref. VA99/2/008.

1. This appeal proceeded by way of an oral hearing held in the Arbitration Centre Law Library, Dublin 7, on the 29th November 2002. Mr. Conor O’Cleirigh MIAVI ARICS ASCS of Conor O’Cleirigh & Company appeared on behalf of the appellant. Mr. Neil Blaney the manager of the Milford Inn gave evidence in relation to the circumstances of the hotel. Mr. Damien Curran MRICS ASCS BSc.(Surv.) a District Valuer in the Valuation Office gave evidence on behalf of the respondent.
2. Prior to the oral hearing the valuers exchanged and submitted to the Tribunal written précis of evidence and valuations, which were subsequently received into evidence by the Tribunal.
3. At the commencement of the hearing Mr. Curran asked the Tribunal for a ruling in relation to part of the evidence to be submitted by Mr. O’Cleirigh. Mr. Curran in his submission contended that Mr. O’Cleirigh was introducing a ground of appeal not previously referred to at any stage in the appeal process contrary to the rules of this Tribunal as elucidated in a number of previous decisions as follows *VA88/165 – Ebeltoft t/a Hunters Licensed Premises*, *VA92/6/049-053 – Northern Sound* , *VA92/5/008 – 012 - Dublin County Council*, *VA92/3/017 – Topline Fashions*, *VA95/4/003 – Fastnet Mussels Ltd* and *VA00/3/063-Brendan Bannerton Motors*. The Ground of Appeal objected to by Mr. Curran was the fact that the property concerned did not meet the requirements necessary for listing by the Irish Hotels Federation and Bord Fáilte.
4. Mr. O’Cleirigh in his response contended that the lack of registration was not in itself a ground of appeal but merely a factor to be taken into account when arriving at an opinion of net annual value. The grounds of appeal lodged with the Tribunal were that;
 “The Rateable Valuation is excessive having regard to the location and size of the property, the nature of the business therein, the tone of the list and the fact that the R.V. on the main section of the property was recently settled on appeal at R.V. £250. Ref. VA99/2/008.”
 Nothing in his evidence strayed outside these grounds.

After due consideration the Tribunal held for the appellant and, Mr. Curran having accepted the finding of the Tribunal, the hearing proceeded.

5. The relevant property comprises a mainly single storey structure with a two-storey building at the side which contains the bedroom accommodation. The property has been developed in a piecemeal fashion over the past twenty years or so and the latest extension, being the bedroom block, was completed in mid 2000.

The accommodation provided comprises a reception, lobby, lounge, bar, dining room, kitchen, function room, disco and 33 en-suite bedrooms together with considerable storage and car parking facilities. The area of the entire property measured on a gross external area basis is agreed to be 4,429.5 sq. m.

6. At the 2000/4 revision the rateable valuation of the relevant property was assessed at €761.84 (£600). No change was made at first appeal stage and it is against this decision that the appeal to the Tribunal lies.

The Evidence for the Appellant

7. Mr. O’Cleirigh adopted his précis of evidence, which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence he contended for a rateable valuation of €530 calculated using an overall rate method and a turnover method details of which are set out below:

Overall Rate Method

Overall rate per square metre having regard to the unique circumstances of the Milford Inn

4,460 sq.m. @ €23.90 p.sq.m. =	€105,877	£83,420
at .5% =	€529.38	£417

say €530 (£420)

Turnover Method

Date of Revision: November 2001

The certified turnover figures for the Milford Inn are as follows:

11 months ending 31/12/2001	€1,915,590.30 (£1,508,650)
12 months ending 31/01/2001	€1,766,393.50 (£1,391,148)

12 months ending 31/01/2000 €1,750,999.20 (£1,379,024)

The certified figures are for the 11 month period ending 31/12/2001 and a full 12 months period sales for January 2002 have been included in the calculation showing a total of €1,980,414.

An assessment of NAV based on the 12 months turnover ending 31/01/2002 then becomes:

12 months turnover to Jan.2002	€1,980,414.20	(£1,559,703)
Adjust to Nov. 1988 levels		
From Nov. 2001 levels		
	€1,216,993.10	£958,460
	x 9%	x 9%
	€109,529	£86,261.40
	x 0.005	x 0.005
R.V.	€547.64	£431

* 9% yield appropriate to establishment with high level of food sales.”

In support of his opinion of net annual value Mr. O’Cleirigh introduced ten comparisons, details of which are set out in the appendix attached to this judgment.

7. Mr. O’Cleirigh in evidence said that the relevant property occupied a somewhat isolated location just outside Milford. Milford he said was a small town with few amenities and little tourist activity. The Milford Inn he said was a family run establishment in business for over 30 years. The bedroom block was added in 2000 but due to the fact that the premises did not meet the required standards, the premises were not registered by the Irish Hotel Federation and hence does not appear in any promotional material published

by the Federation or by Bord Fáilte. The bed occupancy rate in the hotel was currently 12% as against the norm in the northwest area of 55%. The low occupancy rate was, in Mr. O'Cleirigh's opinion, due mainly to non-registration and the resultant absence from national tourist advertising material.

9. Under cross-examination Mr. O'Cleirigh agreed with Mr. Curran that the comparative method was the most appropriate method of valuation for hotels. In regard to non-registration he expressed a view that the changes required for compliance would be costly to execute. In regard to his comparisons he expressed the opinion that the first three, that is the Seaview Hotel Bunbeg, The Lake of Shadows, Buncrana and the Ostan Gweedore, Bunbeg, were the most relevant in terms of size and bedroom accommodation but not necessarily location. When asked to quantify the effect of non-registration he said it was in the order of 25% and went on to say that the Rateable Valuation of the subject would be €695 if all requirements were satisfactorily met.
10. Mr. Neil Blaney having taken the oath said that he had been manager of the hotel for over two years. In evidence he outlined the history of the premises and its development over recent years. Mr. Blaney said that Milford was not a tourist destination as such and was considered to be remote and it was for this reason, rather than the lack of registration, that the hotel suffered from the low bed occupancy rate. The primary town in the northwest he said was Letterkenny, which offered a wide range of facilities, such as discos etc. The Milford Inn could not he said compete at this level but relied mainly on functions such as weddings etc. which also accounted for a high proportion of the accommodation sector of the business.
11. When asked about other hotels cited as being comparable by Mr. Curran, he said the Silver Tassie occupied a better location close to Letterkenny and enjoyed a 45% bedroom occupancy rate. In his opinion the most comparable hotels were the Seaview and Ostan Gweedore in Bunbeg which were somewhat similar in size, but in his opinion occupied better locations. The Blue Haven Hotel was close to Killybegs and in his opinion also enjoyed a better location than Milford Inns.

12. Under cross-examination by Mr. Curran, Mr. Blaney said he advertised and operated the establishment as a hotel, notwithstanding the fact that the property was not registered. In regard to the changes necessary to meet the registration requirements, these could not be easily met and would not be carried out in the foreseeable future due to the costs involved.

The Evidence for the Respondent

13. Mr. Curran having taken the oath adopted his written précis and valuation, which had previously been received by the Tribunal as being his evidence in chief. In evidence Mr. Curran contended for a rateable valuation of €761.84 calculated as set out below:

Valuation

Hotel 4,429.5 sq.m. @ €34.17/sq.m.

Net Annual Value €151,356

RV @ .05% = €761.84

In support of his opinion of net annual value, Mr. Curran introduced four comparisons as set out in appendix 2 attached to this judgement.

14. Mr. Curran in evidence said that the comparisons introduced by him were similar to the property concerned in many respects and supported his opinion of net annual value. At the time of preparing his valuation he was not aware that the property was not registered by the Irish Hotel Federation or Bord Fáilte.
15. Under cross-examination Mr. Curran agreed with Mr. O’Cleirigh that Letterkenny was a better location for hotels than Milford. He further agreed that the bed occupancy rate of the property was very low and well below the expected average of 45-50%. Whilst he accepted that the premises were not registered he did not necessarily agree with the proposition put to him that this would have an adverse effect on rental value. In his opinion a hypothetical tenant would look at the property and come to the conclusion that the shortcomings could be rectified if necessary. Whilst he agreed that the lack of

registration could lead to a loss of business he nevertheless did not accept the argument that this should lead to a lower net annual value. His function was to value the property at the relevant date as it exists and in so doing he was of the opinion that non-registration would not be a material factor.

Findings

1. The relevant property started out as a licensed premises and was developed to its present state over the past several years.
2. It is common case that the premises, due to design constraints, do not meet the requirements for hotel registration and hence are excluded from promotional literature and website information published by the Irish Tourist Federation and Bord Fáilte.
3. Mr. O’Cleirigh in his evidence contended that the lack of registration was the primary reason for the low level of bedroom occupancy. In arriving at his opinion of net annual value he made a 25% allowance for lack of registration. Mr. Blaney the hotel manager whilst agreeing that the lack of registration had an effect on bedroom occupancy rate, did not consider the adverse impact to be of the magnitude reflected in Mr. O’Cleirigh’s evidence. In Mr. Blaney’s opinion the low occupancy rate was more a function of location than of lack of registration. Mr. Curran when originally arriving at his opinion of net annual value was not aware of the fact that the hotel was not registered but when informed of the fact he saw no good reason to adjust his valuation.
4. In his evidence Mr. O’Cleirigh introduced extracts from the accounts of the hotel but did not refer to them in his direct evidence nor rely upon them in support of his opinion of net annual value. In the circumstances the Tribunal does not consider this evidence to be relevant.
5. Having regard to all the evidence adduced the Tribunal considers the Silver Tassie to be the most relevant comparison as it is a somewhat similar type of establishment to the subject but with a smaller number of bedrooms. The Blue Haven Hotel (also unregistered) is helpful to a lesser extent as indeed are all the rest of the comparisons introduced by the valuers. The Tribunal in the circumstances of this appeal attaches no weight to Mr. O’Cleirigh’s alternative method of valuation as no information regarding

turnover was made available for any other of his comparables nor did he in fact refer to it in his direct evidence.

6. Having regard to the foregoing, the Tribunal finds that the lack of registration and all that flows there from would be taken into account by a hypothetical tenant as envisaged in the Valuation Acts in arriving at an opinion of rental value. As an informed person, the hypothetical tenant would also share Mr. Blaney's opinion that the shortfalls necessary to rectify the situation could not easily be met. The Tribunal however has come to the conclusion that Mr. O'Cleirigh has significantly over emphasised the impact due to non-registration whilst Mr. Curran on the other hand erred in making no allowance whatsoever for the lack of registration. Accordingly therefore the Tribunal determines that an allowance should be made and determines the net annual value to be €133,000, calculated as set out below:

Hotel 4,429.5 sq.m x €30 p. sq.m = €132,885

Say = €133,000

Rateable Valuation @ 0.5% = €665

7. The Tribunal therefore determines the rateable valuation to be €665.