

Appeal No. VA02/4/009

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

Moira & Pat Higgins (Sweeney's Oughterard House Hotel)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Hotel, Out Office, Land at Map Reference: 4a, Townland: Clare, Ward: Oughterard,
County Galway

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

John Kerr - FIAVI

Member

Maurice Ahern - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF OCTOBER, 2003

By Notice of Appeal dated 24 October 2002 the appellant appealed the determination of the Commissioner of Valuation in fixing a rateable valuation of €158.72 on the above described relevant property.

The Grounds of Appeal were attached to the Notice of Appeal and are included with this judgment as Appendix 1.

1. This appeal came before the Tribunal by way of an oral hearing held in the Courthouse, Carrick-on-Shannon on the 7th March 2003. At the hearing the appellant was represented by Mr. Patric Higgins, a co-owner of the subject property and the respondent by Mr. Michael F. Keogh, FRICS, a Staff Valuer in the Valuation Office.
2. The subject property is a family run and a long established premises in the town of Oughterard occupying a three-acre site fronting onto the main road to Clifden. According to Mr. Keogh the accommodation is as set out below:

Ground Floor: Entrance Hallway, Sitting Rooms (2), Anteroom leading to Dining Room, Dining Room Extension former Ball Room, Storeroom and Toilet, Lounge Bar including Ladies and Gents Toilets and outer side Porch, Small Office, Reception Area and Back Office, Main Kitchen with ancillary storage and preparation areas, Laundry.

First Floor: 14 Guest Rooms (all en suite)

Second Floor: 6 Guest Rooms (all en suite)

To side and rear: Separate out buildings including old coach house and ancillary sheds.

The old Coach House was once used as staff accommodation and all out buildings are semi-derelict.

The Hotel has a three star classification and has a small car parking area immediately across the road to the front of the premises. All main services are connected including full oil-fired central heating. The passenger lift is currently out of commission.

3. Rating History

The relevant rating history of the subject property is as follows:

- (a) At Circuit Court appeal stage in 1984 the rateable valuation was fixed at €158.72.
 - (b) In March 2000 the property was inspected on foot of a request for revision submitted by the appellant.
 - (c) In May 2002 the revised Valuation List was issued by the Commissioner of Valuation and the existing rateable valuation of €158.72 was left unchanged.
 - (d) At first appeal stage no change was made and a further appeal against this decision was forwarded by the appellant to this Tribunal.
4. Mr. Patric Higgins, having taken the oath, outlined in some detail the history of Sweeney's Oughterard House Hotel and the trading difficulties experienced by the establishment over

the past several years despite the best endeavours of himself and his family. The fall-off in business was, he said, due to a number of factors including, in more recent times, the foot and mouth crisis, increased competition in the area and a historic over reliance upon the American tourist market. Sweeney's Hotel, he said, was a relatively small establishment which could not cater for coach parties and relied mainly upon what he described as "fly and drive" customers on short stays. Mr. Higgins outlined how a number of restaurants and bed and breakfast establishments had opened up in the Oughterard area over the past several years all of which were in direct competition with Sweeney's Hotel. As a consequence there was a steady decline in bed night numbers, turnover and levels of profitability at Sweeney's Hotel and the likelihood was that these trends would continue into the future. Mr. Higgins stressed that the future of the business was reliant upon the continuing input and support of his wife and family and that profit levels were not sufficient to enable reinvestment in plant and machinery to take place. Without this investment the business would deteriorate even further.

In his evidence Mr. Higgins went on to say that the tourist industry in Ireland was facing difficult times and indeed was no longer perceived as offering good value for money. In many ways Ireland's unique features were under attack and had deteriorated in many ways due in part to the inadequate protection of the environment and deterioration in public services. Generally speaking, Mr. Higgins said, the hotel industry was suffering from over-capacity and room occupancy rates were falling right across the board. All of these factors made the hotel industry less profitable and in some instances non-viable. As far as the subject property was concerned the changes in the "Shannon Stop-Over" situation had an adverse effect on the "fly and drive" customers which were historically a feature of Sweeney's Hotel business.

Mr. Higgins in his submission said that the rating system was unfair, imprecise in operation, difficult to understand and archaic. In preparing for the appeal to this Tribunal Mr. Higgins said he had carried out some research in order to see if there was a relationship between turnover and the amount paid by way of rates in respect of hotels and other businesses in the Oughterard area and other towns. The result of this exercise, he said, indicated that rates

paid by hotels varied from 2.1% to 1.5% of turnover whereas the comparable figure for Sweeney's Hotel was 6.3%. Having regard to this exercise and in pursuit of equity he was of the opinion that the appropriate figure for Sweeney's Hotel should be 1.75%.

5. Mr. Michael Keogh in his evidence outlined in some detail the valuation history of the subject property. Mr. Keogh said he had spoken at length with Mr. Higgins at First Appeal stage and had carefully considered all the issues raised by him and which were reiterated by Mr. Higgins to this Tribunal. It was, he said, a fact, that the trading position of Sweeney's Hotel had deteriorated over the past several years to the extent that what was once a landmark hotel was no longer so regarded. He acknowledged that the foot and mouth crisis and the decline in the American based market were important factors in the decline in business at Sweeney's Hotel but they were not perhaps the only ones. In his opinion the proprietors of Sweeney's Hotel, for whatever reason, had not moved with the times nor reacted to the changes in the tourist industry, and this was manifest in the decline in their trading figures. In arriving at his opinion of net annual value Mr. Keogh said he had examined the assessments of three other hotels in Co. Galway whose valuations had recently been revised and had come to the conclusion that, if anything, the valuation of the subject property was very much on the low side. Nonetheless in deference to the argument put forward by Mr. Higgins at first appeal stage he had recommended that the existing valuation remain unaltered.

Mr. Keogh in evidence put forward the following opinion of Net Annual Value:

| | | | | | |
|--------------------|------------|---|--------|---|---------|
| Hotel | 1451.6sq.m | @ | €21.87 | = | €31.746 |
| Net Annual Value | | | | = | €31,746 |
| Rateable Valuation | | @ | 0.5% | = | €158.72 |

Mr. Keogh said that he was relying upon the comparative method of Valuation and introduced three comparisons in order to support his opinion of net annual value. Details of these comparisons are set out in Appendix 2 attached to this judgment.

Determination

1. This Tribunal has carefully considered all the evidence and submissions put forward by the parties. In this regard the Tribunal is conscious of the fact that Mr. Higgins put an enormous effort into the preparation of a very well prepared document which the Tribunal has carefully examined and considered.
2. In his submission Mr. Higgins expressed criticism of the Rating System and contended that the basis of valuation is unfair, not transparent and imprecise. This Tribunal considers this criticism to be unwarranted and indeed the rating system has stood the test of time over the past 150 years due, to a large degree, to the efforts of valuers like Mr. Keogh in the Valuation Office.
3. The valuation of the subject property has to be determined in accordance with the provisions of the Valuation Act. In other words the Tribunal has to determine the rent a hypothetical tenant in the market would be prepared to pay for the subject property as of November 1988 taking into account all intrinsic and extrinsic factors that may have a bearing on rental value. Whilst details of actual turnover and profits etc. may be a factor in arriving at an opinion of appropriate rental value the hypothetical tenant as envisaged in the rating case will form his own opinion of the likely profitability of the premises having regard to all material factors including the economy and other considerations and on that basis will formulate an opinion of rental value.
4. Mr. Keogh in arriving at his opinion of Net Annual Value had regard to the assessments of other hotels in Galway whose valuations had recently been revised - in other words the comparative method. Mr. Higgins on the other hand put forward the proposition that the amount payable by way of rates should be in the order of 1.75% of actual turnover. The Tribunal prefers Mr. Keogh's valuation methodology and accepts his evidence that if anything the rateable valuation of €158.72 is on the low side. Accordingly therefore the Tribunal dismisses the appeal and reaffirms the rateable valuation of the subject property at €158.72.