

Appeal No. VA04/2/082

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

**Gatehalf Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Hotel at Lot No. 5.7b, Sundry Townlands, John Street Lower, Kilkenny No. 2 Urban,  
County Borough of Kilkenny

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Patrick Riney - FSCS FRICS FIAVI**

**Member**

**Joseph Murray - B.L.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 16TH DAY OF DECEMBER, 2004**

By Notice of Appeal dated the 29th day of June 2004, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €385.00 on the above described relevant property.

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

"In comparison to similar properties, the substandard bedrooms, the confinement of the site and having regard to the NAV, we consider the RV to be excessive."

This appeal came before the Tribunal at an oral hearing held in the offices of the Tribunal at Ormond House, Ormond Quay Upper, Dublin 7 on the 13<sup>th</sup> October, 2004. At the hearing the appellant was represented by Mr. John Kenneally MIAVI of Kenneally McAuliffe. The respondent was represented by Mr. Kevin Heery B Comm ASCS, MRICS, MIAVI a Staff Valuer in the Valuation Office.

The rateable valuation of the subject property known as “McCourts” was assessed on the 8<sup>th</sup> December, 2003 in the sum of €385. The Commissioner of Valuation made no change at first appeal stage and it is against this decision that the appeal to this Tribunal lies.

### **The Property**

The subject property which is known as “McCourts Hotel” is located on John Street Lower close to Kilkenny Castle and the city centre. The Rivercourt Hotel is situated behind the property.

“McCourts Hotel” comprises a 19<sup>th</sup> century 3 storey over basement property, which has recently been extensively renovated throughout and extended at the side and rear. The accommodation now provides:

Ground Floor: Reception area, Lounge Bar/ Dining Area.

Basement: Kitchen, Stores, Staff Room, Ladies and Gents Toilets.

Floors 1-3: 12 En-Suite Bedrooms.

The area of the property measured on a gross external area basis is 1064 sq metres.

### **The Appellant’s Evidence**

Mr. John Kenneally having taken the oath adopted his written précis and valuation, which had previously been received by the Tribunal, as his evidence-in-chief. In his evidence Mr. Kenneally contended for a rateable valuation of €12 calculated as set out below:

Hotel 1064 sq. metres at €39.82 = €42,306

Net Annual Value say €42,400

Rateable Valuation @ 0.5% = €12

In support of his opinion of net annual value Mr. Kenneally introduced four comparisons, details of which are set out in Appendix 1 attached to this judgment.

In evidence Mr. Kenneally said that since “McCourts” is a registered hotel it follows that it should be valued on a similar basis to that used in valuing other hotels in Kilkenny. In arriving at his opinion of net annual value he had taken into account the fact that “McCourts” operated as a budget hotel and did not have a separate dining room, function rooms, leisure facilities or the usual range of facilities to be found in other city centre hotels. “McCourts”, he said, provided good basic accommodation facilities and services at the lower end of the market. Of all the comparisons put forward by him, he considered comparison Number 4 i.e. “The Club House Hotel”, to be the most relevant.

Under cross-examination Mr. Kenneally agreed that the entire basement and ground floor accommodation was given over to the bar and lounge activities and that this area represented approximately 50% of the entire property. He further agreed that the income derived from the bedroom accommodation represented approximately 7% of the entire. However Mr. Kenneally stressed that this did not alter the fact that “McCourts” was a hotel and as such was obliged to serve food between the hours of 8am and 10pm. This requirement he said did not apply to licensed premises in the town, which he agreed were in competition with “McCourts”.

### **The Respondent’s Evidence.**

Mr Kevin Heery having taken the oath adopted his written précis and valuation, which had previously been received by the Tribunal, as his evidence-in-chief. In his evidence Mr. Heery contended for a rateable valuation of €385 calculated as set out below.

### **Method 1:**

Turnover Yr. To 31/12/03	€62,228
Initial years trading allow for trading potential say turnover	€1,200,000
Indexed to Nov. 1988 €653,000 @ 9% =	NAV €58,770

Add bedrooms (upper floors) 496.0 sq. metres (gross) @ €41 per sq. metre  
NAV €20,228

NAV €78,000 @ 5% = R.V. €390

## **Method 2:**

Investment in property  
€1,523,685 (2000) & €1,270,000 (2002)  
Indexed to 1988 = €1,045,000 (JLW ERV index) @ 8% = NAV €83,600

€83,600 @ 5% = R.V. €418

In support of his opinion of net annual value under Method 1, Mr Heery introduced four comparisons, details of which are set out in Appendix 2 attached to this judgment. He said he was not relying on Method 2 but merely introduced it as a check mechanism.

In evidence Mr Heery said that whilst he accepted the fact that “McCourts” was a registered hotel it was clear from the trading accounts that it operated mainly as a licensed premises. This he said was also borne out by the external signage attached to the building, which referred solely to “ McCourts Bar and Bistro”. Mr Heery said that in arriving at his opinion of net annual value he had examined the trading accounts for the year ending 31 December 2003. These accounts he said showed that 7% of the turnover was generated by the accommodation sector of the business, whilst the remainder was food and drink sales. In the circumstances he had come to the conclusion that “McCourts” should in the first instance be valued as a licensed premises with an additional figure to be attributed to the accommodation element of the property.

Under cross-examination Mr Heery agreed that “McCourts” was a hotel and took in paying guests. He further agreed that the valuation contended for by him was equivalent to over €70 per sq. metre overall whilst other hotels in Kilkenny with better facilities and services were valued in the range of €35 to €45 per sq. metre. Mr Heery said that whilst this may be the case all of Mr.

Kenneally's comparisons were larger and operated as hotels in the accepted sense of the word which "McCourts" did not. That was why he had decided to value "McCourts" as he did.

## Findings

1. The relevant date for the valuation of the subject property is 8<sup>th</sup> December, 2003 and hence its valuation must be determined in accordance with the provisions of the Valuation Act, 2001 and more particularly Sections 48 & 49 thereof.
2. Section 49 (1) which is relevant to this appeal states *"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."*
3. It is common case that "McCourts" is a registered hotel operating in the budget end of the market.
4. It is clear from the information derived from the trading accounts of the property referred to by the respondent and not disputed by the appellant, that only 7% of the turnover is derived from the accommodation element of the business. This of itself is not surprising given the relatively small number of bedrooms and the market sector in which the hotel operates. These are factors which the hypothetical tenant, as envisaged in rating law, would have regard to in arriving at an opinion of rental value/net annual value.
5. The valuers in this appeal adopted fundamentally different approaches in arriving at their respective opinions of net annual value. The valuer for the appellant adopted an overall rate per sq. metre, by which he said other hotels in Kilkenny were valued. The valuer for the respondent, on the other hand, was of the opinion that since "McCourts" operated mainly as a licensed premises, it was proper to value that part of the premises used as the lounge, bar / dining room and ancillary facilities at ground and basement levels on the same basis as other licensed premises in Kilkenny and to value the residential element at an additional overall rate per sq. metre.

6. There is no requirement in law to use any particular method of valuation in order to arrive at net annual value. All methods of valuation are acceptable but the one to be preferred in any particular instance is the one most likely to contain the smallest degree of error. In the circumstances of this appeal the Tribunal prefers the respondent's approach. However the Tribunal sees no reason to assume that the potential turnover would be 25% higher than the actual trading figures achieved in the year 2003 referred to by respondent, in the light of the then upcoming smoking ban and other market factors including the uncertainty in the tourist business.

### **Determination**

Having regard to the evidence and arguments adduced and to the foregoing the Tribunal determines the rateable valuation of the subject property as follows:

Turnover year to 31 December, 2003	€962,228
Indexed through November 1988 =	€522,400
Net Annual Value @ 9% =	€47,016
Add bedrooms 496 sq m @ €41 per sq m =	€20,228
Net Annual Value =	€67,342
Say	€67,000

Rateable Valuation @ 0.5% = €335

And the Tribunal so determines.