

Appeal No. VA04/3/020

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

Brookfield Care Services Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Nursing Home at Lot No. 1Hb, Leamlara, Lisgoold, Middleton, County Cork.

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

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

Member

Mairéad Hughes - Hotelier

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 24TH DAY OF JANUARY, 2005

By Notice of Appeal dated the 24th day of July, 2004 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €379.00 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 is excessive, inequitable and bad in law"

1. This appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 5th of November, 2004. The appellant was represented by Mr. Eamonn Halpin, B.Sc. (Surveying), ARICS, ASCS, MIAVI, of Eamonn Halpin & Co. The respondent was represented by Ms. Elizabeth Murphy, BSc (Hons) Real Estate Management, Dip. Auctioneering, Valuation and Estate Agency, a Valuer in the Valuation Office.

The Property Concerned

2. The property concerned, known as Brookfield Care Centre, is a new purpose-built nursing home located in a quiet rural area about 6 miles from Midleton and 20 miles from Cork city centre. Brookfield occupies a site area of approximately 5 acres.
3. Brookfield Care Centre is a single-storey facility built and fitted-out to a high standard. The centre contains 50 bedrooms together with ancillary day rooms, dining rooms, treatment rooms, oratory and kitchens etc. The building is so designed as to provide a self-contained and secure 20 bedroom Alzheimer care unit which has its own separate dining room and day room. 36 bedrooms are ensuite- 14 in the designated Alzheimer unit and 22 in the standard nursing home section. The agreed area of the nursing home measured on a gross external area basis is 1,874 sq. metres. The area of the designated Alzheimer unit is 789 sq. metres and there is also a boiler house and laundry room with an agreed area of 40 sq. metres.
4. Pursuant to Section 28 of the Valuation Act, 2001 a Valuation Certificate was issued by the Commissioner of Valuation on the 5th of December, 2003 to the effect that the property concerned had been assessed at a rateable valuation of €365. The appellant lodged an appeal against this assessment and on the 30th of June, 2004 the Commissioner of Valuation issued a Certificate of Valuation pursuant to Section 33 of the 2001 Act, stating that the valuation of the property concerned had been amended and was now €379. It is against this decision by the Commissioner that the appeal to the Tribunal now lies.

The Appellant's Evidence

5. Mr. Eamonn Halpin having taken the oath adopted his written précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief.
6. In his evidence Mr. Halpin contended for a rateable valuation of €298 calculated as set out below:

14 Single Rooms (not ensuite)	@ €1,000 each	= €14,000.00
36 Single Rooms (ensuite)	@ €1,270 each	= <u>€45,720.00</u>
	Total	= €59,720
@ 0.5%		= €298.60
Say		= €298

OR

Nursing Home 1083 sq.metres @ €30.75 per sq. metre	= €33,302
Alzheimer area 789 sq. metres @ €27.34 per sq. metre	= <u>€21,571</u>
Total	= €54,873
Boiler House/ Laundry 43.33 @ €13.67 per sq. metre	= <u>€592</u>
	= €55,465
@ 0.5%	= €277.32
Say	€277

OR

Estimated capital value (Nov 1988)	= €635,000
NAV @ 8% = €50,800 @ 0.5%	= RV €254

Mr. Halpin also provided two alternative valuations as set out above, but said that he was relying on his first method of valuation.

In support of his opinion of Net Annual Value Mr. Halpin introduced three comparisons, details of which are set out in Appendix 1 attached to this judgment.

Details of Mr. Halpin's second comparison as shown is that as amended by him at the oral hearing.

Mr. Halpin's comparison No. 2- as amended.

New Section –266 sq. metres @ €41 per sq. metre	= €10,906
Old- Main House –439 sq. metres @ €30.75 per sq. metre	= €13,499
Stores – 48 sq. metres @ €10.35 per sq. metre	= €496
Total – Net Annual Value	= €24,901
Say	= €24,000
Rateable Valuation @ 0.5%	= €120

7. In evidence Mr. Halpin said that the 5 acre site had been purchased in or about 2001 at a consideration of €228,553 and that the total building cost of the facility was approximately €2,500,000. Mr. Halpin said that the recent trend in Nursing Home design was dictated by Health Board requirements. These requirements have led to an increase in the size of the bedrooms and the space given over to sitting room and dining room areas. This increase in area gives rise to higher building costs which was not reflected in increased charges to patients. The truth of the matter was that many nursing homes built to modern requirements were in direct competition with older and longer established nursing homes which were constructed to less stringent requirements in regard to bedroom size and the availability of ancillary accommodation. In these circumstances, in arriving at an opinion of Net Annual Value it was appropriate to have regard to the number of bedrooms and not just the area of the property alone. The fact of the matter is that nursing homes derive their income from the number of available bedrooms and not their size. In his opinion the policy of the Commissioner of Valuation to value nursing homes solely by reference to the area was unfair and placed the operators of new nursing homes in a disadvantaged position compared to the operators of older premises with whom they were in competition. In his opinion the hypothetical tenant of a nursing home as envisaged under the Valuation Act, 2001 would look at the number of bedrooms available when formulating his opinion of

- appropriate rental value. In regard to the property concerned this inherent disadvantage was enhanced by virtue of the fact that the Alzheimer unit was designed to provide wider corridor space and separate day and dining room facilities.
8. Under cross-examination Mr. Halpin said he was not totally conversant with the current Health Board regulations regarding the construction and operation of nursing homes. But that nonetheless he was sufficiently aware of them to know the current trend was to provide bedrooms of quite a generous size and that ancillary accommodation complied with set down norms. Mr. Halpin said he understood the occupancy achieved at the time of his inspection was 80% but did not know if this figure was now higher or indeed what was the industrial norm.
 9. Mr. Halpin said that his primary valuation i.e. that prepared on the bedroom basis was based on the findings of this Tribunal in regard to **VA95/4/029 – John Shinnick, Monfield Nursing Home Ltd.**

Respondent's Evidence

10. Ms. Murphy having taken the oath adopted her written précis and valuation which had previously been received by the Tribunal as being her evidence-in-chief.
11. In her evidence she contended for a rateable valuation of €375 calculated as set out below.

Nursing Home 1874 sq. metres @ €40 per sq. metre	= €74,960
Boiler House/Laundry 40 sq. metres @ €20.51 per sq. metre	= €820
Net Annual Value	= €75,780
Rateable Valuation @ 0.5%	= €379

- In support of her opinion of Net Annual Value, Ms. Murphy introduced 5 comparisons, details of which are set out in Appendix 2 attached to this judgment.
12. In her evidence Ms. Murphy said that Brookfield was built to an excellent standard of construction and specification. Ms. Murphy said that the generous ancillary accommodation and the size of the bedroom contributed to the overall quality of the nursing home and must be reflected in the valuation of the property

concerned. In arriving at her opinion of Net Annual Value she had relied on the assessments of other modern purpose built nursing homes in the County Cork area and in her opinion the rateable valuation of €379 was fair and reasonable. The valuation methodology adopted by her was in full compliance with Section 49(2) of the Valuation Act, 2001.

13. Under cross-examination Ms. Murphy conceded that her comparisons numbers 4 & 5 were not available at the relevant valuation date i.e. the 5th of December, 2003 nor indeed at first appeal stage. Ms. Murphy agreed that her comparison no. 1 was not a purpose built facility and that it comprised an original two-storey period house with a modern three-storey extension. In regard to her comparison no. 2 i.e. the nursing home occupied by Health Care Management (Munster) Ltd., Ms. Murphy said she did not know which comparisons were used in arriving at its valuation but she was quite certain that it was not valued on a per room basis. In regard to her third comparison, Deerpark Nursing Home, Ms. Murphy said, she was not in a position to dispute Mr. Halpin's evidence that it was valued on a per room basis.
14. Ms. Murphy said that the sole reason for the increase in rateable valuation from €365 up to €379 at first appeal stage was due to a slight mis-measurement at revision stage. The adjusted area, she said, had been agreed with Mr. Halpin.

Findings

The Tribunal has carefully considered all the evidence and argument adduced including the comparisons put forward by both valuers and makes the following findings:

1. It is common case that Brookfield is constructed to a high standard of construction and specification in accordance with current Health Board Regulations.
2. It is also common case that the most appropriate method of valuation in accordance with Section 49(2) of the Valuation Act, 2001 is the comparative method. However, there is a divergence in opinion as to how this can best be achieved. Mr. Halpin was of the view that a rate per room was to be preferred as it was the number of available rooms that dictated the level of achievable income,

which was what a hypothetical tenant would be primarily interested in, when arriving at his/her opinion of rental value. Ms. Murphy on the other hand felt that a rate per sq. metre was more appropriate particularly when comparing nursing homes which were of recent construction and built in compliance with current health board requirements.

3. In the circumstances of this appeal the Tribunal prefers Ms. Murphy's valuation approach. Of all the comparisons adduced the Tribunal attaches most weight to Ms. Murphy's comparisons 2 and 3 and Mr. Halpin's comparison 1. Ms. Murphy's comparison no. 3 i.e. the Deerpark Nursing Home is a common comparison. All of these comparisons are modern purpose built establishments similar to the property concerned, however, the most similar to Brookfield is Ms. Murphy's comparison no. 2 which is occupied by Health Care Management (Munster) Ltd. whose valuation was determined at first appeal stage in February 2002. This property is a new purpose built establishment with 44 ensuite rooms, two of which are double rooms. It also contains a dedicated Alzheimer unit and has a gross external area of 2217 sq. metres as against 1874 sq. metres for Brookfield. It is valued at €39.62 per sq. metre. Having regard to the fact that all the rooms in this property are ensuite it would appear that some downward adjustment may be appropriate in valuing the property concerned.

Determination

Having regard to the foregoing the Tribunal determines the rateable valuation of the property concerned as set out below:

Nursing Home	1874 sq. metres @ €38.50	= €72,149
Boiler House/Laundry area	40 sq. metres @ €20	= €800
Total		= €72,949
Net Annual Value	Say	= €73,000
Rateable Valuation	@0.5%	= €365

And the Tribunal so determines.