

Appeal No. VA06/3/024

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

Dermot & Una Brennan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Hotel at Lot No. 15M, Gortamullin, Kenmare, County Kerry

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Patrick Riney - FSCS FRICS FIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF JANUARY, 2007

By Notice of Appeal dated the 21st day of July, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €300.00 on the above described relevant property.

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

"Valuation is excessive & inequitable and non-compliance with Section 49(1).

Property should not be rateable under Schedule 4."

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 17th November, 2006. Ms. Sheelagh O Buachalla, B.A., ASCS, a Director of GVA Donal O Buachalla, Property & Rating Consultants, represented the appellant and Mr. David Molony, B.Sc., M.R.I.C.S., a District Valuer in the Valuation Office represented the respondent.

At the hearing, both parties, having taken the oath, adopted their précis as being their evidence in chief. Before doing so, Ms. O Buachalla corrected the RV contended for at page 3 of her précis to read €238 instead of €138.

The Issue

Quantum.

Valuation History

The property was first assessed in October, 2005. An RV of €300 was fixed on 5th October, 2005 and this remained unchanged following representations by Ms. Una Brennan. On 17th January, 2006 an appeal was lodged to the Commissioner of Valuation. On 27th June, 2006 the Commissioner of Valuation issued his decision to make no change to the valuation of €300. On 21st July, 2006 the appellant lodged an appeal to the Valuation Tribunal.

The Property

Location

The property is located on the outskirts of Kenmare town on the Kenmare/Killarney/Sneem road approximately 13km from Killarney and 18km from Bantry and a 5-minute walk from Kenmare town centre.

Description

The property comprises a new, purpose-built, two-storey, detached Hotel of rendered concrete block construction with pitched slated roof. The hotel currently has 20 ensuite bedrooms, together with a bar, dining room, reception area (which doubles as a residents' lounge in the evenings) and kitchen.

Area

The floor area is agreed at 1,749.24 sq. metres.

The Appellant's Case

Ms. Una Brennan, having taken the oath, gave evidence on behalf of the appellants and confirmed that she and her husband are the proprietors of the subject property known as the Brook Lane Hotel in Kenmare.

In her evidence Ms. Brennan said that she acquired the site with a restaurant in 2000. She and her husband worked for 3 years in this premises and they then decided to build a hotel. The restaurant was knocked down and work commenced on the new building in February, 2004. The hotel opened for business in September, 2004. The building is finished to a very high standard. She stated that they would have liked to have 30 bedrooms in the new hotel but, for financial reasons, were limited to 20 bedrooms. Because there are only 20 bedrooms the hotel is unable to accept bus tour group bookings (50-60 persons) and this leaves the proprietors at a disadvantage to their competitors in Kenmare. She and her husband are very much 'hands on' in the business, with the day starting for Ms. Brennan at 7.30am and finishing at maybe 11.30pm. She lives in private quarters in the hotel with her family. Ms. Brennan went on to outline for the Tribunal the current financial commitments of the appellants.

She confirmed that the hotel is on a corner with double road frontage but with only one entrance as the land adjoining the hotel on the left is not owned by the appellants.

Ms. Brennan confirmed that they are not a 4-star hotel. A company called Excellence in Tourism, representing Fáilte Ireland, were in charge of grading hotels during 2004. When the appellants were building their hotel they forwarded a copy of the plans to this body, which informed them (after checking the plans of the whole development) that they could be graded as a 4-star hotel. However, last year Tourist Accommodation Management Services (TAMS) took over this grading contract and made some changes to the regulations governing the acquisition of 4-star status. These same changes also mean that the Brook Lane Hotel will not now achieve a 4-star grading. The hotel is currently not graded but Ms. Brennan said that she hopes to achieve a 3-star rating with TAMS.

Ms. Brennan said that Kenmare is very much a seasonal town for tourism and this means that the bulk of trading takes place within a 4-6 month period each year. Once October sets in, the tourist trade in the hotel dwindles to almost nothing, she said.

Ms. Brennan also confirmed that the hotel is no longer listed in 'Hotels & Guesthouses Guide', and that the description of her premises in this guide in 2005 was actually written by herself and cost €1,800 for the advertisement. She also cited problems with the local water supply in that there is no filtration system in place. She said that every time it rains, peat sediment gets into the water and this coloured water and sediment then makes its way into the town's water supply. This, she said, was a problem for everyone in the town. In her case it resulted in higher plumbing equipment and maintenance costs than would be normal in a newly-built hotel.

Asked by Ms. O Buachalla to go through the comparisons in her submission [see Appendix 1 hereto] Ms. Brennan commented on them as follows:

Appellant's Comparison No 2 – (a common comparison) - Kenmare Bay Hotel is graded 3-star, has 116 bedrooms and a function room that can cater for 330 people and is three times larger than subject. This hotel is located across the road from the subject. Currently the hotel is being extended to include a leisure centre, a spa, and conference and banqueting facilities for 400 people. This hotel is part of a chain of hotels known as the Court Hotel Group. Because of the size of this hotel the tariff ranges from €35 pps upwards. This Group has access to massive marketing budgets. Each day the Examiner carries advertisements for this group, quoting their best rates. The subject has to compete with this, and it is not easy.

Appellant's Comparison 1 – (a common comparison) - Lansdowne Arms Hotel is a 3-star 26-bedroom hotel located in Kenmare Town centre with its own car park (for 10 cars) and 2 bars. This hotel is of great historical value and was originally part of the Lansdowne estate and had a large client base. In the past 3 years this hotel was upgraded to a high standard.

Ms. Brennan confirmed that the yearly average bed occupancy in her hotel is 38%. Due to the fact that it has only got 20 bedrooms, it is unable to take group bookings like tour bus groups. She then listed a number of other current and upcoming hotel and holiday homes developments in the locality which would vastly increase the number of tourist beds in the area. There were also a lot of B&B's and Guesthouses in the area which are similar to hotels and offer cheaper rates.

Ms. Brennan confirmed that because the hotel had no function room they could not cater for weddings. She also said they had no room to expand the hotel.

Cross-examination

Cross-examined by Mr. Molony, Ms. Brennan said the hotel had cost €3.2 million to build – that figure included the site and fit-out. She said their tariffs were as follows:

High season	€65 - €95 b&b pps
Off season	€50 b&b pps
Room only	€79

Their client base, she said, was mostly tourists, many of them from Cork. She felt her clients chose her hotel because she was always on site to help tourists and this was not always so in other hotels. She agreed that the internal finish of her hotel was good and modern but that other hotels locally were now being refurbished. She said they had originally hoped to be graded 4-Star but this was not now possible as the regulations had changed. TAMS did not consider their reception area large enough to qualify as a residents' lounge. She said their peak season occupancy was 85% - 90% and annual average occupancy was 38%. In December/January they were open at weekends only and a lot of hotels close for that period. The hotel was visible from the Killarney/Kenmare Road only in winter when the trees were bare. In summer it was completely sheltered. She agreed that her hotel had more car park spaces than Lansdowne Arms Hotel. They did everything to increase occupancy rates in the "shoulder" season including joining the Supervalu scheme. Not having a leisure centre was a problem in that regard. She could not give an exact figure for the percentage of turnover attributable to the hotel bar (O'Casey's Bar) but agreed it was healthy and derived mostly from the sale of bar food which was cheaper and therefore needed a higher volume of sales to generate income.

In response to questions from the Tribunal Ms. Brennan said that the tourist season started in March/April and peaked in June/July/August. This year they had some tourist business in September possibly due to the Ryder Cup.

Ms. Sheelagh O Buachalla then took the oath. She adopted her précis as her evidence-in-chief. She said that her first comparison, the Lansdowne Arms Hotel, was smaller in floor area than the subject but had 26 bedrooms. It had no function room but had two bars and could accommodate small functions. Her second comparison, the Kenmare Bay Hotel, was

much larger than the subject and had 116 rooms. It was currently being refurbished. She understood that her third comparison, Riversdale House Hotel, was now closed. She advised that her estimate of valuation for subject is as follows:

1,749.24 sq. metres @ €27.33 per sq. metre with an RV of €238.

She said she adopted a lower rate than those on the comparisons because the subject had only 20 rooms, could not cater for tour groups, was located outside the town and for the reasons already stated in Ms. Brennan's evidence.

Cross-examination

In cross examination Mr. Molony put it to Ms. O Buachalla that the valuation of the Lansdowne Arms Hotel was conservative. She responded with a reference to an appeal to the Tribunal in the case of another hotel and Mr. Molony said this was not part of the evidence in the present case.

Ms. O Buachalla accepted that the levels on the Kenmare Bay Hotel might reflect a quantum allowance for its larger size – three times larger than the subject – but she went on to say that the optimum size for hotels was 60 – 100 bedrooms and that some allowance should be made for a hotel with 20 bedrooms.

Mr. Molony then commented on the appeal by GVA Donal O Buachalla in relation to the subject and asked for the Tribunal's guidance. He said that the First Appeal to the Commissioner of Valuation sought a valuation of €270; the Notice of Appeal to the Tribunal suggested a rateable valuation of €260, while the précis of evidence on the day had a valuation of €238. Ms. O Buachalla replied that she was not involved in the First Appeal, that a colleague of hers was involved and the figure of €270 was his opinion of value. She said that the figures of €260 in the Notice of Appeal and €238 in the précis of evidence were typing errors and the figure should have read €270 as at First Appeal.

The Chairperson referred the parties to Section 35 of the Valuation Act 2001 and quoted Section 6 of the Notice of Appeal form to the Tribunal which states *“Parties should note that this Notice must set out exhaustively the Grounds of Appeal upon which the appellant*

intends to rely. Those Grounds of Appeal may NOT be changed or extended (and liberty to amend will not be granted) save in exceptional circumstances”

The Chairperson then asked Mr. Molony if, in his view, this error could come under this heading of “*exceptional circumstances*”. Mr. Molony replied that he did not believe that it could, as Ms. O Buachalla’s colleague who had conducted the First Appeal was part of GVA Donal O Buachalla and the Notice of Appeal form had been completed and signed by GVA Donal O Buachalla. Mr. Molony said that he would like if a comment could be made in the findings on this matter.

Respondent’s evidence

Mr. Molony took the oath and adopted his précis as his evidence-in-chief. He said that he had been involved in the valuation of the Lansdowne Arms Hotel. The floor area of that hotel was similar to the subject property, the rates adopted were almost identical and he was relying on these similarities to value the subject property. He did not see the lack of a residents’ lounge as a major issue.

Under cross-examination Mr. Molony was asked if he considered the Lansdowne Arms Hotel to be in a better location than the subject. He agreed that this hotel was in a marginally superior location to the subject property, however as the latter was on the tourist trail it was therefore also in a very good location. He also said the subject had the advantage of a larger car park. He further stated that at the valuation date the subject expected 4-Star grading but he had valued it based on a 3-Star rating (similar to the Lansdowne hotel). He said that where hotels catered for tour buses the tariff was “cut to the bone”. Ms. O Buachalla said that would depend on what was negotiated.

Mr. Molony was asked if he took into consideration the goodwill factor when valuing subject. He said that in his opinion the hotel was in its infancy and that it takes a number of years to build up goodwill.

Findings

The Tribunal has carefully considered all the evidence and argument adduced at the hearing and finds as follows:

1. The subject hotel will not, in the existing circumstances, be graded as 4 star hotel.
2. The Tribunal considers the common comparison, the Lansdowne Arms Hotel, to be the most suitable comparison given its similarity in size and likely grading to the subject.
3. The location of the subject property on the outskirts of Kenmare town is somewhat inferior to that of the Lansdowne Arms Hotel in the town centre.
4. The Lansdowne Arms Hotel has 2 bars and the subject has one.
5. The Lansdowne is long established and is an historic building, upgraded in recent years. The subject is only 2 years old.
6. Appellants, when filing their Notices of Appeal to the Tribunal, must adhere to the instructions in said Notice of Appeal form – in the instant case specifically the instruction regarding section 6 of the form which reads:

“Parties should note that this Notice must set out exhaustively the Grounds of Appeal upon which the appellant intends to rely. Those Grounds of Appeal may NOT be changed or extended (and liberty to amend will not be granted) save in exceptional circumstances.”

Determination

Having regard to the foregoing the Tribunal determines the rateable valuation of the subject property to be €271 calculated as set out below:

1,749.24 sq. metres @ €31 per sq. metre = €54,226.44

RV @ 0.5% €271.13

Say €271

And the Tribunal so determines.