

Appeal No. VA06/3/042

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

**Stanford Woods Care Centre Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Nursing Home at Lot. No. 4 La/2, Kiltipper Road, Oldbawn, Tallaght Kiltipper,  
Tallaght West County Dublin

**B E F O R E**

**John O'Donnell - Senior Counsel**

**Chairperson**

**Michael F. Lyng - Valuer**

**Member**

**Joseph Murray - B.L.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 29TH DAY OF JANUARY, 2007**

By Notice of Appeal dated the 2nd day of August, 2006, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €25.00 on the above described relevant property.

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

"On the basis that the NAV as assessed is excessive, inequitable and bad in law. Part of the property is occupied as domestic accommodation and should not be rated per schedule 4 s.6 and schedule 4 s.7."

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 4<sup>th</sup> December, 2006. Mr Eamonn Halpin B.Sc. (Surveying) M.R.I.C.S., M.I.A.V.I. represented the Appellant. Ms. Claire Callan, , B.Sc. Surveying, Dip Prop. Ec., a District Valuer in the Valuation Office, represented the respondent. At the oral hearing, both parties, having taken the oath, adopted their précis, which had previously been received by the Tribunal and exchanged between the parties, as their evidence-in-chief.

### **The Property**

The subject property is a purpose-built nursing home located near Tallaght, in the townland of Kiltipper, Dublin 24. The property is approximately five years old and comprises 56 beds with 43 rooms. There are 34 single, 7 double and 2 four-bedded rooms. All accommodation is on the ground floor. The first floor area was not valued. All bedrooms are ensuite with the exception of 2 double rooms and one 4-bedded room.

The nursing home has specialised units for day care, respite care and rehabilitation care. The services include:

- Hydrotherapy baths
- Arts and crafts
- Nutrition management
- Social activities and entertainment
- Reflexology
- Physiotherapy
- Spiritual needs

The ground floor accommodation consists of:

- Entrance hall
- Reception foyer
- Administration offices
- Bedroom area
- Living area
- Bathrooms
- Sitting and dining area

- Kitchen
- Drugs store

The total floor area has been agreed at 2,433.53 sq. metres.

### **Valuation History**

On the 18<sup>th</sup> of October, 2005, a certificate of proposed valuation issued with RV of €628. Following representations on the 10<sup>th</sup> November, 2005 the RV was reduced to €25. On 7<sup>th</sup> July, 2006 the Commissioner upheld this valuation. By Notice of Appeal of the 2<sup>nd</sup> August, 2006 the appellant appealed the Commissioner's decision to the Tribunal.

### **Submissions of the Appellant**

- The appellant is of the view that when reaching a proper tone of the list with regard to nursing homes, some consideration should be given to the bed space. He does not rule out the rate per square metre method but simply says that it should be tempered by the number of beds.
- The number of beds is what determines profitability. There appears to be an inequity in the system when you simply apply a rate based on square metre only. In the past the Valuation Office looked at the number of beds and this was the key element. What was asked was the number of beds, what was the charge, and where was the location. This was how the valuation was arrived at. If you simply look at the square metre method without regard to the number of beds you produce an anomaly. Mr. Halpin said that his client has been penalised for providing extra space. A smaller nursing home with the same number of beds would have less operating costs and with less space would not need to employ as many staff. He took the example of 2 nursing homes side by side with the same number of beds and charging the same rate, yet one pays twice the amount of rates to the County Council as the other one simply because it is larger with more space. This appears unfair. In Mr. Halpin's view the hypothetical tenant would look to the number of beds as a source of income, rather than the size of the building.
- The rate applied by the Valuation Office does not reflect the additional floor area associated with the Health Regulations. Even if Mr. Halpin's client wanted to increase the number of beds he would be restricted by the regulations. The hypothetical tenant would

not increase his bid to reflect the extra size unless there was clear evidence of earning potential from the extra space.

- In earlier Tribunal decisions a dual approach was taken to valuations with regard to “tone” using both the rate per square metre and the bed space approach. Now the Valuation Office seems to be departing from this and relying solely on the rate per square metre method. Mr. Halpin did not ask that the rate per square metre method be abandoned, but that it be tempered with the number of beds.
- Hypothetically, looking at two buildings, one large and one small, with the same number of beds, both producing the same income, the hypothetical tenant would ask himself what he could save on a smaller building with less running costs and less rates.
- The foregoing is the essence of the appellant’s submissions.

In support of his estimate of valuation Mr. Halpin introduced the following two comparisons:

No. 1 - Lisheen Nursing Home, Rathcoole, (a common comparison) with RV €350 (2004) based on a floor area of 1,478 square metres at €37.58 per sq. metre. Mr. Halpin contended that the hypothetical tenant would only offer a modest increase in rent for the subject premises with 56 beds over what might be paid for Lisheen with 55 beds, despite the fact that the subject is almost 1,000 square metres larger. It is the beds which produce the profit. This, he said, was the best comparison.

No. 2 - Glencarrig Nursing Home – also a common comparison - is much smaller than the subject. It catered for 21 patients when it was revised in 1990 with approximate floor space per bed of 25 per sq. metres. It was revised again in 1999 with an RV of €167.61.

Mr. Halpin submitted the following estimates of valuation using three different methods.

*“Estimated NAV based on the established tone of the list by direct comparison with Comparison No. 1.*

<i>7 double rooms</i>	<i>@ €1,750 each</i>	<i>= €12,250.00</i>
<i>34 single rooms (ensuite)</i>	<i>@ €1,200 each</i>	<i>= €40,800.00</i>
<i>2 x 4 bedded rooms</i>	<i>@ €2,000 each</i>	<i>= <u>€4,000.00</u></i>

*Total = NAV €57,050.00 @ 0.63%*

*= €359.41*

*Say RV €360*

*Note: The amount of floor space per bed is approximately 43.44 sq. metres this is approximately 62% higher than comparison no. 1 (adjoining) where 1,478 sq. metres accommodates 55 beds i.e. 26.87 sq. metres per bed*

*Or average NAV per bed = €1,010*

*From Comparison No.1 (for 55)*

**NAV subject**

*€1,010 x 56 = €56,560 @ 0.63% = €350.33 say RV €355*

*Or*

*Nursing Home 2,433 sq. metres @ €22 per sq. metre = €337.21*

*Say RV €340.”*

### **Cross examination**

In cross examination Ms. Callan referred to Tribunal decisions cited on page 7 of Mr. Halpin’s précis: **VA95/4/029 – John Shinnick, Monfield Nursing Home Ltd.** and **VA98/2/047 - Ashbrook House Ltd.** and said that these cases were prior to the Valuation Act, 2001. Mr. Halpin agreed this was so. While the calculations were primarily on a square metre basis, he said, the Tribunal nevertheless did take account of the bed space approach. To further questions put by Ms. Callan, Mr. Halpin conceded that in two Tribunal cases under the Valuation Act, 2001, namely **VA04/3/020 - Brookfield Care Services Ltd.** and **VA04/2/051 – Craddock House Nursing Home** the Tribunal used the square metre method rather than bed space. Mr. Halpin was also asked how he reached the rate of €22 per square metre on the subject. To this question he replied that he made calculations based on comparisons, the number of beds and the rate charged.

### **Submissions of the Respondent**

- Ms. Callan said that the rate per square metre is the accepted method of valuation and the only one that she is familiar with. She referred to the Tribunal decisions in **VA05/1/018 - Brindley Manor Fed. Nursing Home Ltd.** and **VA04/2/051 - Craddock House Nursing Home**, both of which were heard under the Valuation Act, 2001.

- The subject is a building constructed to a very high standard with landscaping and with the highest quality accommodation.
- It had a good location with access to the M50 motorway.
- The valuation was assessed in line with the tone of the list, which was based on comparisons, and was fair and equitable.
- Ms Callan rejected the valuation method using the number of beds. The Tribunal had used the rate per square metre method in **VA04/3/020 – Brookfield Care Services Ltd.** and **VA05/1/018 – Brindley Manor Fed. Nursing Home Ltd.**
- Because of the size of the subject property a quantum allowance was made.

In support of her valuation Ms Callan introduced the following 4 comparisons.

- No 1: Lisheen Nursing Home – (a common comparison – see above) described as a modern nursing home with spacious accommodation and smaller than subject. This, she said, was the best comparison.
- No 2: Griffeen Valley Nursing Home, located near Lucan in a predominantly residential area and much smaller than the subject with floor area of 705 sq. metres valued at €44.17 per sq. metre.
- No 3: Glencarrig Nursing Home – (also a common comparison – see above) – has a floor area of 528.80 sq. metres valued at €44.44 per sq. metre. It is situated in a residential area and is much smaller than subject. It was recently built and had planning permission for extra bedrooms.
- No 4: Padre Pio Nursing Home was not as good quality as the subject. It had no landscape gardening and was in fact 2 semi-detached houses. The floor area was 328.50 sq. metres valued at €41 per sq. metre, i.e. at a higher rate than the subject. However, as the subject was some five times larger than this comparison, a quantum allowance was given to the subject.

Ms Callan contended for a RV of €25 calculated as set out below.

Nursing Home	2,433.53 sq. metres @ €4.17 per sq. metre =	€3, 153.72
Total NAV		= €3,153.72
(Measured gross externally)		

Rateable Valuation = Total NAV @ 0.63% = €23.86    Say €25.00

### **Cross examination**

In cross examination Mr. Halpin asked what quantum allowance had been made and how it was arrived at. Ms. Callan replied that she gave a 9 per cent allowance considering the subject was almost twice the size of Lisheen Nursing Home. Mr. Halpin asked whether this was a subjective view. Ms. Callan replied that this percentage was reached after discussions with the Appeal Officer.

Mr. Halpin put it to Ms. Callan that the subject nursing home pays approximately €35,000 to South Dublin County Council in rates while Lisheen pays €21,500 approximately and that this was a considerable difference considering that they have approximately the same number of beds. Ms. Callan replied that this was due to the rate per square metre on the extra space. She rejected the bed space method.

### **Findings and Determination**

The Tribunal, having considered the evidence, the submissions of the parties and precedents of the Tribunal makes the following findings:

1. The proper valuation methodology to be applied to nursing homes is the rate per square metre method. We base this approach on previous Tribunal determinations under the Valuation Act, 2001 including **VA05/1/018 - Brindley Manor Fed. Nursing Homes Ltd.** and **VA04/2/051 - Craddock House Nursing Home.**
2. We have considered the appellant's argument that the hypothetical tenant would be influenced by the number of beds to generate profit. We also appreciate that he is not abandoning the rate per square metre method but arguing that it should be tempered with the bed space method. However, it could also be said that the hypothetical tenant could easily be influenced by the extra space, whereby the patients living in a more spacious environment could be charged a higher rate than patients in a smaller nursing home, where the quality of life might be reduced due to confined space.
3. The Tribunal has seen no precedents under the Valuation Act, 2001, where the bed space method was used. Perhaps this method was used to some extent in the past. However, we are now focussed on the Valuation Act, 2001 and on a "tone of the list" established under this Act.
4. The Tribunal sees Lisheen Nursing Home as the best comparison, with floor area of 1,478 sq. metres at a rate of €37.58 per square metre. The subject premises with a floor area of 2,433.53 sq. metres is valued at a lower rate of €34.17 per sq. metre which rate reflects

the quantum allowance of 9% applied by the Valuation Office in view of the fact that it is almost 1,000 square metres larger than Lisheen, (955.53 square metres to be precise). However, in view of the difference in size between these two properties, and considering the levels applied to the other comparisons, the Tribunal increases the quantum allowance further by reducing the rate to €32 per square metre, as shown below:

2,433.53 sq. metres @ €32.00 per sq. metre = €77, 872.96

NAV @ 0.63%= €490.60

And the Tribunal so determines.