

Appeal No. VA08/4/007

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

Tolan Hotel Services Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2193452, Hotel at Lot No. 1.2b/1 Flrs -1,0,1,2,3, Castle Street, Oranmore, County Galway.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Joseph Murray - B.L.

Member

Patrick Riney - FSCS FRICS FIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF APRIL, 2009

By Notice of Appeal received on the 6th day of November, 2008, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €1,020.00 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 as assessed is excessive and inequitable. The location for this hotel is very moderate with limited potential for a year round business".

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 5th day of February, 2009. The appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), MRICS, MIAVI, of Eamonn Halpin and Co. Ltd. Mr. Briain Ó Floinn, a District Valuer in the Valuation Office, represented the respondent. At the oral hearing both parties, having taken the oath, adopted their précis as their evidence-in-chief.

At issue

Quantum

Preliminary Issue

Mr. Briain Ó Floinn stated that, on appeal to the Tribunal, the evidence and submissions of the appellant should have been exchanged with the Commissioner at least 14 days before the date of the hearing, that is, by the 22nd January, 2009. The evidence and submissions were handed in to the Commissioner on the 23rd January, 2009. As they were handed in late, Mr. Ó Floinn submitted, the appeal should not be heard by the Tribunal as the appellant was in breach of Rule 17 of the Tribunal's Rules and Guidelines for the Hearing of Appeals. The Tribunal retired to consider the matter and decided to waive compliance in accordance with Rule 11 of the Rules and Guidelines. However, a caveat was given to Mr. Halpin that the Rules and Guidelines are there for a reason and that if, in future, he failed to comply with the deadline for the filing and exchange of evidence and submissions, he could find himself in serious trouble regarding his appeal. The Tribunal urged him to comply with the time limits for submissions. Mr. Halpin apologised for his late précis and gave an assurance it would not happen again.

The Property Concerned

The subject property, Ramada Encore Hotel, is a new 83-bedroomed hotel, in Oranmore, Co. Galway about 10 kilometres from Galway city. It is located to the rear of Main Street. Pedestrian access to Oranmore town is via a footpath. Vehicle access is from Castle Road. There is a car park with spaces for 30 cars at level 0 and for 150 cars in the basement. The hotel is mainly designed for tours and bedroom sales. The hotel operates under a franchise from Ramada and a royalty is paid to Ramada on revenue.

The Appellant's Case

Mr. Eamon Halpin, on behalf of the appellant made the following submissions:

1. The subject property occupies a low profile location and this is the key element to the whole case. Due to poor location much passing trade is lost.
2. The hotel operates on a seasonal basis, March to September. It is not possible to operate the hotel in the low-season period. The hotel does not have leisure facilities
3. The Merriman Hotel, Kinvara, is the best comparison. It is a budget hotel like the subject and is seasonal. However, unlike the subject, as regards food and drink the Merriman restaurant trades at weekends and the bar is open all year.
4. The subject is designed for bed or accommodation trade and not for functions or weddings. Moreover, the design is functional rather than aesthetic. The appellant would regard it as an ugly hotel in design.
5. The attic stores have no natural light and the ceiling height is too restricted. Areas below 1.4 metres headroom are disregarded. It is not standard practice to rate balcony space. Mr. Halpin said he has never come across it in his experience.
6. It is unfair to compare the subject with a high quality location such as that of the Maldron hotel, formerly known the Quality Oranmore Hotel. That hotel has a huge amount of passing trade and extensive leisure facilities and a 20-metre swimming pool.
7. The hypothetical tenant would attach great importance to location. Oranmore is basically a village, not a town. If the subject were nearer Galway city it could do all year round trade.
8. The Ibis Hotel should not be used as a comparison as it is within the Galway City boundary and outside the subject rating authority area.

In support of his estimate of value Mr. Halpin introduced the following comparisons with commentary:

1. The Merriman Hotel in Kinvara is probably the best comparison to the subject. It is unique among the comparisons in that it is seasonal. While the hotel closes for the winter the bar remains open and the restaurant opens at the weekend when the main hotel is closed whereas the subject hotel has to close in its entirety in the off-season. The bar and restaurant front onto the main street in Kinvara. The hotel, he said, is valued at €32.38 per sq. metre.
2. The Connemara Coast Hotel is a long established hotel. It is a 112-bedroomed, 4-star hotel located at Furbo, Co. Galway about 10 kilometres from Galway City.

3. Glenlo Abbey is a 5-star all year round hotel, is the ultimate in luxury in the Galway market and cannot be compared with the subject which is a functional budget hotel.
4. The Oranmore Lodge, located only slightly off the Dublin Galway N6 roundabout, is open all year round, with a leisure centre which creates business all year round.
5. Galway Bay Golf and Country Club specialises in functions and is a leading wedding venue in Galway. The balconies in this hotel are not rated.
6. The Maldron, (formerly the Quality Oranmore Hotel), is not a fair comparison, as it is a luxury hotel.
7. Ashford Castle, while remote, is internationally renowned as a tourist attraction.

Mr. Halpin contended for a valuation of €610 calculated as follows:

Hotel Proper	4,036 sq. metres @ €32.38 per sq. metre	= €130,686
Basement stores & stairs	202 sq. metres @ €13.67 per sq. metre	= € 2,761
Attic Stores	170 sq. metres @ €13.67 per sq. metre	= <u>€ 2,324</u>
(note area below 1.4m headroom ignored)		
Total		= €135,771
Allow 10% reduction to reflect the lack of normal		
bar & food Business		- <u>€ 13,577</u>
NAV		= €122,194
RV @ 0.5% = €610.97		
Say RV €610.00		

Cross examination by Mr. Ó Floinn

Asked if the subject was open for business meetings during the year Mr. Halpin replied that it was not open for business meetings in the off season. He said the hotel would not be open till March. He was also asked if he was aware that that the bedrooms in the subject could be converted for business meetings and he replied in the negative. Mr. Ó Floinn further asked him if he had any evidence that the Maldron has the highest passing trade in Galway. Mr. Halpin replied that anytime he visited the hotel he always found it busy. Mr. Ó Floinn further asked if it was true that the Maldron is so busy because it is longer established than the subject and therefore has a good reputation. Mr. Halpin replied that it has nothing to do with reputation but is a matter of location and the Maldron is very close to the roundabout on the N6.

Respondent's Case

Mr. Ó Floinn, on behalf of the respondent, made the following submissions:

1. He drew the Tribunal's attention to appeal ref. **VA88/0/165 – Ebeltoft Ltd. t/a "Hunters" Licensed Premises** where the Tribunal stated "*it must be understood that they [the appellants] cannot make a case to the Tribunal other than what was urged before the Commissioner*". He was the Revision Officer in this valuation and, at first appeal, all Mr. Halpin's comparisons had been passed to him for consideration and he had considered each of them.
2. He said the Quality Hotel (Maldron) is open for business meetings all year. It is located at the junction of the N18 and N6 and was built in 1998 with a leisure centre and swimming pool. The Valuation Tribunal in its determination of March 2002 (ref. **VA01/1/011 – Caruso Ltd. t/a Quality Hotel**) found this hotel was "*competing with other budget hotels located inside the city boundaries*" and that "*in truth nature of the subject's business was more comparable to that of the Ibis Hotel than that of other hotels....one of which was the Galway Bay Hotel*". In Mr. Ó Floinn's view the Quality Hotel (or Maldron) was the only really comparable hotel to the subject in terms of location close to Oranmore.
3. The subject is located in a pleasant environment with views at rear towards the sea and Oranmore castle. There was a great view of the sea from the balconies. These qualities offset the lower profile of the hotel. There is parking space for 30 cars at ground level in the courtyard and for 150 cars in the basement. The hotel was designed for tours and the sale of bedrooms.
4. The Merriman Hotel is a hotel with a thatched roof and located in Kinvara, far removed from the subject.
5. The subject was not graded at the time of inspection but was built as a 3-star hotel. It is well equipped and built to a very high standard.
6. He was almost sure he had valued balconies on a property in Lucan. The extra value of a balcony must be comprehended within the hotel. It is a premium.
7. The location of the subject on the Gort-Tuam road is good for business. There is the added advantage of being near the airport. Galway is developing eastwards towards Oranmore. The subject is in a quiet environment which avoids busy traffic.
8. Galway Bay Golf and Country Club hotel is closed, according to his information, and is being converted into apartments. It is managed by Lynch Hotels in Ennis.

9. Labour costs are high in hotels. The subject is designed for efficiency to save labour costs. This is clearly indicated on page 10 of his precis in the photograph of the reception-dining-bar area. He said the Tribunal Member's comparison with Ryanair in its operation was very apt. The subject is a lean machine.
10. The subject's rates are much higher than the Maldron's.
11. Buses can pull in to the car park easily and the parking facilities beat the Maldron hands down.

Apart from the Maldron the only other hotel offered by the respondent as a comparison is the Ibis Hotel near the Headford Road and Kirwan roundabout approximately 3 kilometres from the city centre of Galway. This hotel has 100 bedrooms and no leisure centre. It is a functional and budget hotel and, in this respect according to Mr. Ó Floinn, it is comparable to the subject. It is outside the subject rating authority area. In the circumstances of this case, Mr. Ó Floinn feels he is entitled to go outside the rating authority area.

Mr. Ó Floinn contended for a valuation of €1,020 calculated as follows:

Hotel	4239 sq. metres @ €45.72 per sq. metre	= €193,807.08
(inc. Basement and Stairs = 202 sq. metres)		
Stores - Level 3	205 sq. metres @ €34.16 per sq. metre	= €7,002.80
(Broken down as follows:		
Area with less than 1.4m headroom = 35 sq. metres		
Area with over 1.4m headroom = 170 sq. metres)		
Balconies - Level 3	189.2 sq. metres @ €13.66 per sq. metre	= <u>€2,584.47</u>
NAV	Total	= €203,394.35
@ 0.5%		= €1,016.97
RV Say €1,020.00		

Cross examination by Mr. Halpin

Mr. Halpin asked Mr. Ó Floinn how he could rely on the Ibis as it is outside the rating authority area and in Galway city and this does not comply with the Valuation Act, 2001. Mr. Ó Floinn replied that in circumstances where there are no comparable properties within the same rating authority area as the subject he was entitled, under Section 49(2) of the Valuation Act, 2001, to go outside the area and this he did in using the Ibis Hotel as a comparison. On

further cross examination Ó Floinn accepted that the Maldron was open all the year round and had more exposure to passing trade than the subject.

Findings

1. Mr. Halpin referred to the accounts of the Ramada Encore and confirmed he was not using them for valuation purposes.
2. Mr. Ó Floinn drew the attention of the Tribunal to **VA88/0/165 - Ebeltoft Ltd.** "...[the appellants] *cannot make a case to the Tribunal other than what was urged before the Commissioner*".
3. The Maldron and the Ibis Hotels are the only two comparisons offered by the respondent.
4. There is no doubt in the mind of the Tribunal that a fundamental factor in property valuation is location. The market maxim of auctioneers is "location, location, location."
5. The Maldron is in a much better location than the subject for passing trade as it is close to the roundabout on the N6. The subject, on the other hand, is at the rear of Main Street, Oranmore, and consequently misses out on passing trade.
6. Unlike the subject, the Maldron is open all year round and has leisure facilities such as a swimming pool to attract business.

7. The Tribunal has been given no evidence that there is a valuation practice of rating balconies.

7.8. The Merriman Hotel in Kinvara is the best comparison for the subject. It is a budget hotel and, like the subject, it is seasonal. In the respect of being seasonal it is unique among all the other comparisons of both the appellant and the respondent. Like the subject it has no leisure centre to attract business. It is located on the main tourist route between Galway and Clare about 10 miles south of Oranmore. The Tribunal finds that this is the most comparable comparison to the subject and sets the tone for this type of hotel in the County Galway rating authority area.

8.9. The Tribunal cannot accept the Ibis Hotel as a comparison as it is located in Galway City outside the rating authority area where the subject is located. Section 49(1) of the Valuation Act 2001 provides that a valuation shall be made by reference to values appearing on the valuation list "*relating to the same rating authority area*" as the subject is situate in "*of other properties comparable*" to the subject property. There is an exception to go outside the rating authority area under section 49 (2) of the Valuation Act 2001 if there are no properties comparable to the subject. However, such an exception is not warranted in this case. In valuation practice the subject property and comparisons are

never identical. So we search for values from the list of what are the most comparable properties. Influencing factors are location, size, quality and use. In this case the use is a hotel business. How the business operates is another matter, be it budget or luxury. In function or use a premises which operates as a hotel is not comparable to a supermarket or a crèche. As it happens there are other comparable hotels in the same rating authority area as the subject. And we find the most comparable is the Merriman Hotel. Accordingly, for reasons stated, we cannot accept the Ibis as a comparison in this case.

10. The Tribunal found in VA06/2/045 – Orange Tree Ltd. that “Section 49(1) cannot be set aside if there are comparables available, no matter how unsatisfactory the valuer may consider these to be.”

9.11. Besides, Oranmore is a small town with a population of 3,513 (Census 2006) and it does seem unfair to compare the subject in this location with a property located in a city or urban environment.

10.12. The hypothetical tenant would view location as very important.

Determination

Having regard to the foregoing, the Tribunal determines the rateable valuation of the subject property to be €733 calculated as follows:

Hotel	4,037 sq. metres	@ €38 per sq. metre	= €153,406
Basement and stores	202 sq. metres	@ €19 per sq. metre	= €3,838
Attic	205 sq. metres	@ €28 per sq. metre	= <u>€5,740</u>
		Total NAV	= €162,984
		Less 10% reduction for seasonal trading	= <u>- €16,298</u>
			= €146,686
		RV @ 0.5%	= €733.43
		Say RV	€733

And the Tribunal so determines