

Appeal No.  
VA08/5/160,161,162&165

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

**Ms. Maura Galvin (VA08/5/160)**  
**Lisheen Nursing Centre Ltd. (VA08/5/161)**  
**Stanford Woods Care Centre Ltd. (VA08/5/162)**  
**Lucan Lodge Nursing Home (VA08/5/165)**

**APPELLANTS**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 441067, Nursing Home at 50,51,51A, Cappaghmore, Lucan Newlands Road, Clondalkin (VA08/5/160), Property No. 447589, Nursing Home at Stoney Lane, Rathcoole (VA08/5/161), Property No. 2179116, Nursing Home at Kiltipper Road, Tallaght (VA08/5/162) and Property No.445208, Nursing Home at Ardeevin Drive, Lucan (VA08/5/165) County Dublin.

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Damian Wallace - QFA, MIPAV, Valuer**

**Member**

**Aidan McNulty - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 17TH DAY OF FEBRUARY, 2009**

By Notices of Appeal dated the 15th day of August, 2008, the appellants appealed against the determinations of the Commissioner of Valuation in fixing valuations of €102,000.00 (VA08/5/160), €363,000.00 (VA08/5/161), €739,000.00 (VA08/5/162) and €480,000.00 (VA08/5/165) on the above described relevant properties.

The grounds of Appeal as set out in the Notices of Appeal are: **VA08/5/160:** "The valuation as applied by the Valuation Office is excessive and is not sustainable for the business being undertaken. The property does not lend itself to optimum use." **VA08/5/161, 162 & 165:** "The valuation as applied by the Valuation Office is excessive and is not sustainable for the business being undertaken."

1. Oral hearings in relation to **VA08/5/160 - Ms. Maura Galvin t/a Padre Pio Nursing Home** and **VA08/5/161 – Lisheen Nursing Centre Ltd.** were held on the 6<sup>th</sup> day of January, 2009. At these hearings the appellants were represented by Mr. John Kenneally, MIAVI of Kenneally McAuliffe and the respondent, the Commissioner of Valuation, by Mr. Christopher Hicks, a Valuer in the Valuation Office. Ms. Clare Carroll, a Chartered Accountant of Carroll & Associates, gave evidence on behalf of the appellants in relation to financial and other relevant matters pertaining to the operation of private nursing homes.
2. Oral hearings in relation to **VA08/5/165 – Lucan Lodge Nursing Home** and **VA08/5/162 – Stanford Woods Care Centre Ltd.** were held on the 8<sup>th</sup>, 14<sup>th</sup>, 21<sup>st</sup> and 27<sup>th</sup> days of January, 2009. At these hearings the appellants were represented by Mr. Owen Hickey, SC, instructed by Mr. Fergal Dowling of Seamus McGuire & Co., Solicitors, in the case of **Lucan Lodge Nursing Home** and by Mr. Kirby Tarrant of O’Grady Solicitors in the case of **Stanford Woods Care Centre Ltd.** Mr. James Devlin, BL, instructed by the Chief State Solicitor, appeared on behalf of the respondent, the Commissioner of Valuation. Expert valuation evidence was given by Mr. John Kenneally and Mr. Christopher Hicks on behalf of the appellants and the respondent respectively. Ms. Clare Carroll, a Chartered Accountant of Carroll & Associates, gave evidence on behalf of the appellants in relation to financial and other relevant matters pertaining to the operation of private nursing homes.
3. Most of the time in the latter two appeals was spent trying to establish the basis upon which the valuation scheme prepared by the Valuation Office for the valuation of all nursing homes in the South Dublin rating authority area was founded.
4. In due course it emerged, following the introduction of two supplementary reports by Mr. Hicks, that the scheme was primarily based on three market-based pieces of information.

Firstly – The rents paid under lease arrangements in respect of two nursing homes, one in County Wexford and one in County Galway.

Secondly – An analysis of one set of audited accounts in relation to a 35-bed nursing home in the South Dublin rating authority area.

In addition to the above the Valuation office also had regard to other financial information drawn from unaudited accounts and from information contained in Valuation Office records.

5. In relation to the rental evidence it became clear that the full background of these transactions was not adequately investigated nor subjected to sufficient critical analysis. The more the facts in relation to these transactions came under scrutiny the less reliable they became to the extent that it became clear to the Tribunal that little or no weight could be attached to the details of these transactions.
6. In relation to the audited accounts which also formed the basis of the valuation scheme Mr. Hicks and Mr. Kenneally were invited by the Tribunal to provide a valuation based on the Receipts and Expenditure (R&E) method of valuation. In the event and perhaps not surprisingly they arrived at markedly different estimates of net annual value neither of which, in the Tribunal's opinion, was well founded.
7. In relation to the valuations put forward by Mr. Kenneally, the Tribunal has some reservations in regard to the way they were formulated in that all the outgoings were based on a mixture of actual costs and notional costs based upon "industry norms". In our view the staff costs may have been overstated in his valuation.
8. In summary we have come to the conclusion that the valuation scheme prepared by the Valuation Office is unsound to such an extent that it cannot form the basis for the valuation of nursing homes in the South Dublin rating authority area. Similarly, we are not persuaded that Mr. Kenneally's valuation approach is appropriate. In the circumstances the Tribunal finds itself in a somewhat difficult position and with the utmost reluctance we have come to the following conclusions:
  - (a) That the best way forward would be to remit the valuation of the four properties concerned in these appeals to the Commissioner of Valuation so that they may be valued in an appropriate manner consistent with the requirements of section 48 of the Valuation Act, 2001. (vide **VA05/2/007 – Independent Biomass Systems Ltd. and VA06/2/045 – Orange Tree Ltd.**)
  - (b) In the circumstances the Tribunal expresses no view on the valuations of the four properties concerned at this time. It is of course open to the parties to agree the valuations and if this is not possible then the appeals can be re-entered before the Tribunal for determination.
  - (c) In the event of the valuations being agreed we recommend that the Commissioner of Valuation exercise his discretion under section 40 of the Act in relation to those entries currently in the Valuation List that are similarly circumstanced.
  - (d) In principle there is considerable merit for the preparation of a coherent scheme of valuation in relation to nursing homes and other categories of property that are

seldom if ever let on the open market. That said, however, any such scheme must be well founded and sufficiently researched to withstand robust examination if it is to find widespread acceptance by ratepayers and their advisors. Furthermore, the scheme must be fully transparent in its application and contain within it sufficient flexibility to enable it to be used right across the sector. Once again the Tribunal would encourage the Valuation Office to engage with their colleagues in private practice who have particular expertise in the category of property concerned as such a course of action will in the final analysis lead to more accurate assessments and a greater understanding of how the valuations are determined.

And the Tribunal so determines.