

Appeal No. VA10/3/035

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

Lough Eske Developments Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2203950, Hotel at Lot No. 1F/AG/J/1, Lough East Demesne, Lough Eask, Donegal, County Donegal.

B E F O R E

John Kerr - Chartered Surveyor

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Veronica Gates - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF FEBRUARY, 2011

By Notice of Appeal dated the 30th day of August, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €2,675 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:

"Valuation is excessive and inequitable."

The appeal proceeded by way of an oral hearing and was held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 6th day of December, 2010. At the hearing the appellant was represented by Mr. Owen Hickey, SC, instructed by Ms. Maura Donnelly, Sheehy Donnelly Solicitors. Mr. Alan McMillan, Director, GVA Donal O Buachalla, gave expert evidence on behalf of the appellant. The respondent was represented by Ms. Grainne O'Neill, BL, instructed by the Chief State Solicitor's Office and Mr. Patrick Murphy, a District Valuer in the Valuation Office gave expert evidence on behalf of the respondent. Mr. Paul Murphy, Asset Manager, Lough Eske Developments Ltd., and Mr. Tom Kirby, GVA Donal O Buachalla, also attended.

The Issue

The issue between the parties was one of quantum only, the appellant maintaining that the rateable valuation of €2,675 was excessive.

The Property

The subject property comprises Lough Eske Castle which stands on the Lough Eske Demesne, a wooded parkland setting extending to 17.4 hectares. The restored 17th Century Castle is of stone and slate construction and stands 2 floors over basement. The hotel includes a modern purpose-built hotel bedroom wing with leisure facilities. The bedrooms include 51 deluxe rooms, 15 suites, 1 presidential suite, 14 garden suites and 14 courtyard suites. In order to reach these garden and courtyard rooms the guest must leave the main hotel block and walk outside to gain entry. The Castle also contains a reception area, 2 bars, 2 lounges, and a ballroom to cater for up to 400 guests, all at ground floor level, while private dining and pre-reception facilities are located at basement level. Adequate car parking facilities are provided on site. The hotel is approached by travelling along a 1km gravel surfaced drive from the public road.

Location

The subject property is located approximately 5km north of Donegal Town, off the N15/Donegal to Letterkenny Road. The hotel is on the shores of Lough Eske, near the Bluestack Mountains.

Services

All mains services are connected to the hotel. However, due to planning considerations a 4 kilometre foul sewer installed at refurbishment stage by the hotel developer to connect to a waste water treatment plant in Donegal Town has since been decommissioned. Foul waste is now transported by truck from the hotel on a daily basis.

Tenure

Freehold

Accommodation

Floor areas, calculated on a GEA basis, were agreed between the parties on 1 December 2010, as follows:

Hotel	11,400 sq. metres
Basement Store	1,140 sq. metres

Valuation History

A rateable valuation of €2,960 was assessed on the property and a proposed Valuation Certificate was issued on 1st December, 2009. GVA Donal O Buachalla, on behalf of Lough Eske Developments Ltd., made representations to the Revision Officer and, upon consideration, a final Valuation Certificate was issued by the Commissioner of Valuation in the amount of €2,960 on 7th January, 2010. An appeal was filed in February, 2010 and on 13th August, 2010 an adjusted RV of €2,675 issued. On 31st August, 2010, a Notice of Appeal was lodged with the Valuation Tribunal.

The Appellant's Case

Mr. Paul Murphy, Asset Manager of the appellant company, took the oath. Mr. Owen Hickey, SC asked Mr. Murphy to describe the subject property to the Tribunal. Mr. Murphy said that he manages an asset portfolio of 8 hotels for Harcourt Developments, including the subject. He said that the subject hotel opened for business in December 2007. He explained that the hotel is not achieving sufficient revenue to cover the running costs such as payroll etc, or any loan repayments on development and building. He said that the hotel requires working capital provided annually by Harcourt Developments to cover the losses arising, and that while the hotel is graded 5-Star, it does not achieve an equivalent 5-star average room rate. He stated that the hotel's occupancy is about 50%, while the average achieved room rate is currently

€130. Mr. Murphy said that this level of revenue is not sufficient to cover the running costs of a typical 5-star hotel. He further added that, in order to achieve the appropriate revenue to cover 5-star costs, the hotel would need to achieve a rate of between €180 to €190 per room. He contended that bedrooms generate 60%-70% of profit earned by successful hotels. Citing the large number of corridors in the castle, he said that due to the large footprint of the subject hotel there were many non-revenue areas and that those areas merely serve as access to the bedrooms, rather than generating income. He said that the hotel has to absorb the unusually high costs of maintenance due to inefficient layout, created in part by the retention of the original castle part of the complex. He said that the hotel survives on weekend and wedding business, and closes during the week from November to March. Mr. Murphy maintained that this is a reflection of the secluded setting of the hotel.

Mr. Murphy said that a hotel's star rating does not equate to profitability and suggested that the more successful hotels trade on a "room only" basis and are often 3-star rated. Mr. Murphy continued his evidence by informing the Tribunal that the hotel incurs an extra overhead expense of approximately €100,000 annually due to the daily transportation of foul sewer waste from the hotel. He said that this extra cost would be assessed very negatively by a hypothetical tenant due to the major impact it has on profitability. He stated that Harvey's Point Hotel (located in close proximity to the subject) has its own septic system serving the hotel, but that the subject was not permitted a similar facility by the Planning Authority.

Mr. Murphy repeated that the cost of overall maintenance is very high due to the original inefficient layout of the old castle part of the building, with its long corridors and back areas, and advised that the long driveway to the hotel from the main road is very expensive to maintain, due to a planning consideration on its surface treatment. The permitted stone/gravel surface allows cracks, breaks and potholes to occur on a weekly basis and must be resurfaced twice yearly, incurring heavy costs. He also confirmed that no management fee is paid to Harcourt Developments. Mr Murphy described Harvey's Point Hotel as being the subject's nearest neighbour and by far its strongest competitor. He said that the main revenue earner for Harvey's Point Hotel and the subject is weddings. He said that Harvey's Point enjoyed a lakeside setting very well suited to wedding photography, whereas the subject was not close to the lake and could not offer a similar facility for newlyweds.

When asked by Ms. Grainne O'Neill, BL, to describe the difference between 4-star and 5-star hotels, Mr. Murphy explained that service, bedroom size, specification of bathrooms etc., as set out in the Failte Ireland rating classification guides, were the main points to consider. Mr. Murphy asserted that a hotel's star rating is a tourist board accreditation and does not add to the NAV. The subject is classified as a 5-star hotel but the pricing structure, he explained, bears very little difference between a 4 and 5-star property. He also agreed that the 4-star Harvey's Point and the subject offered two very different products, and that the customer is always free to make his own choice to avail of the services and facilities of whichever of the two hotels he or she chooses to visit.

Mr. Alan McMillan, Director, GVA Donal O Buachalla then took the oath and adopted his précis as his evidence-in-chief. He described the layout of the hotel to the Tribunal, as already outlined in Mr. Murphy's evidence. He said that Donegal has 34 hotels, with nine rated as 4-star, nineteen as 3-star, and five as 2-star or with no rating, whilst the only 5-star hotel is the subject. The closest hotel is Harvey's Point, while some 5 kilometres away in Donegal town there is one 3-star hotel and one 4-star hotel. He said that the range of values of 3-star and 4-star hotels in Donegal is between €27 - €36 per sq. metre, and that the nearest and best competitor is Harvey's Point and devalues at €31.42 per sq. metre. He said that both the subject and Harvey's Point were destination hotels, as distinct from the Mill Park and the Abbey at Donegal town. He said that whereas the Carlton Redcastle hotel is on the main road from Letterkenny and Buncrana, the subject is in a remote area. Mr. McMillan stated that Harvey's Point hotel and Redcastle are the best comparisons to the subject and sought an RV of €1,881 on the subject property, detailed as follows:

Hotel	11,400 sq. metres @ €31.43 per sq. metre	€358,302
Basement/Ancillary	1,140 sq. metres @ €15.72 per sq. metre	<u>€17,921</u>
NAV		€376,223
RV @ 0.5%		€1,881

Comparisons

In support of his valuation, Mr. McMillan introduced 5 comparison properties, details of which are set out in the Appendix to this judgment.

He described the 4-star Harvey's Point as being the best comparison and said that it is about one fifth the size of the subject, does not have a leisure centre. Its RV devalues at €31.43 per sq. metre. His Comparison no. 2 was the 4-star Mill Park Hotel comprising 8,092 sq. metres and including 115 bedrooms and leisure centre. It is within walking distance of a major town. Its RV devalues at €34.54 per sq. metre. His third comparison was the 3-star Abbey Hotel in nearby Donegal Town, with 118 bedrooms in a property of 7,970 sq. metres. Its RV devalues at €35.86 per sq. metre. The fourth comparison he cited was Jackson's Hotel in Ballybofey, with leisure centre, 137 bedrooms, and a floor area of 13,485 sq. metres. Its RV devalues at €2.80 per sq. metre. His final comparison was the 4-star Carlton Hotel in Redcastle (one of the portfolio of 8 Hotels held by Harcourt Developments) with a golf course, seaside setting, 93 bedrooms, and floor area of 8,486 sq. metres. Its RV devalues at €27.34 per sq. metre. Mr. McMillan concluded his evidence by saying that even though the subject hotel is classified as a 5-star, its pricing structure is akin to a 4-star property.

Respondent's Evidence

Mr. Patrick Murphy, having taken the oath, adopted his written précis as his evidence-in-chief. He confirmed agreement on the floor areas, and noted an NAV of €26,680, calculated as follows:

Hotel	11,400 sq. metres @ €44 per sq. metre =	€501,600
Store Basement	1,140 sq. metres @ €22 per sq. metre =	<u>€25,080</u>
NAV		€26,680
€26,680 x 0.5% = RV		€2,633

The RV for which Mr Murphy contended differed from the RV in the Valuation List, due to late agreement between the parties on the floor areas of the subject property.

Mr. Murphy outlined the valuation history of the subject as already detailed in this report. To support the Net Annual Value, he introduced the following three comparisons:

- | | | |
|--------------------------------------|-----------------------------------|---------------------------|
| (1) Mill Park Hotel,
Donegal Town | (4-star) Area 8,092.79 sq. metres | rate per sq. metre €35.54 |
| (2) Abbey Hotel,
Donegal Town | (3-star) Area 7,636.65 sq. metres | rate per sq. metre €35.86 |

(3) Jackson's Hotel, (3-star) Area 13,485 sq. metres rate per sq. metre €32.80
Ballybofey

Mr. Murphy said that there are no 5-star hotels in County Donegal other than the subject and, accordingly, that the 3 comparisons he cited are not truly comparable with the subject. However, he said that he applied a premium to the subject in order to reflect its 5-star status. When asked to comment on the range of between €28 per sq. metre and €35 per sq. metre on hotels in Donegal, Mr Murphy said that he relied on the Mill Park hotel as his primary comparison with a rate of €35.54. When asked what the hypothetical tenant would consider when looking at the subject, with its extensive grounds, the older building, part of the Castle, and its high maintenance costs, compared with the modern, purpose-built Mill Park hotel, he said that the public's perception and appeal factor of the Castle, its grounds and the subject leisure centre, would be important matters to consider.

Mr. Murphy continued his evidence by presenting an analysis on the valuation of 5, 4 and 3-Star hotels in Co. Laois. He told the Tribunal that the 5-star Heritage Golf and Spa Hotel in Killenard has an area of 12,518 sq. metres and has a rate per sq. metre of €57, the 4-star Talbot Carlow hotel in Graigue has an area of 8,813 sq. metres and a rate per sq. metre of €38.96, and the 3-star Killeishin Hotel in Portlaoise has an area of 8,448 sq. metres and a rate per sq. metre of €36.90.

Cross-Examination

Under cross-examination from Mr. Hickey, Mr. Murphy was asked why he ignored section 49(1) which states:

"If the value of a relevant property (in subsection (2) referred to as the "first-mentioned property") falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situated in, of other properties comparable to that property."

Mr. Murphy said that he looked at 3 hotels in the area, and while he did not inspect any of his chosen comparison properties, he took all information available to him into consideration and he then applied the rate per sq. metre to the subject, based on the tone of the list. Mr. Hickey put it to Mr. Murphy that in **VA07/3/061 - Monart** (concerning the 5-star Monart Hotel in

Co. Wexford), the rate per sq. metre was fixed at the prevailing 4-star rate for the Wexford region in the absence of any direct comparison there, and that in order to reach an NAV for the subject in this case it was not justifiable to be influenced by a castle structure with its big rooms, and that the Commissioner should adjust the NAV on the subject accordingly.

Findings

Having carefully considered all the arguments and evidence adduced by the parties, the Tribunal finds as follows:

1. The subject property does not have its own sewage treatment plant. This results in sewage being transported by road to a treatment plant in Donegal Town.
2. It is the Tribunal's view that the unrefuted annual cost of €100,000, in respect of waste water management, as advised by Mr. Murphy in his evidence, is likely to be a cost which would have to be borne by a prospective tenant and is likely to be considered an excessive burden.
3. The subject property is in a rural and somewhat isolated location and local trade is likely to be very limited, unlike that for hotel properties located at or very near a town or village.
4. While the subject castle and hotel may be a premium product and service offering, a large building complex with some areas dating back over three centuries may be unusually expensive to maintain. (The subject covers a large footprint and is some five times larger than Harvey's Point).
5. The Tribunal notes that the respondent did not visit any of the comparison properties listed in his précis.
6. The Tribunal could not ignore Harvey's Point hotel as it was agreed by both parties that it targets the same market as the subject, and while the former does not have leisure facilities, both are destination properties.
7. The Tribunal notes that the Commissioner relied upon other 3 and 4-star properties in Donegal, but did not include Harvey's Point hotel for unknown reasons.
8. The Tribunal found the Carlton Redcastle Hotel to be a good comparison property, and more so than the urban-located hotels, and the most useful guide to establishing a fair and reasonable comparative rate of valuation.
9. The Tribunal notes the acknowledgement by the respondent that, though advised otherwise at First Appeal, the statement in his précis of evidence that "*All main services*

are connected to the premises” was incorrect. The unchallenged evidence given at hearing was that waste water management was costing the appellant €100,000 per annum, in order to have sewage transported off-site.

Determination

In view of all the foregoing, the Tribunal determines that the valuation of the subject property should be calculated as follows:

Hotel	11,400 sq. metres @ €38.50 per sq. metre =	€438,900
Leisure centre	1,140 sq. metres @ €19.25 per sq. metre =	<u>€21,945</u>
NAV		€460,845
RV @ 0.5%		€2,304.22

RV, Say €2,300

And the Tribunal so determines.