

Appeal No. VA88/0/006

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**Banna Holiday Villas Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Licensed Hotel Shop, Chalets and Land Townland of Banna Mountain, Co. Kerry

**B E F O R E**

**Hugh J O'Flaherty**

**S.C. Chairman**

**Paul Butler**

**Barrister**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 20TH DAY OF JANUARY, 1989**

By notice of appeal dated 9th August, 1988, the appellants appealed against the respondents decision fixing the Rateable valuation of £505.00 on the buildings of the above entitled hereditaments.

Mr. Anthony Brooks, B. Agr.Sc., M.I.A.V.I., Rating Consultant and Property Consultant, 106 Pembroke Road, Dublin 4, presented a written submission on behalf of the Appellants on the 5th day of January, 1989.

In the course of that submission it was set out that the premises comprised the Banna Beach Hotel Complex, 5 self-contained apartments and 30 self-contained detached chalets. The premises are situated some 8 miles from Tralee and about half a mile from the seashore.

The hotel is registered as Grade B by Bord Failte.

In the course of that submission he gave the following details:-

ACCOMMODATION:

- (a) Foyer and reception area.
- (b) Bar, lounge, male and female toilets, games area, and residents lounge.
- (c) Kitchen, cold rooms, calorifier room, boiler room, staff toilets, various stores and dining room.
- (d) Ballroom and disco areas, ladies and gents toilets, recreation room, chair store and boiler room.
- (e) Office and toilets.
- (f) 12 bedrooms with bathrooms en suite and 2 linen rooms.

First Floor

Hairdressing Salon, Sauna Room, 4 Bedrooms with bathroom en suite.

Service Buildings

The other buildings in the hotel complex consists of a shop, laundrette and fast food retail area to service the requirements of the hotel guests and the tenants of the chalets and apartments.

Gross Area

The gross area of the Hotel Complex is Circa 2390 Square Metres.

SERVICES

Public water, Electricity and Telephone Cables are supplied and connected.

There is no refuse collection, no public lighting, sewerage is to a septic tank.

## Chalets and Apartments

### CHALETS

There are 13 two-bedroomed Chalets each of which also contains a kitchenette/livingroom and a combined bathroom W.C.

There are 17 three-bedroomed Chalets each of which also contains a kitchenette/livingroom and a combined bathroom and W.C.

While the two types vary in their layout, their gross areas are the same at 70 square metres each. The rent obtainable varies with the demand. They are functional in their design. The furnishing includes a fridge, electric cooker, table forms, settee, two armchairs, beds, bed linen, blankets, cooking utensils, cutlery and crockery. Heating is by means of electric blow heaters.

The Chalets were erected over the years 1968 to 1978. They are concrete block structures with felt roofs. They are now at a stage when maintenance has become increasingly expensive in this exposed location.

### APARTMENTS

There are 5 self-catering apartments converted from former bedrooms each of which contains kitchenette, living room, 2 bedrooms and bathroom. The total area of the 5 apartments is circa 280 square metres.

### HISTORY

Prior to 1968 the entire holding was operated as a small farm of some 27.5 acres with Rateable Valuation of £4.75 on land and £6.50 on buildings. After demolition of the then existing buildings the present owners erected an hotel which is licensed, 5 chalets and a shop

on which a valuation of £250.00 was placed in 1969. The Valuation on buildings was increased to £320.00 on the licensed hotel, shop and 13 chalets in 1971, and to £540.00 in 1981 on the licensed Hotel, shop and 30 chalets. This Valuation was appealed to the Commissioner in 1983 and reduced to the present Valuation of £505.00.

### LOCATION

The subject premises is located in a sparsely populated coastal region. The site is in close proximity to the Atlantic Ocean with no intervening shelter. This involves high maintenance costs on the buildings, all of which have felt on timber roofs.

### NATURE OF BUSINESS

Due to its isolation the hotel complex does a strictly seasonal business, July 3rd to September 2nd, except for some Bank Holiday week-ends. The premises are not suitable for bus tour operations which increasingly form a high proportion of hotel business in the South West area.

Other factors militating against tourism in this area are the Northern troubles, the recurring uncertain weather conditions, the problems associated with the car ferries, and the recent decline in the American tourist market. All have implications which have been severely felt by this and other hotels. The occupancy rate of the chalets and apartments has also felt the impact of the above factors.

Mr. Brooks said that in his opinion the rateable valuation of the hotel complex should not be greater than £160.00. This figure breaks down as follows:-

Area of hotel complex	2390 Square Metres @ 7p	£167.30
Area of Stores	85 Square Metres @ 4p	<u>£ 3.40</u>
		£170.70
	say	£160.00

He said alternatively the Rateable Valuation can be dealt with on a bedroom basis. 16 Bedrooms at £10.00 say £160.00.

He then gave certain comparisons and these are reproduced below:-

<u>THE CAHERNANE:</u>	<u>R.V.</u>	<u>R.V. PER BEDROOM</u>
40 Bed all with bath en suite. Grade A.	£250.00	£6.25

<u>THE THREE LAKES:</u>		
70 Bed all with bath en suite & room telephone service, lift, all year round business. Grade A.	£535.00	£7.25

<u>THE TORC GREAT SOUTHERN:</u>		
96 Bed all with bath en suite & room telephone service. Sauna & indoor swimming pool. Grade A.	£650.00	£6.75

<u>THE KENMARE BAY:</u>		
100 bed all with bath en suite & room telephone service. Grade A.	£635.00	£6.35

THE BRANDON:

154 bed all with bath en suite & £1,220.00 £7.92  
 room telephone service, lift and  
 large function room. Situated in  
 town centre. All year round business.  
 Grade A.

THE ARBUTUS:

35 bed all with bath en suite & room £210.00 £6.00  
 telephone service, situated in town  
 centre, open all year round. Grade B.

THE DROMHALL:

58 bed all with bath en suite & £290.00 £5.00  
 room telephone service.

THE DERRYNANE:

51 bed all with bath en suite & £340.00 £6.67  
 outdoor swimming pool. Grade B.

THE WATERVILLE BEACH:

40 bed all with bath en suite & £250.00 £6.25  
 indoor swimming pool and sauna.  
 Grade B.

He said that with regard to the first 5 comparisons they are graded as A by Bord Failte. The next 3 comparisons are graded as B\* by Bord Failte. The last comparison is graded as B by Bord Failte. He said it should be noted that the existing valuation on the hotel complex breaks down at £17.50 per bedroom. In his proposed valuation he has suggested a valuation based on £10.00 per bedroom. In his list of comparisons none of those quoted breaks down at a higher figure than his proposed figure.

With the exception of the Derrynane all the comparisons are situated in or in the environs of a town. The subject premises have a shorter season than any of the listed comparisons. The bedroom rates of these comparisons are far in excess of those of the appellants bedroom rates as could be seen from extracts from the official Bord Failte Guide to which he referred.

In the course of his submission Mr. Brooks also thought that the chalets and the apartments might constitute residential units which would be exempt under the provisions of the local

Government (Financial Provisions) Act, 1978 but it was agreed that this was a matter for the District Court.

Mr. Frank O'Connor BSc (Surveying) Diploma in Environmental Economics, a Valuer in the Valuation Office for 8 years presented his written submission on the 19th December, 1988.

He set out a description of the premises and the nature of the business carried on. He said that in 1983 a rateable valuation of £505.00 was agreed after negotiation with Donal O'Buachalla & Company Ltd., Rating Consultants, 86 Merrion Square, Dublin 2.

The property was occupied then by Banna Holiday Villas Ltd. and the structure has not changed since. No reference to actual or potential profitability was made in 1983 even though

Donal O'Buachalla and Company Ltd., previously appealed the Rosses's Point Hotel case on the basis of the declining profitability some years previously.

Mr. O'Connor said the property was listed by the local authority for 1987 Annual Revision to value extensions, but as none had been constructed the rateable valuation was not altered.

The appellant then lodged a First Appeal whereupon no reduction was made. Subsequently the appellant lodged this appeal to the Valuation Tribunal.

Mr. O'Connor submitted that in arriving at the rateable valuation regard must be had to Section 11 of the Valuation (Ireland) Act, 1852 and Section 5 of the Valuation Act, 1986. He said that rental value is the best evidence in which to determine the net annual value.

However hotels are not normally leased and he was unable to discover adequate rental information relating to comparable hotels upon which to base an assessment of rateable valuation.

He gave certain examples then in regard to capital value and spoke of recent sales of hotel viz Listowel Arms Hotel; Manhattan Hotel and Waterville Beach Hotel. He gave certain comparisons which are reproduced in the Appendix.

Mr. O'Connor thought that the Hillgrove Hotel in Dingle rateable valuation which was fixed by Judge Desmond on the 23rd of January 1979 at the level of 11.5p per metre square must be regarded as the base level for an inferior hotel. He thought that relative to the quoted comparisons, due allowance has been made for any drawbacks accruing to the subject property.

Reference was made to the Rosses Point Hotel case.

Reference was made to bed occupancy in the Cork/Kerry region.



The oral hearing took place on the 10th January, 1989, in Tralee. Mr. Henry Downing, Barrister (instructed by Mannix & Co. Solicitors) appeared for the appellants. Mr. Andrias O'Caomh, Barrister (instructed by the Chief State Solicitor) appeared for the respondents.

The following gave evidence:

Mr. Joseph Murphy the owner of the complex.

Mr. Michael Galvin the present manager of the complex and

Mr. David Tarrant of Touche Ross, Accountant with responsibilities for the accounts of the complex.

Mr. Murphy stated that he was the owner of the complex which he built in 1968. He outlined the history of the complex.

Mr. Murphy said that initially business was very good and the majority of customers came as a result of his advertising in the Sunday Times and Belfast Telegraph. He also got many bookings through a British travel agency. However, Mr. Murphy said that he is now totally dependent on the Irish market.

Up until 5 years ago the business made a profit; however, for the following reasons things have become much more difficult:

- (a) the increase in farmhouse accomodation.
- (b) bad weather in recent years.
- (c) collapse of the American market which had the effect of the bigger hotels targeting the same market as his complex.
- (d) travel agencies in Britain are no longer interested in block bookings in Southern Ireland because of the troubles in Northern Ireland.

- (e) maintenance, in particular, the chalet roofs and the cost of a softening plant for the water supply which had to be installed because the public water supply caused damage to taps etc.
- (f) the high level of public liability insurance which was at £32,000 last year and of rates which cost £16,000 last year.

He said there was a loss of £59,518 last year and an accumulated 3 year loss of £64,000.

Under cross examination by Mr. O'Caoimh regarding the agreement of the rateable valuation with the Commissioner of Valuation through Messrs O'Buachalla, Mr. Murphy stated that he did not agree anything with Messrs. O'Buachalla. He explained that his son was managing the complex then. He agreed however that he was a director at that time.

Mr. Galvin in evidence stated that he was the manager of the complex since 1988. Prior to that he had been 5 years in the Glenbeigh Hotel having trained in Jury's Hotel in Dublin. He took up the position with good expectations but the summer was disastrous and in fact they ended up giving rebates to families. He said that he is now working 3 days per week and is only dealing with enquiries for 1989. In his opinion the business was not there in the summer of 1988 and has not been there since. This was the only year he could comment on.

Mr. Tarrant, an accountant with Touche Ross, gave evidence that his company acted as liquidator in regard to 3 other hotels which were eventually sold at substantially less than the apparent market value because of the poor performance in the hotel industry.

Under cross examination by Mr. O Caoimh, Mr. Tarrant said that he was not in a position to distinguish the amounts attributed to outside catering in the accounts for the years 1984 to 1986.

The Tribunal thinks it important to isolate what it thinks should be rejected and what is of importance in this case. It rejects the idea of fixing a rateable valuation on a "bedroom basis". This was propounded by Mr. Brooks in his original submission and also in evidence. While, doubtless, it was something that was used as a rule of thumb at one stage in the Valuation Office it has now been discarded and, rightly so. If it were to be applied it would produce the absurd result that the Brandon Hotel, for example, which is, by common consent, a far better hotel would produce a valuation of £7.92 per bedroom whereas the subject premises would produce a valuation of £10.00 per bedroom. Accordingly, the Tribunal has no hesitation in saying that this is a method that should be discarded.

Equally, the Tribunal tends not to be influenced by statistics made available by Bord Failte, or otherwise, as regards bed occupancy rates throughout a particular region. Especially a region as large as the Cork/Kerry region. There are too many variables; there are the contrasts between town and country and, then, between different areas of country.

The thing that has influenced the Tribunal most was the fact that in 1983 an agreement was reached between very experienced valuers on behalf of the appellants. While Mr. Murphy, who gave evidence before us, was inclined to repudiate this agreement on the basis that it had been negotiated by his son, the Tribunal considers that it was a binding agreement and was one that was not in the least improvident; probably quite the contrary. Many of the factors put forward by Mr. Murphy and by Mr. Brooks that have had an effect on trade were present in 1983. Nonetheless, the Tribunal has come to the conclusion that there has probably been an accentuation of some of the problems that afflict this complex. Certainly the figures produced by the accountants, Touche Ross, show that the place is in a loss making situation. Mr. O'Caomh has countered this by saying that the turnover has remained constant. The Tribunal is inclined to accept the evidence of Mr. Murphy that there has been a falling off in

the number of functions and in its popularity as a venue for young people. Without any doubt, although near Tralee, it is a remote location. It must take a battering from the elements and the Tribunal is impressed with the fact that the upkeep of the complex must be much more expensive not alone by reference to comparable hotel premises in towns but even comparable hotel premises in the country.

The Tribunal takes the view that it has no function in apportioning the ratable valuation herein.

The Tribunal would repeat again that any party seeking to upset an existing agreement bears a heavy onus of proof. Fixing a rateable valuation is, needless to say, not an exact science; it has been stated repeatedly that fixing it by reference to so much pence per square metre is not to be taken as infallible either.

In this case the hotel, shop and chalets devalue at 10.5p per metre square. With some hesitation but, nonetheless, in the belief that the appellants have made out a case for special consideration the Tribunal is prepared to lower this to in or around 10p per metre square and will fix a valuation of £480.00.