

Appeal No. VA88/0/143

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

Great Southern Hotels Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Parknasilla Great Southern Hotel Limited Sneem Co. Kerry

B E F O R E
Mary Devins

Solicitor (Acting Chairman)

Paul Butler

Barrister

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF JULY, 1989

By notice of appeal dated 22nd August, 1988, the appellants appealed against the determination of the respondent fixing the rateable valuation of the above described hereditaments at £560.00.

The subject property, known as the Parknasilla Great Southern is situated on the shores of Kenmare Bay, approximately 16 miles from the town of Kenmare and close by the village of Sneem. Originally one of a group of hotels developed by the Great Southern and Western

Railway Company in the latter half of the 19th century it now forms part of a chain of hotels owned and operated since 1984 by Great Southern Hotels Ltd.

Prior to 1984 the group was owned and operated by C.I.E. During the 1970's, in an attempt to reduce losses, C.I.E. sold off three of the hotels in the group, viz; the Mulranny Great Southern, the Bundoran Great Southern and the Kenmare Great Southern Hotel. The Russell Court in Belfast was closed.

Losses continued and in 1984 Great Southern Hotels Ltd, a semi- state company independent of C.I.E. was formed to own and operate the hotel chain which now comprises six hotels, viz;

1. Galway Great Southern
2. Killarney Great Southern
3. Parknasilla Great Southern
4. Torc Great Southern
5. Corrib Great Southern
6. Rosslare Great Southern

The hotel contains 60 en-suite bedrooms, dining-room, bar and cocktail lounge and a room located in the basement suitable for small private meetings. Among the facilities provided are an indoor heated swimming pool, sauna, private jetty, nine hole golf course and a tennis court.

VALUATION HISTORY

- (a) First valued 1898 R.V. £240. Description:- Hotel, offs and land.
- (b) 1903 Revision R.V. increased to £300. Description:- Hotel, offs and land.

- (c) 1948 Revision R.V. increased to £400. Description:- Lic'd Hotel, petrol tank, offs and land.
- (d) 1960 Revision R.V. increased to £450. Description:- Lic'd Hotel, petrol tank, offs and land.
- (e) 1964 Revision R.V. increased to £470. Description:- Lic'd Hotel, petrol tank, offs and land.
- (f) 1964 First Appeal:- No change made.
- (g) 1973 Revision R.V. increased to £600. Description:- Lic'd Hotel, offs and land.

The occupier appealed the 1973 valuation and was represented by Donal O'Buachalla & Co. at First Appeal stage. The Commissioner reduced the R.V. to £560 - See letter of agreement from Donal O'Buachalla & Co. dated 29/6/1973.

- (h) In 1975 the subject property was listed for annual revision at the request of the occupiers as they considered the valuation to be excessive. The Commissioner of Valuation made no change. Donal O'Buachalla & Co. acting for the occupiers appealed the 1975 Revision on the following grounds:-

- 1) That the valuation was excessive and inequitable.
- 2) That regard should be had to the serious downturn in profitability due to circumstances beyond the control of the owners, which circumstances warrant a substantial reduction in the assessment.

The Commissioner of Valuation made no change to the R.V. of £560 (from 1973 1st Appeal). A 1975 Circuit Court Appeal was lodged by the occupiers. To date this C.C. Appeal has not been heard.

- (i) In 1982 the subject property was listed for annual revision due to land having been acquired by Kerry Co. Co. for road widening. Because of the nature of revision there was no change to the buildings R.V. of £560 (from 1973 1st Appeal).

Donal O'Buachalla & Co. acting for the occupiers appealed the Commissioner's decision on the afore mentioned grounds. Again the Commissioner made no change to the R.V. of £560 (from 1973 1st Appeal). A 1982 Circuit Court Appeal was lodged by the occupiers. To date this C.C. appeal has not been heard.

- (j) In 1987 the subject property was listed for Revision to value improvements. The Commissioner made no change to the R.V. of £560. Donal O'Buachalla & Co. acting for the occupiers appealed the valuation on the afore mentioned grounds. Mr. Lavelle was appointed by the Commissioner to investigate the grounds of appeal.

ORAL HEARING

At the oral hearing which took place in Killarney on the 16th June, 1989 Mr. Colm Allen, Barrister, instructed by Messrs. Brendan Walsh & Partners, Solicitors appeared for the appellants. The respondent was represented by Mr. Aindrias O'Caoimh, Barrister, instructed by the Chief State Solicitor.

Mr. Eamonn McKeon, Chief Executive of Great Southern Hotel Group gave evidence at the oral hearing. He explained that in 1984 Great Southern Hotels Ltd. was formed and given the task of putting the hotel group back into a profitable state. A new centralised computer system was installed and approximately 2½% of group revenue was invested in marketing. Because of the

particularly remote location of Parknasilla much more marketing revenue was allocated to this hotel than is warranted by its size. With only 60 bedrooms it is in fact the smallest hotel in the group.

He stressed the fact that this hotel by its nature could not survive without the benefits accruing from the 'group situation'.

He instanced among other benefits the more attractive credit card arrangements, the better deals obtained in the hotel's telephone system and laundry supplies and the reduction in insurance premiums, none of which he said would be available to the hotel if it operated on a 'stand alone' basis.

Mr. McKeon pointed out that this hotel, in order to maintain its high standard which is a vital point of its marketing, had to pay "over the odds" for good staff and similarly had to provide more staff per bedroom and more gardeners than the other hotels in the group.

The building itself, he said, had certain disadvantages due to its age and its exposed situation. It had no lift, insulation or double glazing. Because of its wooden floors, insurance costs were high and the costs of complying with current safety features regulations were also higher than usual. The maintenance staff had to be kept on during the entire year.

He referred to the fact that 90% to 95% of the hotel's business was based on bed/board and that while the hotel was open from Easter to the end of October every year, the actual 'high season' lasted only approximately 7 weeks.

Of the £600,000 spent on the hotel since 1984 over half was spent on what Mr. McKeon described as safety features e.g. the replacement of the west section of the roof, the installation of an automatic smoke detection system, re-wiring and new piping.

Replying to Mr. O'Caoimh under cross-examination Mr. McKeon agreed that the hotel is of some value to the group but could not answer if it would be correct to describe it as the 'flagship'. He explained to Mr. O'Caoimh that the rate of £51 as shown in the Bord Failte guide for 1987 would have been paid by only about 14% of the guests and was not a realistic figure.

Ms. Margaret Sweeney, Chartered Accountant, Audit Manager of Messrs. Stokes, Kennedy Crowley gave evidence that since 1984 her firm have been auditors to the Great Southern Hotels Group. Prior to 1984 Messrs. Craig Gardner were auditors to the hotels and she was permitted access to their accounts for the period pre 1984.

She explained that the profit and loss account summary for the year 1977 to 1987 which are attached to the written submission of Messrs. D. O'Buachalla & Co., dated the 14th June, 1989, as Appendix B, had been prepared by her from the books of Great Southern Hotels Ltd. with certain adjustments to reflect a stand- alone position for the subject premises. These accounts show the subject premises operating at a loss in every year except one, viz: 1979. Her summary and 'adjusted' accounts are appended hereto as Appendix A.

Replying to Mr. O'Caoimh she stated that in arriving at her 'adjusted' figure for the stand-alone position she had not divulged the identity of the subject premises to the various suppliers from whom she had obtained her estimated figures. She pointed out that the adjusted profit/loss accounts had been prepared in accordance with normal accounting practise.

Mr. Donal O'Buachalla, Valuer, also appeared at the oral hearing. He stated that he had been rating consultant for the Great Southern Hotels Group since 1966.

He elaborated on his written submission dated the 14th June, 1989 and indicated that in his view the only correct way to value an hotel of this nature was to consider its market value. He suggested that without the support and financial subventions by the group the subject hotel would have had to close down almost 20 years ago.

In Mr. O'Buachalla's opinion the open market value of the hotel would be £500,000 of which £400,000 would represent the hotel premises. Calculating the N.A.V. at 12% of the market value instead of the more usual 10% and estimating the R.V. at 5% of N.A.V. he states that a fairer R.V. for the subject premises would be £250.

Mr. Declan Lavelle, B.Ag.Sc., Valuer with 8 years experience in the Valuation Office furnished a written submission dated the 20th December, 1988. At the oral hearing he referred to the 'actual' profit/loss accounts for the subject premises and pointed out that these and not the 'adjusted' accounts should be considered. These accounts for the years 1972 to 1987 are attached hereto as Appendix B. He stated that from these accounts it could be seen that there was no downturn in profitability. In 1984 and 1985 the group turnover increased by 10% and 10% respectively. In the year ending April, 1985 the new company broke even.

Mr. Lavelle furnished the Tribunal with a list of comparative properties with their R.V. broken down on a Bedroom Basis. The list of these properties is appended hereto.

Mr. Lavelle seemed to agree with Mr. O'Buachalla that the market or capital value of the premises is around £400,000. He argued however that 20% of capital value represented a fair N.A.V. and that applying a ratio of 1/160 for R.V./N.A.V. the correct rateable valuation of the property would be £594.00. He considered therefore that the agreed R.V. of £560 was fair and reasonable.

LEGAL SUBMISSIONS

At the reconvened oral hearing which took place in Dublin on the 5th July, 1989, Mr. O Caoimh referred to the appellant's contention that the hotel should be considered on a 'stand-alone' situation. He pointed out that the hotel when last agreed between the parties in 1973 was then part of a group situation and remains so to-day. Furthermore he argued that if the approach now taken by the appellant in adjusting the hotel's accounts for a 'stand-alone' position, had been applied to the figures produced by Mr. O Buachalla for the years 1971 to 1974, then a definite increase in profitability would be evident. In this respect among others, he argued, this case differed from the Rosses Point Hotel Company Limited V The Commissioner of Valuation case [1987] I.R. p.143 where the profitability of that hotel was shown to have actually decreased.

He also pointed out that the subject hotel remains not just in a similar state since 1973 but in an improved state by virtue of the £600,000 which has been spent on it since 1984.

Whereas Mr. O'Buachalla failed to give any comparisons in the region Mr. Lavelle has shown figures based on actual results of comparable hotels in the County Kerry region. His figures show that the hotel compares favourably with other similarly graded hotels and indeed has the lowest level of rateable valuation per square metre of all the Grade A Star hotels in County Kerry.

In view of the up-turn in the fortunes of this hotel since 1973 Mr. O Caoimh felt that if any case were to be made for changing its valuation it could only be made on the basis of an increase rather than a decrease.

Mr. Allen stated that the R.V. of £560 agreed between the parties in 1973 was arrived at by considering the hotel in a group situation and was, in his opinion, based on a 'wrong premise'. However, he pointed out, even if the hotel were to be valued in its actual state as part of a group,

the rateable valuation should be reduced. Referring to the hypothetical tenant as envisaged by S.11 of the Valuation (Ireland) Act 1852 he felt that such a tenant would not have group status and would therefore expect to receive only modest returns without the benefit of group support. The rent such a tenant would expect to pay would be accordingly modest.

While not wishing to detract from the considerable charm and beauty of the subject premises Mr. Allen stressed what he saw as its drawbacks, viz; its remote location, its lack of function facilities, high staff levels, high maintenance costs and its lack of a lift.

He cited Mr. Justice Barron in the Rosses Point Hotel Company Limited V Commissioner of Valuation case [1987] I.R. p.143 at page 147 as follows:

"Profit earning ability is the basic element in determining the net annual value. It is based not on actual profits but on what the prospective tenant would anticipate would be his profits".

In this instance the prospective tenant would be taking the hotel out of a group situation, thereby losing all of the benefits accruing to it from the group. It would be unrealistic, he felt, to contemplate a hypothetical tenant in terms of a group. The tenant should be seen as a sole trader with the resulting and obvious lack of advantages.

FINDINGS

The Tribunal while accepting and noting Mr. Lavelle's evidence as to comparable properties in the region and similarly noting the statistics made available in relation to bed occupancy, has considered that the provisions of S.11 of the Valuation (Ireland) Act 1852 must be of primary importance in this case. The material point of the section is as follows, viz:

"And such Valuation in regard to House and Buildings shall be made upon an Estimate of the net annual Value thereof; that is to say, the Rent for which, One Year with another, the same might in its actual State be reasonably expected to let from year to Year, the probable average annual

Cost of Repairs, Insurance, and other Expenses (if any) necessary to maintain the Hereditament in its actual State, and all Rates, Taxes, and public Charges, if any, (except Tithe Rentcharge,) being paid by the Tenant."

The Tribunal fully accepts that Ms. Sweeney's accounts have been prepared in accordance with normal accountancy practices. These figures adjusted to reflect the hotel in a 'stand-alone' situation show a trading loss over the ten year period 1977 to 1987. However the hotel in its actual state has suffered no downturn in profitability but has in fact shown increased profits. The Tribunal also accepts Mr. O Caoimh's argument that if Ms. Sweeney's method of adjustment were to be applied to the hotel's figures for 1973 (the year in which the R.V. of £560 was agreed) then the profitability of the hotel would be seen to have increased. It seems clear therefore that the actual accounts and the adjusted accounts if applied in an overall situation, indicate an increase rather than a decrease in profits.

The Tribunal is inclined to disregard many of the alleged disadvantages of the premises as put forward by the appellant. The isolated location is extremely beautiful and adds to rather than takes from the hotel's attraction. It appears too that the lack of facilities suitable for functions, large conferences and coach parties is a deliberate management policy and is not therefore a drawback. The maintenance costs of an old building are undeniably higher than those of a modern, purpose-built hotel. However the age of the building is again part of its charm.

The hypothetical tenant who has emerged by virtue of S.11 of the Valuation (Ireland) Act 1852 is exactly that. It would be unwise, in the Tribunal's view, to attempt to define or categorise such a tenant.

Both parties have agreed the capital or market value of the premises at or around £400,000. Taking into account the increased profitability of the hotel and its undoubted attractions the

Tribunal feels that Mr. Lavelle was correct in calculating the N.A.V. or letting Value of the property at 20% of Capital Value.

The Tribunal is satisfied that no case for special consideration has been made by the appellant. The only changes shown to have taken place in the property since 1973 are beneficial. The decision of the respondent is affirmed.