Appeal No. VA90/2/022

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

P.V. Doyle Hotels Limited **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Hotel at Lot No. 14a/31 Clarendon Street, Westbury Hotel, County Borough of Dublin
Quantum - Contractor's basis appropriate for Hotel.

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 30TH DAY OF JANUARY, 1991

By notice of appeal dated the 12th day of July 1990, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £4,900 on the above described hereditament.

The subject property, known as the Westbury Hotel, is a modern, purpose-built hotel, situated at Harry St./Balfe St./Clarendon St., Dublin. Construction of the hotel began in 1982 and it opened for business in 1984. The hotel, which is graded 'A Star' by Bord Failte, contains 205 bedrooms, including 6 Executive and Presidential suites which are considerably larger than standard bedrooms. Part of the ground floor consists of 22 shop units which are separately let and separately valued. The section of the ground floor retained by the hotel consists of an entrance lobby off Harry St., coffee bar, fish restaurant and loading bays. The first floor contains reception area, dining-room, kitchen, bar and conference rooms. The remaining upper floors contain the bedrooms. The upper and lower basements comprise 95 car spaces and stores.

Valuation History

The hotel was first valued in 1984 at £5,250 and reduced at 1st appeal to £4,100. In 1985, following completion of 17 extra bedrooms on the 2nd and 3rd floors the R.V. was increased to £4,600. No change was made at 1st appeal. Appeals were lodged to the Circuit Court in March 1987. The 1984 R.V. was reduced to £2,400 and the 1985 R.V. was reduced to £2,675. Following the addition of a function room on the first floor and 57 further bedrooms on the upper floors, the R.V. was increased from £2,675 to £4,900. No change was made at 1st appeal.

Oral Hearing

At the oral hearing which took place in Dublin over three days, Mr Donal O'Donnell B.L., instructed by Messrs Corrigan & Corrigan, Solicitors, appeared on behalf of the appellant. Mr Aindrias O'Caoimh, B.L., instructed by the Chief State Solicitor, appeared on behalf of the respondent. Also present were Mr D.M. Murphy, Solicitor, of Messrs Corrigan & Corrigan, Mr Donal O'Buachalla of Messrs Donal O'Buachalla & Co Ltd, Mr Michael Brennan, Group General Manager of P.V. Doyle Hotels Ltd., Mr William Kingston, Manager, Westbury Hotel, Mr Martin Henihan of Messrs Henry J. Lyons & Partners, Architects and Mr Thomas Stapleton, Valuer, of the Valuation Office.

Mr Michael Brennan stated that the subject hotel, which is one of seven owned by P.V. Doyle Hotels Ltd in Dublin, is graded 'A star' - which is the highest grade in Ireland. He explained that in order to achieve this grade a hotel must have regard to two main elements, viz (a) the physical development of the premises and (b) the level of service, management and restaurants.

He pointed out that because a group decision had been made to let much of the ground floor as retail units, the 1st floor area was almost double that of a normal ground floor hotel foyer in order to attract the type of guests who normally use an 'A star' hotel. He emphasised that the first impression of a hotel is most important and that the owners had to compensate for the lack of a complete ground floor.

Mr Brennan referred to the traffic problems associated with the hotel's location and said that these had been made worse since 1989 when vehicular egress from the hotel had been seriously restricted by Dublin Corporation's decision to pedestrianise Harry St.

In reply to questioning by Mr O'Caoimh, Mr Brennan said that the decision to extend the hotel by 57 bedrooms had been taken in the interest of good commercial sense. He explained that it was more economical for the hotel to operate with 200 bedrooms and that this number of bedrooms was normal for an 'A star' hotel.

Replying further to Mr O'Caoimh, Mr Brennan said that the company would not have proceeded with the extension in 1988 if it had known of the proposed pedestrianisation of Harry St., and that the increase in traffic problems off-set any increase in business to the hotel from the up-grading and pedestrianisation of nearby Grafton St.

Mr William Kingston said that there were certain inherent difficulties in running a hotel with virtually no ground floor. He referred also to the traffic congestion in the vicinity of the hotel, and, in reply to Mr O'Caoimh, stated that the pedestrianisation of Grafton Street had not necessarily resulted in an increase of business for the hotel. He did state, however, that the hotel was graded by Bord Failte as 'A star', as it now is, i.e. without a complete ground floor.

Mr Donal O'Buachalla submitted two written precis dated the 24th September, 1990 and 10th January, 1991 respectively. He said that the assessment of a valuation for the subject premises might be achieved by applying what appears to be the general level of valuation for Dublin's luxury hotel accommodation at 36.3p/m^2 overall. He went on to say that because of the lack of a complete ground floor and the particular traffic difficulties in the area of the hotel, appropriate deductions should be made from the figure thus assessed.

Mr O'Buachalla stated that the hotel had been valued as it was, with a diminished ground floor. In his opinion, a reduction should have been made by deducting from an overall figure the proportion that would apply to the 'lost' ground floor. He said that when devaluing the premises overall a higher figure per square metre for the ground floor should be applied and he stressed the value of a ground floor to the hotel.

In reply to cross-examination by Mr O'Caoimh, Mr O'Buachalla said that the cost of construction of the extension was approximately £1.402 million and, that of the site cost of £350,000, 50% should be attributed to the ground floor and 50% to the rest of the extension.

At the hearing of the 11th January, 1991, Mr Martin Henihan referred to his letter of the 4th December, 1990 (which is appended hereto as Appendix "A") and explained that the figure of £1.402 million represented the cost of the building of the extension, together with some internal fittings. He said that a sum of £151,000 should be deducted from the cost of the extension. Referring to his estimated cost of £24,000 approximately per bedroom, before fitting out, he said that the reasons for the cheaper costs to the appellant were (a) the existence of a clear, vacant, adjoining site and (b) the fact that the support systems and elevators were already in place. He pointed out that the majority of the work was carried out by independent sub-contractors and that the building costs were not reduced by the involvement of the appellant's associated construction firm. He said that a figure of £80,000 per bedroom as suggested by the respondent, was unrealistic, and referred to a recently completed extension in the Mont Clare Hotel, Dublin, where the building cost per bedroom was approximately £42,000 inclusive of fittings.

In reply to Mr O'Caoimh, Mr Henihan stated that to add a figure of 7%-8% to construction costs, for preliminaries, was standard practice in the construction industry. He said that without the original building and infrastructure in place it would not be a viable proposition to build these bedrooms, but, he pointed out, the original building had been designed in anticipation of additions and expansion.

Mr Stapleton submitted a written precis dated the 18th September, 1990 and referred to extracts from the Simpson Xavier Horwath report on Construction Costs Within the Hotel Industry which are appended hereto as Appendix "B".

He said that the subject premises should be compared to similar grade 'A star' hotels. When devaluing hotels no distinction could be made between the ground floor and other floors. With regard to the 'quality' quantum allowance for the retail units on the ground floor sought by the appellant, he said that this argument had been discounted in the Circuit Court.

In reply to Mr O'Donnell, Mr Stapleton said that since the Circuit Court decision, property values in the Grafton Street area had risen and that there was an increase in hotel business in the evenings.

Mr O'Donnell stated that in increasing the R.V. of the subject premises from £2,695 to £4,900, the Commissioner appeared to have attempted to overturn the Circuit Court decision of 1987 and not simply to have revised the hotel following extension. He said that regard must be had firstly to the status of the Circuit Court decision and secondly, if it were open to the Commissioner to value the entire hotel, regard must also be had to the correctness of his method and the proportion to be attributed to the extension.

Mr O'Donnell referred to the decision of the Valuation Tribunal in the Dromoland Castle v. Commissioner of Valuation (Appeal No. 89/149, Judgment dated the 13th February, 1990) case and said that while the Tribunal, in that case made use of the Contractor's Method in arriving at the R.V., it was not to be inferred from that, that this was the only method to be used. In this case, Mr O'Donnell argued, the Commissioner seemed to have ignored the very obvious comparison offered by the Circuit Court decision and one which meets all the criteria of Section 5 subsection 2 of the Valuation Act, 1986. Further, Mr O'Donnell said, the Commissioner had ignored the actual construction costs of the extension and substituted for them an estimate based, with certain qualifications, on the Simpson Xavier Horwath report, which, by its own admission (cf. p.45 of same), is not always accurate and applicable.

Mr O'Donnell pointed out that the Commissioner chose not to rely on the 'square metre' figure put forward by Simpson Xavier Horwath, but only on its 'bedroom' figure and even then, increased the latter. He said that if the estimated figures of the Simpson Xavier Horwath report were correct, then the valuations of hotels across the country would be uniform. In fact, if these estimated figures were applied, it would result in the R.Vs of some hotels being much less and others much more.

Mr O'Donnell said that if one were to take the construction cost and site cost of the extension and apply a figure of 7% to arrive at N.A.V., and then to apply a percentage figure of .63% to the resultant figure for N.A.V. the R.V. for the extension would be £673. Adding this to the existing R.V. and taking into consideration the R.V. figures assessed by the Comparative Method and the Square Metre Method, he estimated an average overall R.V. of £3,325. Mr O'Donnell then contended that since the profitability of the hotel had been adversely affected by recent increases in traffic problems there should be a reduction of 10% which would result in a R.V. of £2,995.

Mr O'Caoimh said that reliance could not be placed on the Circuit Court decision since a number of factors had changed since that time. Among them he cited the fact that while the hotel may then have been described as 'dead at night', this was no longer the case. At that time, also, it was held that the hotel had not 'found its feet' while now it was obviously flourishing, one example of this being the building of the recent extension.

While accepting that the traffic problems have been exacerbated recently, Mr O'Caoimh pointed out that Mr Brennan himself had said that the typical guest would arrive at the hotel by taxi or chauffeur-driven car. The traffic problems would not directly affect her/him.
In relation to the lack of a complete ground floor Mr O'Caoimh said that the hotel should be seen as an entity and the fact that the main foyer is upstairs did not detract from its value. He said that while the ground floor value of retail units would differ greatly from first floor values, this would not apply to hotels.

Mr O'Caoimh stated that the application of the Contractor's Method in this case was not satisfactory. Since the entire hotel had to be valued the construction cost of the entire hotel would have to be taken into account. Because of the existing fabric the extension could be built at a low cost. He said that it would be fallacious to apply the Contractor's Method to the extension only.

He argued that while there may have been a downturn in business for one year, this was not sufficient to be taken into account and that the profitability of the hotel must be considered from the point of view of the hypothetical tenant, taking one year with another.

Findings

In reaching its determination the Tribunal has considered the following questions:

1. To what extent should the Tribunal be influenced by the Circuit Court decision of 1987?

2. Apart from the additional bedrooms and function room, has the hotel undergone any material changes since 1987?

The Tribunal accepts Mr O'Donnell's argument that the best comparison provided is the Circuit Court decision. While not bound by the decision of the Circuit Court in this regard, the Tribunal, nonetheless, must be persuaded by it, particularly in these circumstances, where the decision is a recent one.

This hotel, like most others in Ireland, is owner-occupied. It would therefore, be extremely difficult to estimate what rent the hypothetical tenant envisaged by section 11 of the Valuation (Ireland) Act, 1852 would pay for it. While not dismissing the 'Square Metre' method or the 'Comparative' method of assessing the R.Vs of hotels, the Tribunal feels that the application of the Contractor's Method is appropriate in this case, particularly in view of the availability of actual construction figures for the extension and the specific words used by Mr Stapleton in his precis, viz: "At 1989 Revision the R.V. was increased from £2,675 to £4,900 to take account of 57 additional bedrooms."

The Tribunal accepts the construction figures produced by the appellant but is conscious of the fact that these are lower than might be considered normal, due to a number of factors.

While noting Mr O'Caoimh's contention that the hotel must be valued in its entirety, it would be unrealistic to attempt to assess the construction cost of the entire unit as it now is. The appellant should not be penalised for being astute in providing an infrastructure for further expansion. It is reasonable to presume that the original "support system" was valued as part of the property by the Circuit Court and the Commissioner. To value it again in relation to the extension would seem to be punitive and tantamount to "double-rating".

The Tribunal feels that the fortunes of the hotel have changed since the Circuit Court decision. Despite the evidence in relation to the recent downturn in trade, the hotel is seen as vibrant and flourishing. The pedestrianisation of Grafton Street, while not perhaps increasing the volume of taxi/chauffeur driven guests, must have encouraged what Mr Brennan described as "local trade". The area cannot any longer be described as "dead at night". No evidence has been given in relation to any unusual incidence of crime in this area.

Much has been made of the lack of ground floor facilities. The decision to let the ground floor was made before the hotel opened, and the lack of ground floor facilities did not prevent the hotel from attaining and retaining its Grade 'A star' status.

The Tribunal accepts that there are traffic problems in the vicinity of the hotel and that these have been aggravated by the pedestrianisation of Harry Street.

It appears that the parties are in agreement as to 7% being the expected return on capital investment and as to the application of the percentage figure of .63% to N.A.V. to arrive at R.V. The Tribunal has taken into consideration the decision of the Circuit Court, the construction costs of the extension and the considerable upturn in the hotel's business in recent years. It is not persuaded that the truncated ground floor has detracted from the hotel's attraction to any great extent and accepts fully the respondent's argument that the ground floor of a hotel would not devalue very differently from its other floors.

In all the circumstances the Tribunal determines that the correct rateable valuation for the subject premises is £3,675.00.