

Appeal No. VA92/2/044

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

Fitzpatrick Silver Springs Hotel Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Conference Centre at Lot No. 5Aa Townland of Lota Beg, Mayfield Ward, County
Borough of Cork
Quantum

B E F O R E
Henry Abbott

S.C. Chairman

Mary Devins

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF NOVEMBER, 1992

By notice of appeal dated the 25th day of March, 1992, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,000 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that the "Assessment is excessive and inequitable having regard to the provisions of the Valuation Acts and on other grounds also".

Valuation History

The Conference Centre was valued in 1990 revision at £1,000 R.V.

The Property

The Conference Centre, which forms part of the Fitzpatrick's Silver Springs Hotel Complex, is located on an elevated position adjacent to the lower Glanmire Road.

The subject property is a new air-conditioned Conference/Convention Centre constructed and fitted out to the highest standards.

It is a two storey building (12 metre high). The first floor is serviced by escalator and stairway. It is constructed of insulated concrete walls and steel deck roof. There is vehicle access to both floors. The building can cater for a maximum of 600 patrons per floor. Both floors are fully self-contained and the floor space can be sub-divided by the use of moveable sound proofing internal walls. The floor area is 27,906 square feet.

The building is used for a wide range of hotel activities including conferences, conventions, weddings, dinner dances, exhibitions and cabaret. It is the only building in the Silver Springs Hotel Complex which can cater for large numbers of patrons.

Accommodation:

The accommodation at ground floor level consists of foyer, sales office, two bars, wine and bottle stores, toilets, cloakroom, kitchen and function room.

The accommodation at first floor level is similar to that at ground floor.

There is a new 133 space car park attached to the Conference Centre.

Written Submissions

A written submission was received on 20th July, 1992 from Mr. Raymond Ward, FRICS, ACI, Arb., Chartered Surveyor and Director of Lisney on behalf of the appellant. The written submission set out details of expenditure as follows:

Building contract including site works	£1,783,000
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Mechanical Services	257,000
Fees	29,000
Furnishings	31,000
Fittings & Fixtures	145,000
Interest and Contract Insurance	<u>86,000</u>
Total	£2,381,000

Note 1

A grant of £650,000 was received from Bord Failte allocated from structural funds designated to provide conference facilities in specified regions throughout the Country. The net expenditure qualifies for full capital allowances under the provisions of the Finance Act 1987.

Note 2

The Silver Springs Complex is situated on a very steeply sloping site resulting in significantly higher expenditure on building and site works than would have been the case otherwise. A separate access road had to be specially provided.

The appellant further advanced the following factors affecting valuation:

- (1) The nature of the site and the design of the original hotel did not permit the development of this facility as an extension of the main hotel which would have significantly reduced development costs.
- (2) Running costs on an ongoing basis are higher than they would have been had it been possible to attach the centre physically to the hotel.
- (3) The use of the facility is intermittent and the total expenditure involved could only be justified with the availability of the grants and the capital allowances described. A valuation based on expenditure in any event would have to be adjusted to take this into account. It is recognised that the contractors method is only used in the absence of other established bases.

The net cost after grants and deducting the full value of the tax allowance is approximately £1,000,000.

- (4) A Conference Centre of this type cannot be operated without its being attached to a first class hotel in view of the associated demand for bedroom, restaurant and bar facilities.

The appellant further set out comparative rateable valuations which are contained in Appendix 1 annexed hereto. The appellant offered an estimate of N.A.V. based on comparable properties as follows:

Conference Centre				
27,900 ft ²	@	£3.50	=	£97,660
N.A.V.			=	£615

This Net Annual Value is arrived at by direct comparison with the valuation of recently revised and agreed assessments in the main Silver Springs Hotel premises, the Activity Centre and the other most comparable hotel in Cork i.e. Jurys

A further estimate of N.A.V. based on expenditure was offered by the appellant as follows:

Total Investment	2,381
Less non-accountable items	
Interest & Insurance	
Furnishings & Fittings	
(say 50%)	<u>189</u>
	2,192
Less Grant	<u>650</u>
	1,542
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Less proportion of value	
of the tax allowances to	
reflect present day value	<u>370</u>
Net expenditure	1,172
Return at say 7% (N.A.V.)	82,000
Rateable Valuation	516

NOTE A

Total Tax Allowance Available		
£1,542,000	X 40%	616,800
Adjustment to allow for the fact that all Tax Allowances could be spread over a period of years.		
Take say 60% of full value		370,000

A written submission was also received on 20th July, 1992 from Mr. Kevin Heery, B.Comm., a District Valuer with 22 years experience in the Valuation Office on behalf of the respondent.

The written submission set out the respondents valuation method as follows:

The property is held freehold. In view of:-

- (a) the lack of actual rental evidence in the hotel sector generally, and
- (b) the fact that the Conference Centre is in a 'start-up' situation with no established trading pattern.

the Investment/Capital Value method of valuation is relied upon.

This method has been accepted by the Tribunal in respect of the comparisons quoted.

(i) Country Club Hotel (Cork Inns Ltd) VA/90/2/32

(ii) Rochestown Park Hotel (Windsor Surprise Ltd) VA/90/3/63

(iii) Fitzpatrick's Silver Springs Hotel (1989 1st Appeals) which was quoted at the Country Club Hotel Tribunal hearing.

Convention Centre Costings

Buildings	1,783,000
Furniture	31,000
Plant & Equipment	257,000
Fixtures & Fitting	145,000
Interest	66,000
Professional Fees	29,000

Insurance Fees	20,000
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Total Cost of Project	2,331,000
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Construction commenced in 1989 and the Convention Centre opened for business in June 1990.

Basis of Valuation (as at Nov. 1988)

£1,700,000	@	10%	=	N.A.V. £170,000
Factor 0.63% for R.V.				£ 1,071
			Say R.V.	£ 1,000

Note: Both parties are in agreement that a percentage of 0.63% is to be applied to convert N.A.V. to R.V.

The Respondent in addition offered the comparisons of rental values and valuations together with commentary thereon which are set out in Appendix 2 and annexed hereto.

Oral Hearing

The oral hearing took place here in Dublin on the 29th day of July and was resumed on the 4th day of September, 1992. Mr. Raymond Ward, FRICS, ACI Arb, Chartered Surveyor and Director of Lisney, 24, St. Stephen's Green, Dublin 2 gave evidence for the appellant and Mr. Kevin Heery a District Valuer with 22 years experience in the Valuation Office and who holds a Bachelor of Commerce Degree from the National University of Ireland gave evidence on behalf of the respondent. Mr. Hugh O'Neill B.L. instructed by Walker & Company appeared for the Appellant and Mr. Aindrias O'Caoimh, B.L., instructed by the Chief State Solicitor appeared for the Respondent.

Mr. Ward tendered a letter enclosing a list of final accounts from which he extracted many items of a non-rateable nature.

Both valuers debated through the cross-examination of Counsel, the impact of these items and with adjustment to the total investment figure allowing for £2,331,000 the Net Expenditure figure claimed by Mr. Ward amounted to £1,122,000 to be substituted in his estimate of N.A.V. based on Net Expenditure.

Mr. Paddy Fitzpatrick, principal of the appellant firm, gave evidence that the subject conference centre was constructed in 1989 to 1990. He set out the layout of the Silver Springs Hotel and laid particular emphasis upon the fact that the hotel, (while trading profitably), was beset by sluggishness in the tourist market and difficulties arising from location discouraging local trade. He adverted to the political situation in Northern Ireland militating against the full use of the tourist potential of the Conference Centre. He stated that while the appellants intended to "shell out" a new conference centre they did not intend to complete the first floor thereof until they had ascertained that they would receive approximately £600,000 structural funding. He stated that the appellant was a family company and that he and his family "were in for the long haul" and were not looking for a particularly high return on capital in deciding to make the investment. The appellants financial controller gave evidence of the availability of a certain tax write off in relation to interest. Mr. Ward argued forcibly that if the estimate of N.A.V. of the subject were to be calculated on the basis of net expenditure, full credit should be given to the grant of £650,000. He contested the applicability of a return of 10% on capital for the purpose of establishing N.A.V. and suggested a return of 7% which he claimed was based on the decision of the Tribunal in the **Dromoland Castle Limited -V-Commissioner of Valuation (VA/89/149)** case. Mr. Ward argued that a number of recently decided valuations of hotel premises in Cork and particularly the valuation fixed in the **Roy Duggan, Cork Inns Limited (VA/90/2/32)** case by the Tribunal was based on the erroneous assumption that the Silver Springs Hotel valuation was arrived at on the basis of a 10% return. After enquiry with Mr. Slattery, who was involved in valuing the Silver Springs Hotel premises, it emerged that there was no agreement between the valuers at that stage in relation to a 10% return on capital. Mr. Ward and the appellant's counsel argued that the Roy Duggan case was decided by the Tribunal on the basis of incorrect assumptions and that these should be examined by the Tribunal in the light of the information forthcoming in relation to the Silver Springs Hotel.

Mr. O'Caomh argued that the Tribunal should not discount the capital cost by the amount of the structural grant or by the amount of tax relief, and offered the extreme example of a premises built with the assistance of 100% grant not being rateable at all if the arguments of the appellants were accepted and pushed to their logical extreme.

Findings

The Tribunal finds that:-

- (1) The Conference Centre is a structure which although important for the tourism of a region, does not necessarily give rise to high rental values.

- (2) The valuation of the Centre should not necessarily be directly comparable to hotel premises even the Silver Springs premises or the Roy Duggan, Cork Inns Limited premises known as the Country Club Hotel.
- (3) While the Tribunal accepts that the occurrence of structural funding and available tax relief may have been factors in securing the construction of the Conference Centre to the extent of its present development the Tribunal is not bound, in every case, to mechanically discount capital cost by the amounts of such estimated tax relief or structural funding in testing N.A.V. but must always look to the terms of the Valuation Code which direct the Tribunal to make an assessment of the rental available in the actual market place.
- (4) Having regard to the evidence offered and the comparisons given, the foregoing findings and in particular to the evidence of Mr. Paddy Fitzpatrick in relation to the market conditions effecting the Centre, the Tribunal finds that an appropriate valuation for the subject premises is £700.