

Appeal No. VA92/6/119

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

Sheen Falls Estate Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Hotel and Land at Map Ref: 1Aa, Townland of Kenmare Old, E.D. Kenmare,
Co. Kerry

Notification of Revision under Section 3, 1988 Valuation Act

B E F O R E

Henry Abbott

S.C. Chairman

Padraig Connellan

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF JULY, 1993

By Notice of Appeal dated the 4th November, 1992 the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,150 on the above described hereditament.

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

- "(a) the valuation is unjust and inequitable,
- (b) the valuation is excessive having regard to the provisions of the Valuation Acts, and
- (c) such other grounds as may be stated by us or by our legal advisers in due course."

The Property

The property is located one and a half miles from Kenmare. Prior to 1988 it consisted of a large residence built in the late 17th Century standing on 6 acres. It was purchased in 1988 for £770,000 and rebuilt and extended at a cost of £6.1 million with a further £335,000 spent on landscaping and acquiring fishing rights. It is now a modern 40 bedroomed Grade A Hotel whose accommodation is as follows:-

Main Hotel Building

9 Suites	Conference Room
14 superior de lux rooms	Gym/Games Room
17 standard rooms (all en suite)	Jacuzzi/Sauna/Plunge Pool
Dining Room	
Lounge	
Library	

In addition there are kitchens, laundry and store rooms in the Main Hotel Building. In adjacent buildings there is a fish smoking room and store; stables and tack room; and staff quarters comprising 24 bedrooms, t.v. room and canteen. There is also a boat house.

Size

Main Hotel Building	6187 m ²
Ancillary Buildings	1726 m ² (including staff rooms)

Tenure - Freehold

Valuation History

Prior to the 1991 revision the hereditament was last revised in 1958 as a "house and land" with a rateable valuation of £80 on buildings. On 1991 revision the R.V. was assessed at £1,150 as a result of the virtual re-building of the entire property.

Written Submissions

A written submission was received on the 8th July, 1993 from Mr. Joseph Bardon A.R.I.C.S., Diploma in Environmental Economics of Spain Courtney Doyle, 68 Lower Baggot Street, Dublin 2 on behalf of the Appellant.

In the written submission, Mr. Bardon, described the subject premises as a small country house which was entirely demolished and rebuilt as a modern Grade A1* Hotel and completed in early 1991. He described the accommodation as consisting of 40 guest bedrooms (9 of which are suites) together with a dining room with a seating capacity for 120 people, three bars, a conference centre, a leisure centre together with ancillary facilities. He described the accommodation as set out above and the valuation history. He said that the rateable valuation of £1,150 had been appealed by Downing Courtney & Larkin, Solicitors on behalf of the rated occupier, Sheen Falls Limited on the 27th November, 1991 to the Commissioner of Valuation. He said that as no change was made at First Appeal this appeal was being lodged to the Valuation Tribunal.

He said that main services of water, drainage, electricity and telephone were supplied and connected to the property and that heating was by means of gas fired central heating throughout.

In the written submission, Mr. Bardon submitted that the revision was invalid on two accounts (1) the question of notification, and, (2) the Lot No's applied to the subject hereditament.

(1) Notification

Mr. Bardon submitted that his clients had not received notification of the request for revision as required by Section 3(1) & (4) of the Valuation Act, 1988. In accordance with the judgments in the **Trustees of Cork & Limerick Savings Bank -V- Commissioner of Valuation** (VA/90/3/74) he contended that the revision was invalid and the valuation should be struck out.

(2) Lot No's

The location of the hotel buildings and staff quarters, he submitted, were located on Lot No. 2 Old Kenmare, that is, outside the lot under appeal and therefore should not be included in the valuation.

On the question of quantum, Mr. Bardon said that there were five different approaches to hotel valuations presently utilised by the Valuation Office, these were the Accounts Method, Price Per Square Metre Method, The Contractors Method, The Bedroom Basis and the Comparative Method. He suggested that the only real method of valuation which fulfils the criteria laid down in Section 11 of the 1852 Act and Sections 5(1) & (2) of the 1986 Act was the Comparative Method. He said the absence of rental evidence in the hotel area generally is a factor but he contended that it was possible to devalue the comparative evidence available in the immediate

area in accordance with the criteria laid down in the Valuation Acts and to arrive at an appropriate level of rent to be applied to the subject premises.

He said that the fraction of .5% is not in contention by either party.

Commenting on the factors which effect rateable valuation in relation to this subject premises, Mr. Bardon said that, Kenmare was at the head of the Ring-of-Kerry and although it was a busy popular tourist route during the Summer months it was quiet for the rest of the year. He said that passing trade was negligible due to the location of Sheen Falls Lodge, off the main road and that there was no industry in the Kenmare area other than tourism. He said that there were five other hotels in Kenmare including the Park Hotel which is similarly graded, that is, A1*. He said that the proximity of Killarney which had 48 hotels and an enormous number of additional guesthouses and bed & breakfast outlets has a continuing and severe impact on hotels operating out of the surrounding areas and he said that it was difficult to compete, especially during off season, when the majority of the Killarney hotels are open for business.

Mr. Bardon said that the hotel had a policy of not having weddings or functions generally, as they would interfere with the peaceful enjoyment of the hotel by resident guests and that it was only open from March to December. He said that given the nightly tariffs the hotel was dependent on foreign custom and the vagaries of the International Market left the hotel exposed in times of crises such as the Gulf War. He said although the hotel offered facilities such as fishing, shooting, horse riding and tennis it did not have a swimming pool nor a golf course attached. He said that given the limited number of guest bedrooms, the lack of local trade and the absence of weddings and functions the ability of the hotel to trade successfully was impaired and that they had recognised this factor and were now finalising plans for the construction of a new bedroom block to the rear with 20 additional bedrooms.

Comparisons

Mr. Bardon said that there was only one hotel in the area which he felt was comparable to the subject, that was the Park Hotel in Kenmare which was a Grade A1*. He said that it was the best comparison because:-

- (1) It is in the same location, Kenmare.
- (2) It has a similar number of bedrooms, 50 for the Park Hotel as opposed to 40 for Sheen Falls.
- (3) Its nightly tourist tariffs is in or about the same, that is, £105 per night for the Park Hotel and £95 for Sheen Falls.

He said to a lesser extent the Great Southern Hotel in Parknasilla was also relevant but that there were a larger number of bedrooms, that is 84, and a lower nightly tariff, that is £67.

He said that Grade A1* hotels in Killarney are located in a thriving tourist area and given that they have a far greater number of guest bedrooms they cannot be considered comparable to the subject property.

Mr. Bardon set out his valuation on the subject premises as follows:-

(a) Rental Value:

Applying the breakdowns of both the Park Hotel and the Great Southern Hotel, Parknasilla and making an allowance for size, given that the floor area of the Sheen Falls Lodge is approximately 50% greater than the Park Hotel, I would estimate the rateable valuation to be £875.

A written submission was received on the 19th July, 1993 from Mr. Patrick J. Nerney, Rateable Valuation Consultant, Valuer and Auctioneer of 13, Mountdown Road, Dublin 12 on behalf of Kerry County Council.

In the written submission, Mr. Nerney said that he had carried out a superficial inspection of the premises on the 16th July, 1993 as a result of this inspection, he said, that buildings overall were of uniform and above average quality construction for a hotel. Mr. Nerney said that in his opinion the Net Annual Value of the subject premises by comparison with other similar properties in the area was not more than £200,000 and a fair valuation based on an R.V./N.A.V. relativity of .5% is not more than £1,000 estimated as follows:-

Net Annual Value:

Estimated gross area of buildings 6,200 sq. m. = 66,740 sq.ft. @ £3 = £200,220

R.V.:

N.A.V. £200,220 @ .5% = £1,000

He also said that Kerry County Council would not object in the event that the portion of valuation attributed to Lot No. 2 maybe struck out until such time as that particular lot is listed for revision.

A written submission was received on the 9th June, 1993 from Mr. Frank O'Connor, a Valuer with 13 years experience in the Valuation Office. In the written submission, Mr. O'Connor set out details of the property and its valuation history as set out above. Commenting on the appellants' grounds of appeal, Mr. O'Connor stated, that the R.V. was assessed in line with all

other recently revised rateable valuations in Kenmare and throughout County Kerry at .5% of the estimated N.A.V. as of November, 1988. He said that the appellants grounds of appeal at first appeal stage had been considered and that the R.V. had been deemed fair. He said that from the appellant's Notice of Appeal it would appear that other grounds of appeal could be put to the Tribunal which were not put before the Commissioner of Valuation at First Appeal stage. Mr. O'Connor submitted that the appellant was precluded from doing this by virtue of the decision of the Tribunal in the case of **Stafford Shipping -V- Commissioner of Valuation** (VA/89/201).

Commenting on the valuation of the subject premises, Mr. O'Connor stated, that of the possible methods of valuation of hotels, the two that were relevant in the instant case were the price per square foot basis and the Net Annual Value basis. He said that both approaches supported the rateable valuation of £1,150 which he had applied to the subject premises.

Details of his calculation using the Net Annual Value method and the Price Per Square Foot method are set out below:-

Net Annual Value Method:

Purchase Price: House & 6 Acres; at October 1988 =	770,000
Cost of construction/extension/renovations =	<u>6,100,000</u>
Total Capital Cost at November 1988 =	£6.87m
Apply 7% yield to £6,78m =	£480,900 NAV
	<u>@ .5%</u>
	£2,400 R.V.

As in Dromoland Castle Hotel VA/89/149

Market Value £4.28m @ 7% = £299,600 N.A.V.

@ .5%
£1,500 R.V.

Due he said to the lack of no rental evidence available for luxury hotels, Mr. O'Connor applied the yield of 7% which the Tribunal decided was appropriate in the case of another luxury hotel, Dromoland Castle, to give an N.A.V..

As can be seen, applying a 7% yield gives an R.V. of £2,400.00

The actual R.V. of £1,150.00 equates to a 3.3% yield, which is extremely moderate.

Price Per Square Foot Method

The two most suitable comparisons and competitors are the Park Hotel in Kenmare and the Great Southern Hotel at Parknasilla about 10 miles south of Kenmare on the Sneem Road. Both are A* and recently revised.

A. The Park Hotel, Kenmare. Grade A*

50 Bedrooms.

Last valued 1990 First Appeal. R.V. £625.00 agreed with O'Kennedy & Company.

Main Hotel	3824 m ²
Staff Quarters	<u>447 m²</u>
	4271 m ² 45974 ft ²

Devalues 45974 ft² @ £2.72/ft² = £125,000 N.A.V. @ .5% = £625.00 R.V.

Comment:

A large part of the structure is over 100 years old even though a new wing has been built.

B. The Great Southern Hotel, Parknasilla. Grade A*

86 Bedrooms

Last valued 1991 First Appeal. R.V. £825.00 agreed

Main Hotel	5843 m ²
Staff Quarters	<u>602 m²</u>
	6445 m ² 69375 ft ²

Devalues 69375 ft² @ £2.38/ft² = £165,000 NAV .5% = £825.00 R.V.

Comment:

The main structure here is over 100 years old and a new wing has been added in recent years.

C. Hotel Europe Killarney Grade A*

180 Bedrooms

Determined at VA/88/145. R.V. £2,700 (1989)

Devalues:

Hotel: 19325 m² = 207937 ft² @ £2.55/ft² = £530,239

Other Buildings 676 m² = 7274 ft² @ £1.25/ft² = £ 9,093

£539,332 NAV

@ .5%

£2,700 R.V.

Comment:

Built in late 1960s and extended over the years. Revised in 1992 due to extensions on the same basis as above. R.V. now £3,100.

D. The Subject

Main Hotel	6187 m ²	
Ancillary Areas	<u>1726 m²</u>	
	7913 m ²	85177 ft ²

Devalues 85177 ft² @ £2.70/ft² = £230,000 N.A.V. @ .5% =
£1150.00 R.V.

Comment:

Considering that the subject is practically a new building its price/ft² is moderate when viewed against its two nearest competitors whose structures are over 100 years old.

Oral Hearing

The oral hearing took place at the U.D.C. offices in Tralee, Co. Kerry on the 22nd July, 1993. Mr. Michael O'Shea instructed by Downing, Courtney & Larkin, Solicitors appeared for the Appellant and Mr. Frank O'Connor appeared for the Respondent.

At the outset Mr. O'Connor stated that he accepted the submission of the appellants that the Lot No. 1Aa under appeal related to the hotel only and not to the staff quarters. Nevertheless he said that the valuers on both sides had agreed that they wished the Tribunal to consider the total valuation for the premises and that they would subsequently apportion the rateable valuation determined by the Tribunal to the lot number listed for revision.

The Appellant then raised as a preliminary issue the matter of the adequacy of notice to the appellant by the rating authority in respect of their application for revision of the subject. Evidence was given on behalf of both parties in relation to this preliminary issue and from this the following facts were either agreed or found:-

- (1) The notification was prepared in a standard form and the variables were filled in, in hand writing, by Mr. Pat O'Shea an official of the U.D.C.
- (2) A carbon copy of the document of notification thus completed was retained and produced in evidence by the U.D.C.
- (3) While Mr. Pat O'Shea stated that to his knowledge the notice of revision was posted with eleven other such notices he had no personal knowledge of the posting of the notice to the appellant.
- (4) The post book of the Respondent did not refer specifically to the addressee of the notices sent out although it did refer specifically to eleven pieces of correspondence being identical to the number of revisions contemplated at that time.
- (5) Mr. Browne stated that the premises were in the course of construction and that Sheen Falls Limited, the appellant, occupied a portacabin and that the notification never reached his hands or the hands of any person acting on behalf of the appellant.

The Tribunal has considered these facts in the light of its decision in the **Trustees of Cork & Limerick Savings Bank** case and finds as follows.

Findings

Having regard to the facts and evidence submitted the Tribunal finds that this case can be distinguished from the **Trustees of Cork & Limerick Savings Bank** case in so far as in that case no copies were kept in relation to the notification and the Tribunal is satisfied that the carbon copy and post book retained by Kerry County Council set up a presumption of notification and holds therefore that the requirements of notification were complied with. The issue in relation to quantum was then opened by Mr. O'Shea and it emerged that the valuers on both sides had not considered any effect which a Bord Failte grant may have had on the establishment of an N.A.V. on the constructors cost method. The Tribunal opined that the trading figures had not yet shown any set pattern and that the parties might consider availing of a short attempt to reach an agreement in relation to a valuation in the light of the fact that the development of the premises and commercial reality surrounding same was not long in train.

The Tribunal indicated that any agreement should be made on the basis that a further revision might be made without objection after a short period of two years notwithstanding frequent admonitions of the Tribunal that revisions should not be carried out on a frequent basis and certainly not less than five years unless there are special circumstances.

The Tribunal notes that the parties have agreed a rateable valuation of the subject on the basis of an overall valuation of same at £1,000 with an apportionment of £885 on Lot 1Aa which was listed for revision and the Tribunal accordingly finds that the rateable valuation of the subject be fixed at £885.