

Appeal No. VA94/1/028

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

Mr. G. Wycherley/Livada Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices, Apartments and Land at Map Reference: 4d, Townland: Skull, E.D.: Skull, R.D.
Skull West Cork, Co. Cork

Quantum - Hereditaments to be separately valued

B E F O R E

Henry Abbott

S.C. Chairman

Paul Butler

S.C.

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF JULY, 1994

By Notice of Appeal dated the the 10th day of May, 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £425 on the above described hereditament.

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

- "(1) The valuation is excessive and inequitable.
- (2) The valuation is bad in law.
- (3) The houses and apartments should be valued separately.
- (4) There was no contact or communication from the Valuation Office to Mr. Wycherley/Livada on foot of the First Appeal."

The Property:

The property comprises 29 holiday houses constructed under a B.E.S. financial package. The investors have now completed 5 years under this scheme. Livada Limited has been liquidated and the houses are now owned by Mr. Gerry Wycherley. It is the intention to sell the houses to individuals. The houses comprise:

- (a) 4 x 4 Bedroom Detached Houses - each 1,530 square feet
- (b) 7 x 3 Bedroom Detached Houses - each 1,111 square feet
- (c) 9 x 3 Bedroom Terraced Houses - each 1,053 square feet
- (d) 9 x 3 Bedroom Terraced Houses - each 713 square feet
- (e) Office, Store and 2 Bedroom Flat.

In all there are 30 dwellings on a site of less than 4 acres.

Valuation History:

The property was revised in August 1992 and a valuation of £425 was placed on buildings, £2.05 on land. The appellant appealed against this determination of the Commissioner of Valuation but no change was made at First Appeal. It is against this determination that an appeal lies to the Tribunal.

Written Submissions:

A written submission was received on the 6th July, 1994 from Mr. Desmond Killen, F.R.I.C.S. I.R.R.V., Director of Donal O'Buachalla & Company Limited, on behalf of the appellant. In the written submission Mr. Killen described the hereditament and said that there were 30 dwellings involved in a site of less than 4 acres which was a very high density for such a location.

Mr. Killen said that an appeal was made against the original valuation but that there was no record of the Appeal Valuer contacting the appellant or inspecting the hereditament. Consequently, he said that there had been no opportunity to make submissions at First Appeal stage. Mr. Killen submitted that each house should be individually valued for the following reasons:-

- (a) There are individual houses completely independent of one another.
- (b) Each house has its own electricity meter from E.S.B. and is billed separately.

- (c) The County Council - Rating Authority - bill each house individually for water charges.
- (d) Each dwelling has its own individual front door and access.
- (e) For financing requirements, the houses were originally owned by Livada Limited, which has been liquidated. The houses are owned by Mr. Gerry Wycherley. The houses will be sold.

Mr. Killen said that the total R.V. indicates a net annual value of £85,000. He said that recent discussions between the parties had enabled an agreement to be made in respect of the total R.V. without prejudice to the above. He said that it had been agreed that the R.V. would be reduced to £380 with £5 included therein in respect of the office/store. He set out the details of the valuation as follows:-

(a)	4 x 4 Bedroom Detached Houses - each	R.V. £19 =	£ 76
(b)	7 x 3 Bedroom Detached Houses - each	R.V. £14 =	£ 98
(c)	9 x 3 Bedroom Terraced Houses - each	R.V. £13 =	£117
(d)	9 x 2 Bedroom Terraced Houses - each	R.V. £ 9 =	£ 81
(e)	1 x 2 Bedroom Flat - say	R.V. £ 3 =	<u>£ 3</u>
			£375

The issue, Mr. Killen said, was whether the properties should be individually valued or valued as a totality.

A written submission was received on the 7th July, 1994 from Mr. Colman Forkin, Chartered Valuation Surveyor M.A. B.S.C. (Surveying) A.S.C.S. A.R.I.C.S., on behalf of the respondent.

In the written submission Mr. Forkin gave details of the property and set out its valuation history. He said that prior to the hearing of this appeal an agreement was reached with Mr. Des Killen of Donal O'Buachalla & Company Limited, acting on behalf of the appellant, on a rateable valuation of £380 with £5 being attributable to the office.

Commenting on the appellant's grounds of appeal, Mr. Forkin said that the subject property comprised 29 holiday homes, a caretakers apartment and an office. The valuation placed on the property was in line with similar residential developments. The property was valued as

one hereditament, he said, with the one valuation on the basis that there was only one occupier and immediate lessor, and in this context he referred the Tribunal to the case of *Switzer & Company Limited -V- Commissioner of Valuation 1902 21R P. 275*.

Oral Hearing:

The oral hearing took place herein at City Hall, Cork on the 12th July, 1994. Mr. Desmond Killen of Donal O'Buachalla & Company Limited appeared with the appellant, Mr. Wycherley. Mr. Colman Forkin, Appeal Valuer, appeared for the respondent.

Prior to hearing the quantum for the subject premises was agreed at £375 in respect of houses and £5 in respect of office/store. The outstanding issue was whether the houses should be valued separately.

Mr. Forkin argued that on the basis of the Switzer case the houses could not be valued as separate hereditaments as they were held by the one occupier under the same title.

Mr. Killen argued that for practical purposes the local authority had regarded the premises as separate units in so far as the common owner was refused permission to use a water meter on a collective basis and individual water bills were sent out. Also, the appellant from the very outset indicated that a separate valuation was required. While at the date of revision the subject was being used collectively as a holiday home enterprise rather than a development site for the purpose of selling individual houses off it, the intention at that time was ultimately to sell the houses on an individual basis.

It was indicated by Mr. Wycherley that the planning authority were satisfied that the premises could be sold on as individual units subject to the use of a management company to maintain the estate.

While the case is not on all fours with the Switzer case, the Tribunal considers the Switzer case in its own way dealt with the practicalities of the situation presented and ensured that a good transparency would be maintained in relation to accounting for all the various premises owners, occupiers and titles. The Tribunal considers that it is consistent with the approach of the Switzer case to allow separate valuations especially when the local authority insist on separate water bills and the E.S.B. and other services are doing likewise.

Added to these considerations is the fact that local authorities and the respondent have allowed separate valuations to be effected in other developments of a similar nature elsewhere in the country.

Having regard to the foregoing the Tribunal is disposed to value the subject on an individual basis. On the basis that the Chief Baron in the Switzer case directed the court below to effect this valuation and on the basis that Mr. Killen sets out a pre-agreed division of the valuations at the conclusion of his precis, the Tribunal considers that it has jurisdiction to apportion the valuation on the basis of the apportionment set out as follows:-

(a)	4 x 4 Bedroom Detached Houses - each	R.V. £19 =	£ 76
(b)	7 x 3 Bedroom Detached Houses - each	R.V. £14 =	£ 98
(c)	9 x 3 Bedroom Terraced Houses - each	R.V. £13 =	£117
(d)	9 x 2 Bedroom Terraced Houses - each	R.V. £ 9 =	£ 81
(e)	1 x 2 Bedroom Flat - say	R.V. £ 3 =	<u>£ 3</u>
			£375
	Office		<u>£ 5</u>
	Total R.V.		£380

The list may accordingly be revised on that basis and if necessary the parties may reapply for any further order relating to the amendment of the list and any map references required.