Appeal No. VA95/1/025

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Ferrycarrig Castle Hotel Limited **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Hotel and grounds at Map Ref: 1Db, Townland: Ferrycarrig, ED: Kilpatrick, RD: Wexford, Co. Wexford
Quantum - Method of Valuation for hotels

B E F O R E
Fred Devlin **FRICS.ACI Arb. (Acting Chairman)**

Joe Carey **PC.DDSc.DBAdm. MIAVI.**

Brid Mimnagh **Solicitor**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF OCTOBER, 1996

By Notice of Appeal dated the 7th day of April 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £760 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."

The Property:

The property comprises a three star hotel on the estuary of the Slaney River as it enters Wexford Harbour. The hotel has a multi-purpose function/conference room with removable dance floor and state of the art communication facilities. It caters for discos, weddings, football outings, conferences and any other type of social or business gathering. It operates all year round with three to four functions per week. It has seating for 300 patrons. The hotel has 39 bedrooms, all en-suite and charges range from £28 to £35 per person sharing, and £29 to £37 per night single. It also has a leisure/gymnasium complex.

Valuation History:

The Ferrycarrig Castle Hotel was first valued in 1971 at a rateable valuation of £300. Following a series of appeals a rateable valuation of £260 was fixed by the Circuit Court. Following a refurbishment programme of extensions and improvements, the rateable valuation was fixed at £760 in the 1994/3 First Appeal programme.

Written Submissions:

A written submission was received on the 1st November, 1995 from Mr. Des Killen, FRICS FSCS IRRV, a fellow of the Society of Chartered Surveyors in the Republic of Ireland and a Director of Donal O'Buachalla & Company Limited with 32 years experience as a valuer on behalf of the appellant.

In his written submission Mr. Killen described the subject and gave details of its development and expenditure. He said that the premises was purchased in 1991 for £750,000. A further £2.5 million was spent in redevelopment and extension of the premises to include redevelopment of former restaurant and bar, creation of new bar, extension to kitchen, provision of function/conference room and leisure centre, which included jacuzzi, sauna and gym and a general facelift to the property. In assessing net annual value Mr. Killen said that he had considered the four methods as follows:-

(a) Rental Value
(b) Contractor's Theory and Investment Method
(c) Comparative Method
(d) Accounts or Profit Method

Mr. Killen said that he considered that only the comparative and accounts method were appropriate in assessing the net annual value of the subject premises. On the comparative basis Mr. Killen supplied details of two comparisons as follows:-

(1) Great Southern Hotel, Rosslare Harbour
Grade 3*. 99 bedrooms
RV: £870
NAV: £170,400
Devalues: 67,404 sq.ft. @ £2.50 psf.

(2) Hotel Rosslare, Rosslare Harbour
Grade 3*. 25 bedrooms
RV: £270
NAV: £54,260
Devalues: 21,703 sq.ft. @ £2.50 psf.

Having regard to the foregoing, Mr. Killen said that the correct rateable valuation in his opinion to be attributed to the subject is:-

"43,538 sq.ft. @ £2.75 = NAV £119,730
@ 0.5% = RV £598
Say = RV £600."

On the accounts method, details of which were supplied to the Tribunal for their consideration, Mr. Killen assessed a rateable valuation of £570.

A written submission was received on the 6th November, 1995 from Mr. Phil Colgan, District Valuer with 27 years experience in the Valuation Office on behalf of the respondent.

In his written submission Mr. Colgan described the premises and its valuation history as set out above. Mr. Colgan assessed rateable valuation on the subject premises on three methods, details of which were set out in his written précis.

(1) ***Net Profit***
Mr. Colgan assessed rateable valuation on this method at £760 based on a net profit figure of £60,679.

(2) ***Comparative Method***
Total floor area 43,538 sq.ft. @ £3.50 psf
Net annual value £152,383 x 0.5% = RV £760.

(3) ***Capital Value***

£2.7m (i.e. Purchase Price and Expenditure on Improvements)
as at November 1988 say = £2,173,193 @ 7% return = £152,174
Net annual value £152,174 x 0.5% = RV £760.

Mr. Colgan in relation to comparisons commented that suitable comparisons in the area were difficult to find at present. He said that the Talbot Hotel, Kelly's Hotel and the Great Southern Hotel had all been refurbished and were subject to revision. For that reason Mr. Colgan said that the investment method was the most reliable method in establishing a net annual value on the hotel. In support of his valuation on the investment method, Mr. Colgan offered a number of comparisons as summarised below:-

(1) Hotel Conrad, Dublin
Rateable Valuation £6,000. 1989 First Appeal Decision

Valuation as agreed:
Capital value = £14,000,000
@ 7% = £980,000 net annual value
@ 0.63% = £6,174.

OR

£5.68 psf overall.

(2) Shannon Shamrock, Bunratty, Co. Clare
Rateable Valuation £1,500. 1991 First Appeal.

Valuation as agreed:
Capital value = £4,280,000 @ 7% = £299,600 @ 0.5% = £1,498

OR

76,586 sq.ft. @ £3.91 psf

(3) Jurys Hotel, Castle Coolraine, Farranshone
Rateable Valuation £1,430. 1990 First Appeal

Valuation/Analysis of agreement:
New Extension = £435,000 @ 7% return = £30,450
@ 0.63% = £191
OV of £1,250 + £191 = Agreed RV: £1,430

OR

Old hotel	56,885 sq.ft. @ £3.50
New extension	5,799 sq.ft. @ £5

(4) **(VA89/149) Dromoland Castle, Ennis, Co. Clare**
Rateable Valuation £1,500.

Valuation/Analysis of Decision:
Market value = £4,280,000 @ 7% return = £299,600 NAV
@ 0.5% = £1,498 Say £1,500 RV.

OR

94,647 @ £3.16 psf.

<u>Oral Hearing:</u>

The oral hearing took place in Wexford on the 10th day of November, 1995. The appellant was represented by Mr. Des Killen of Donal O'Buachalla & Company Limited and the respondent was represented by Mr. Phil Colgan of the Valuation Office. In attendance was Mr. Liam Griffin, the Managing Director of the Ferrycarrig Castle Hotel.

In his remarks to the Tribunal, Mr. Killen briefly traced the history of the hotel from the time it was built in or around 1971 up to the present. He said that the present occupiers had purchased the hotel in 1991 for £750,000 and shortly after spent some £2.5m in extending the premises and improving the range of facilities offered. However, very little money was spent in upgrading the bedroom accommodation which comprises 40 ensuite rooms in a four storey block. Apart from a general "face lift" this section of the hotel was the same today as when originally constructed.

Mr. Killen said that the hotel was particularly well managed and whilst the main function rooms, conference area and leisure centre were to a high standard the bedroom accommodation was not.

Mr. Killen said that before arriving at his opinion of net annual value he had considered all the established valuation methods and had come to the conclusion that the accounts or profit method was the most appropriate in this instance and on this basis had arrived at his opinion of net annual value of £114,000. However, in order to assist the Tribunal he had also prepared a valuation on the comparative method and by so doing determined the net annual value to be £119,730. This valuation he said was supported by the assessments placed on two hotels in the Rosslare area where he had represented the occupiers at first appeal stage. Mr.

Killen said that in his opinion both these hotels were superior to the subject property which suffered from the fact that it was not located on the main Rosslare Harbour to Dublin road.

In regard to his valuation on the acounts/profits method, Mr. Killen outlined how he had made a number of adjustments or "add backs" to the audited accounts which formed part of his submission in line with accepted practice in order to arrive at the divisible balance. In support of his methodology he gave to the Tribunal a copy of a document which he claimed was used by the Valuation Office when valuing licensed premises by way of the accounts method.

Mr. Killen said that he had examined Mr. Colgan's valuation on the accounts/profits method as contained in his written submission and he contended that Mr. Colgan ought not to have added back a number of items of expenditure such as travel, advertising and provision for bad debts. In addition, Mr. Colgan had not adjusted the figures to reflect 1988 levels and in his opinion this was necessary in order to maintain the tone of the list.

Mr. Colgan in his oral submission, told the Tribunal that the hotel occupied a most prominent and attractive location overlooking the River Slaney. Contrary to what Mr. Killen had said the hotel was on the main route to Rosslare Harbour and in his opinion the bedroom accommodation was up to the standard one would normally expect in a three star hotel. He agreed with Mr. Killen that the hotel was well managed.

Like Mr. Killen, Mr. Colgan said that he too had examined all the established valuation methods and had decided that the investment method was the most reliable in this instance and on this basis had arrived at a net annual value of £152,000. In support of this figure he prepared supporting valuations on the accounts basis and comparative methods and in each instance arrived at an identical net annual value of £152,000.

Mr. Colgan said that in his opinion the comparative method of valuing hotels was a crude and unreliable method. For example some older hotels had a high percentage of space given over to corridors and such like, whilst others like the Great Southern Hotel at Rosslare Harbour had an indoor swimming pool which occupied a significant proportion of the overall area.
In relation to the document referred to by Mr. Killen as emanating from the Valuation Office dealing with the accounts method of valuation, this he said was an internal document and its use was discretionary and not mandatory.

When it came to valuing the Ferrycarrig Hotel he had decided that the investment method was the most reliable and that the appropriate rate of return was 7%. In arriving at this figure he was conscious of the fact that the rate of return must reflect the opportunity cost of the monies invested.

Mr. Killen closely cross examined Mr. Colgan in regard to his valuation on the accounts method and questioned his decision to exclude certain items of expenditure in arriving at the divisible balance. Mr. Colgan in response, said that he considered his approach to be correct and also made the point that the accounts as presented merely showed the performance of the present management.

Asked why he made no adjustments for 1988 levels, Mr. Colgan said that he considered such an adjustment to be unnecessary. However, in order to arrive at the net annual value he did consider it proper to use the 1988 rate in the pound.

Mr. Killen in his closing remarks said that the Ferrycarrig Hotel had suffered in the past from bad management. However, the present occupiers were acknowledged and respected hotel operators in the Wexford area and the premises were now well managed and this was borne out in the accounts.

Mr. Killen said his valuation on the accounts method was very similar to that included in Mr. Colgan's written submission and that the only issue in dispute was what items of expenditure should properly be added back in order to arrive at the divisible balance. His supporting valuation was arrived at by comparing the assessments of two other hotels in the same general area. Mr. Colgan's preference for the investment method was not appropriate in this instance and was formulated from a landlords point of view and not that of a hypothetical tenant.

Mr. Colgan in his closing remarks re-stated his opinion that the investment method was the most appropriate in that the appellant had expended considerable monies and had a right to expect a return which reflected the opportunity cost of the money invested. In his opinion the comparative method was crude and unreliable whilst the accounts/profits method mainly reflected the acumen of the management and hence their use must be subject to careful scrutiny.

Determination:

Over the past several years the Valuation Tribunal has dealt with a number of appeals in relation to hotels of all types and sizes located throughout the country. An examination of the decisions handed down indicates a lack of consistency in the valuation methods applied by the valuers and this per force is reflected in the Tribunal decisions. The Tribunal therefore, considers it timely to address this matter and set down some comments which may be of interest to all concerned in the valuation process and in order to do so it is necessary to go back to first principles.

Rating is a tax on property raised at local level and used to defray the costs incurred by Local Authorities. The main requirements of any tax are that it be fair and uniform throughout the country and that its basis be clearly understood by the public at large. The principal act in this country governing rateable valuations is the *Valuation Act 1852* and it is worthwhile to look again at what is stated in the preamble of that Act.

"Whereas it is expedient to make one uniform valuation of the Lands and Tenements in Ireland which may be used for all public and local Assessments and other Rating ......"

Sec. 11 of the 1852 Act as amended by *Sec. 5 of the Valuation Act 1986* is the basis upon which all rateable hereditaments are to be valued. Whilst Section 11 lays down the basis of valuation i.e. net annual value, it does not state how the net annual value is to be determined. Over the years a number of valuation methods have evolved which have found widespread acceptance by all concerned in the valuation process and approved by decisions handed down from the courts. Generally speaking net annual value is akin to open market rental value and in the general scheme of things there is at any time sufficient market evidence available to enable the intent and spirit of the 1852 Act to be applied in an equitable fashion. Nonetheless there are categories of properties which are rarely if ever let on the open market i.e. public utilities, schools, hospitals and such like and over the years different methods of valuation have evolved in order to meet the requirements of Section 11.

Hotels by their nature are properties which are rarely if ever let on the open market and hence there may be a paucity of market evidence to assist the valuer in arriving at the appropriate net annual value of a particular property. Under the circumstances therefore, valuers are forced to rely upon other approved methods of valuation i.e. the profits/accounts method and the capital or investment value method.

This Tribunal does not intend to examine these methods of valuation in any great detail as the principles are well established and understood by practitioners in the rating field. It is established case law that whilst all methods of valuation may be admitted, the method to be preferred is that which will contain the smallest margin of error. In an ideal situation the proper use of each method should give the same result. It must be said however, that since the nature of the operation of a hotel is to achieve profit, it follows that the rent will be based upon this assumption and hence the most appropriate method of valuation will be the accounts or profits method.

Whilst hotels are rarely let on the open market they are bought and sold. However, such transactions as do take place are usually on the basis of an operational entity and the price obtained includes the land, buildings and other items such as fixtures, furniture, goodwill and stock. Under the circumstances, therefore, this type of evidence provides little assistance in arriving at net annual value. Indeed a hypothetical tenant and a hypothetical purchaser on the market will take different considerations into account when arriving at their respective opinions of value. The Tribunal attaches little weight to opinions of net annual value arrived at solely by reference to capital values.

In the absence of rental evidence the accounts or profits method of valuation is frequently used by valuers in assessing net annual value but as Mr. Colgan rightly said in this appeal the accounts of a particular property will only show how that property is trading under the present management. It is to be remembered that under rating law it is to be assumed that the property is vacant and to let and that the occupation is that of a hypothetical tenant generally willing to occupy it for its present purpose. The task of the valuer, therefore, is it to take the accounts evidence and assess the level of trade that could reasonably be expected to be achieved by a hypothetical occupier taking into account all intrinsic and extrinsic factors upon which he would be likely to base his opinion of rental value. In arriving at his valuation the valuer should examine the accounts for the present and previous years and before finalising his valuation should if possible look at the trading accounts of comparable properties. The Tribunal will attach considerable weight to this type of evidence.

The comparative method of valuation based solely on the size of hotel may not be helpful due to the differences in design and range of facilities that may be provided. If valuers use this method it is essential that the comparables relied upon are relevant and have regard to all the physical characteristics, location and trading circumstances. There is a danger that without knowledge of trading any comparison by reference to the physical characteristics solely could be misleading and unreliable. Under the circumstances therefore the Tribunal will consider such evidence very carefully and will apply only such weight to it as is considered appropriate in the particular circumstances.

In Ireland there are several hundreds of hotels of all grades and sizes, located throughout the country. If a consistent and reliable valuation approach is used it follows that the uniformity of assessment aspired to in the preamble of the 1852 Act will be attained both within the category itself and by comparison with other categories of properties which may be valued on a more conventional basis.

With regard to this appeal the Tribunal has carefully considered all the evidence and argument put forward by the parties and makes the following preliminary findings.

1) The preferred method of valuation in this instance is the accounts or profits method as put forward by Mr. Killen and Mr. Colgan.

2) Mr. Killen having prepared his valuations by the accounts or profits method carried out a second valuation by the comparison method and considered the valuation of two other hotels located elsewhere in the Rosslare area. The fact that he came up with a different figure shows perhaps the weakness of this method unless quantitative and qualitative allowances are built in to it. Mr. Colgan presented three valuations on different bases to the Tribunal and in each instance arrived at an identical net annual value. The Tribunal has carefully examined this evidence and has come to the conclusion that these valuations may have been cast in order to arrive at a predetermined figure.

3) Mr. Killen and Mr. Colgan in their acceptance of the actual accounts obviously took the view that the level of turnover and profit margin contained therein were that which a hypothetical tenant would reasonably expect to achieve and use as the basis for formulating his opinion of rental value. However, Mr. Killen and Mr. Colgan differed in what adjustments or add backs should be made in order to arrive at the divisible balance. Having regard to the evidence and precedent the Tribunal prefers the approach in relation to add backs taken by Mr. Killen.

Having regard to the above the Tribunal has no alternative but to accept the accounts as submitted subject to the appropriate "add backs" as referred to by the valuers as the basis for determining net annual value. Similarly, the Tribunal proposes to adopt 50% of the divisible balance as being the appropriate figure for the tenants share as contended for by both valuers. Whilst the Tribunal prefers Mr. Killen's treatment of the accounts it nonetheless considers it necessary to make some adjustments. Accordingly, therefore the Tribunal determines the rateable valuation to be £585 calculated as set out below.

Average Net Profit	
1994/1995	£ 54,400
Adjusted Net Profit/Divisible Balance	
Average 1994/1995	£296,000
Available for rent and rates (-50%)	£148,000
Adjust to 1988 levels **Say**	£132,000
Ref: (CPI)	
1988 rate in £ = £25.15	
Divider 1.125	£117,333
Net Rental Value **Say**	£117,000
Rateable valuation @ 0.5%	**£585.**