

Appeal No. VA96/5/006

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

Wynns Hotel Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Hotel and Yard at Map Ref: 35.36.37, Lower Abbey Street, Ward: North City 1,
County Borough of Dublin
Quantum - Method of Valuation for hotels

B E F O R E

Fred Devlin - FRICS.ACI Arb.

Deputy Chairman

Brid Mimmagh - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF JULY, 1997

By Notice of Appeal dated the 27th day of September 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £950 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."

Refurbishment was started in 1994. He stated that the precise location suffered from a number of disadvantages, including the fact that the local taxi rank is now in Abbey Street rather than O'Connell Street and space is very limited for coach parking. The Dublin tourism office in O'Connell Street has closed, USIT have moved out of the area and CIE are moving shortly. There are problems with drug addicts, itinerants and refugees. He stated that the most detrimental fact however was the number of new hotels, most of which have 10 years rates free and double rent allowances and therefore were not on a par with his trading position. He alleged a lack of policing in the area and a lack of street cleaning. Under cross-examination, he stated that the development of many of the new hotels was tax driven but agreed that there was a considerable increase in tourism. He stated that occupancy was 68%, but was very poor in the winter.

Desmond Killen adopted as his evidence in chief, his written submission which had previously been exchanged with Mr. Smiley and submitted to the Tribunal. Mr. Killen stated that the basement was for food preparation only and not comparable with the basements in the Gresham Hotel and Blooms Hotel where there were night clubs. He noted that the majority of new hotels were in the Temple Bar area and invariably included active bars and night clubs and had the benefit of rates relief and double rent allowance and capital allowances. He stated that he had agreed the rateable valuation on the Gresham which he had valued on the basis of accounts and while he did not disagree with the analysis put forward by the Respondent's Valuer this had not been his approach. The Gresham also has a large night club business which the subject does not. Mr. Killen advocated the accounts method and noted that it had been dealt with by the Tribunal in the Ferrycarrig Castle Hotel (VA95/1/025). He also noted that the Respondent in all hotel appeals had sought trading accounts.

Mr. Killen produced accounts for three years ending 30th November 1993, 1994 & 1995. He argued that a tenant's share of 50% of the divisible balance was reasonable producing an amount available for rent and rates of 50% of the divisible balance. This was then adjusted to 1988 in each case, by means of the CPI Index and when an allowance for rates was made it

produced a figure for NAV for each year. With a reducing factor of 0.63%, this gave an RV in the range of £575 to £640.

He stated that he accepted that Blooms Hotel and the Gresham Hotel devalue as in Mr. Smiley's précis. However, Blooms is in the centre of Temple Bar and has a night club with a purpose built bedroom block and the Gresham also has a night club and its own car parking. On the basis of a rate per square foot his opinion would be £3.50 psf on the upper floor and £1.50 psf on the basement, leading to an NAV of £122,387 and an RV of £770.

In cross-examination, he stated that at the valuation date the hotel was 3* but was now "R" because it was in the course of being reconstructed and the proprietor had opted out of the grading system. The car parking is in the Irish Life centre and is subject to a charge which is in the accounts, but there are limited hours of access. He stated that while the Gresham Hotel may have been valued by the Valuation Office on a square foot basis, he had dealt with it on an accounts basis and the final figure had been the result of negotiations or haggle between the respective Valuers. He stated both Blooms Hotel and the Royal Dublin Hotel had been dealt with on an accounts basis. He accepted that the tenant's share could vary considerably with the profitability of the undertaking.

In relation to the 1995 audited accounts he was asked about an amount of £383,394 under repairs and maintenance and whether or not this represented in fact capital investment. In response he said as far as he was aware it was ongoing repair and maintenance and had been approved by the revenue as such in the accounts, but that maybe some element came under Section 11. However, he argued that this was offset by reducing the tenant's share from his estimate of £169,000 to £141,000. Mr. Smiley put it to Mr. Killen that he had done a rough accounts basis method treating this repairs and maintenance figure differently and came out at an RV of £1,300.

The Respondent's Case:

Mr. John Smiley was sworn in and adopted as his evidence in chief, his written submissions which had previously been exchanged with Mr. Killen and submitted to the Tribunal. Mr. Smiley estimated the RV as follows:-

Agreed area	38,337 sq.ft. @ £4 psf = £153,348
NAV	£153,000 @ 0.63% = £963.90
RV Say	£950.

Mr. Smiley stated that in his opinion the Ormond Hotel is the closest comparison. It is a very similar property but in not as good a location. The Gresham Hotel is a grade A* and is four times larger and therefore an element of quantum arises in its figures.

Under cross examination, Mr. Smiley said that he did not accept that the Temple Bar area has more visitors than any other part of Dublin and that in any event a hotel in a designated area would attract a higher rent than anywhere else outside. He stated that he had not done a rental analysis on the basis of net rentable area in Blooms and the Gresham. He accepted that there is a night club in the Gresham but had no information on the turnover and understood that the rateable valuation had been dealt with on a square footage basis.

He accepted that the Gresham Hotel being a grade A* was better than the subject but it was four times bigger and therefore enjoyed a reduction for quantum. He accepted that Blooms Hotel had a night club but stated that the rateable valuation had been fixed in 1993 which was before Temple Bar was as bustling as it is now. He stated that the £6.20 psf is the overall figure and does not differ between the night club and the rest of the hotel. He stated that the accounts method was only used because there were no other methods i.e. a lack of comparisons and that in his opinion there was too much room for error. He stated that the 1991 valuation figure was not immutable and that the Tribunal were not bound by it but that he felt it was a fair valuation close to the base year agreed between the parties and that the occupier was represented by a competent Valuer.

In summing up Mr. Smiley said that circumstances have improved generally in the hotel trade and that therefore the rateable valuation at £950 was fair and should remain.

Mr. Killen in summing up stated that in his opinion the situation had disimproved with reference to this hotel and its competition and in assessing any valuation like must be compared with like and that many of the other comparisons had night club incomes, which the subject does not.

Determination:

The Tribunal accepts that there are a number of valid bases for the valuation of hotels including rental basis, comparative basis and the accounts method. In the opinion of the Tribunal, no one method is favoured and the Tribunal would consider it good practice that Valuers would look at all three methods and then make a judgment using their professional expertise.

On the basis of the comparative method the Tribunal finds favour with Mr. Smiley's approach as he appears to have made sufficient adjustment for the relative merits and quantum related to his comparisons. On the basis of the accounts method the Tribunal is of the view that the substantial expenditure of £383,394 in the 1995 accounts albeit allowed by the Revenue Commissioners distorts the figures and provides for a misleading figure on tenants share and amount available for rent and rates. Adding back a proportion of the expenditure for 1995 produces a considerably higher NAV and thus RV than proposed by Mr. Killen.

Having regard to the foregoing and the evidence adduced by the parties the Tribunal affirms the rateable valuation at £950.

