

Appeal No. VA97/4/020

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

Peter O'Sullivan, t/a Riversdale House Hotel

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Hotel, Out Offices & Land at Map Ref: 2F.3Ea, Townland: Kenmare, ED:
Kenmare, Co. Kerry
Quantum - Late exchange of Submissions

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Barry Smyth - FRICS.FSCS

Member

Ann Hargaden - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF NOVEMBER, 1998

By Notice of Appeal dated the 22nd day of July 1997 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £660 on the above described hereditament.

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

- "1. The valuation is excessive in comparison to similar properties.
2. The RV is excessive having regard to the NAV as at November 1988."

The relevant valuation history is that the property was inspected and revised in July 1996. On 9th August 1996 the valuation list was issued fixing the rateable valuation at £660. The appellant appealed against this decision on 5th September 1996. On 1st July 1997 the Commissioner issued his decision making no change in the rateable valuation.

The Tribunal received a written submission from Kenneally McAuliffe rating consultants on 7th November 1997. The written submission contained a description of the property and its accommodation. The written submission contained two methods for determining the N.A.V. of the subject premises,

- (a) **the capital value basis and,**
- (b) **the turnover basis.**

The former method produced an R.V. of £282 and the latter produced an R.V. of £207.

The written submission stated that £250 was an equitable rateable valuation for the subject premises.

Finally the written submission contained a schedule of four comparisons and a copy of a market valuation dated 16th December 1994 prepared by another firm of valuers with respect to the subject property.

A written submission prepared by Mr. David Molony MA BSc ARICS ASCS on behalf of the respondent was received by the Tribunal on 12th November 1997. Mr. Molony is a valuer with fourteen years experience in the Valuation Office.

The written submission estimated the N.A.V. as follows:

Hotel	50,108 sq.ft. @ £2.50 p.s.f.	=	£125,270
Domestic	2,782 sq.ft. @ £135 per week	=	<u>£ 7,020</u>
	Total	=	£132,290
	Estimated N.A.V. £132,290 @ 0.5%	=	£ 661.45
	Say	=	£ 660.00
	(Domestic	=	£ 35.00)

The written submission contained a schedule of two comparisons.

The appeal proceeded by way of an oral hearing which took place in the Council Chamber, Tralee Urban District Council on 20th November 1997. The appellant was represented by Mr. N.J. McAuliffe of Kenneally McAuliffe and the Respondent was represented by Mr. David Molony.

In his sworn testimony Mr. McAuliffe adopted his written submission as his evidence to the Tribunal. Mr. McAuliffe described the property as being a five storey property outside Kenmare. The property had grown over the years after being purchased from the liquidator in 1987. It was a grade three hotel with sixty-four bedrooms. Thirty-four of these bedrooms had been added in 1996. The hotel operated a seasonal summer trade catering for bus tours during the months of June to September. Mr. McAuliffe considered the rateable valuation as being excessive taking into account the capital value of the premises and comparisons in the vicinity.

Under cross-examination by Mr. Molony, Mr. McAuliffe admitted that the turnover figures for 1993, 1994, and 1995 did not reflect the benefit of the additional thirty-four bedrooms.

Mr. McAuliffe referred to the valuation by the other firm of valuers contained in his written submission. After some discussion Mr. Molony agreed to allow the report to be put in evidence. Mr. McAuliffe stated that he assumed the valuers there had adopted an optimistic view and they would have known the consistent record of the appellant since 1987. Mr. McAuliffe considered that the market for property in rural areas was not as good as in urban areas.

Mr. Clive Hutchinson an accountant gave sworn testimony on behalf of the appellant. He said he had been an accountant to the business since 1988 onwards. The business had been built up over the years and in 1995 the turnover was £578,000. In the early 1990's competitive pressures caused plans to be made to extend the hotel to cater for bus tours. The bus tour business was a low margin one.

Mr. Hutchinson stated that the building of the extra bedrooms started in December 1995 and the project was completed in 1996. Construction work in 1996 disrupted the business of the hotel. Mr. Hutchinson stated that since completion of the thirty-four-bedrooms, turnover at the hotel has increased.

Mr. Hutchinson stated that the turnover in 1996 was £825,000. He stated that during the winter the hotel caters for weddings. The frequency of weddings would be one every week. The bar in the hotel was open all year round and there was a disco every weekend.

In his sworn testimony Mr. Molony adopted his written submission as his evidence to the Tribunal. Mr. Molony complained about the lack of co-operation by the appellant's agent at the appeal stage. Mr. Molony further stated that he only received the written submission of the appellant's agent for the Tribunal appeal on the morning of the hearing. He was nevertheless prepared to proceed with the hearing.

Mr. Molony stated that the gross square footage of the subject premises was 52,890 sq.ft. He then referred to his two comparisons. The Dromquinna Manor Hotel was not as good as the subject. It was less than half the area of the subject and he had put a rate of £2.70 p.s.f. on it. The second comparison was a grade 5 star hotel and slightly smaller than the subject and he had put a rate of £2.80 p.s.f. on it. Finally Mr. Molony confirmed that both sides were agreed on the square footage of the subject premises.

Under cross-examination by Mr. McAuliffe, Mr. Molony agreed that the square footage basis is not the most common method of valuing hotels. Mr. Molony accepted that his second comparison was superior to the subject premises.

At the conclusion of the hearing Mr. Molony asked for a ruling from the Tribunal as to the appellant's agent lack of co-operation in the appeal process.

In reply Mr. McAuliffe said he did not agree with Mr. Molony's version of events. In any event the resolution of this matter was for another forum.

The Tribunal considers at all stages in the appeal process that there should be the fullest disclosure between the parties in terms of written material for the very good reasons that the

issues between the parties should be determined at the earliest possible stage to avoid inconvenience and expense both to the Appellants and the Taxpayer. The Tribunal can only offer as advice and encouragement that all parties will adopt this particular procedure at the appeal stage. However, when we come to the procedure before the Tribunal itself we certainly have some greater powers. The procedure is that which the Tribunal has laid down in previous decisions, that submissions should be given to the Tribunal at least two weeks in advance of the hearing and it also follows that the submissions should be exchanged between the parties within the same time frame. Therefore, both the Appellant and the Respondent will receive the submissions from the other side at least fourteen days before the hearing.

Mr. Molony complained that he had only seen the Appellant's submission on the morning of the hearing. We believe that if Mr. Molony had looked for an adjournment, we would have been prepared to grant that adjournment to him. Also, as the Tribunal has the sanction of awarding costs against parties, if Mr. Molony had asked for his costs, we would have certainly very seriously considered that request. The Tribunal, traditionally has been unwilling to use that sort of penal power but if the Tribunal considers that either party before it has not been of a co-operative and helpful manner to the other side, then certainly we would consider the use of that penal power. The Tribunal notes that Mr. Molony, despite the disadvantage of the late receipt of the Appellant's written submission, nevertheless decided to deal with the matter and we commend him for his resource, skill and helpfulness to the Tribunal in so doing.

In arriving at its determination the Tribunal has considered the written submissions and the evidence of the appellant and respondent given at the hearing.

The Tribunal has considered the valuation of the subject premises prepared by the valuer, whose report was contained in the appellant's written submission. This valuation was prepared two years prior to the valuation date and the construction of the extra bedrooms but it was done on the assumption of the completion of these extra bedrooms. The Tribunal has also considered the evidence as to the accounts especially the figure for the 1996 turnover provided by Mr. Hutchenson. This figure for turnover shows a significant increase despite the disruption to the business of the hotel caused by construction work that year.

In arriving at its decision the Tribunal also took into account the rate per square foot in the comparisons in forming a tone of the list.

The Tribunal therefore considers that the most appropriate way for arriving at N.A.V. in the subject premises is as follows:

Hotel	50,108 sq.ft.	@	£2.05	=	£102,721.4
Domestic	2782 sq.ft.	@	£135p.w.	=	£ 7020.0
			N.A.V.	=	£109,741.4
			R.V. @ 0.5%	=	£548.70
			Say	=	£ 550

The Tribunal therefore determines the rateable valuation of the subject premises to be £550.