

Appeal No. VA97/7/002

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

William Forker t/a Ostan Na Rosann

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed hotel and land at Map Ref: 1Ac1d1, Townland: Meenmore, ED: Dungloe, RD:
Glenties, Co. Donegal
Quantum

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Michael Coghlan - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF MARCH, 1999

By Notice of Appeal dated the 24th day of October 1997 the Appellant Company appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £300 on the above described hereditament.

The grounds of appeal as set out in the said Notice are:

- "1) the valuation is excessive and inequitable and/or
 - 2) the valuation is bad in law and/or
 - 3) No account has been taken of the NAV in determining the RV assessment of this hereditament and/or
 - 4) Not valued in accordance with the Valuation Acts and related legislation".
- 1.** This appeal proceeded by way of an oral hearing which took place in the District

Court, Letterkenny, on the 19th day of June 1998. Mr. Patrick McCarroll, ARICS ASCS MIAVI appeared on behalf of the Appellant Company with Mr. Peter Walsh, Appeal Valuer in the Valuation Office appearing on behalf of the Respondent.

2. Prior to the oral hearing written submissions were received from Mr. McCarroll on behalf of Mr. William Forker t/a Ostan na Rosann and from Mr. Walsh on behalf of the Respondent. At the oral hearing both Valuers adopted their submissions as their evidence in chief given under oath.

3. The following material facts either agreed or so found are considered by this Tribunal to be relevant for the purposes of this appeal.
 - (a) The property is a 48 bedroom hotel close to the town of Dungloe. It has a 3 star rating. The agreed floor area of the subject property is 43,000 sq.ft. comprising:-
 - Lounge/Bar
 - Reception
 - Dining Room
 - Function Room
 - 2 storey bedroom block
 - Leisure centre including swimming pool and gymnasium

 - (b) The recent valuation history is that the property was revised following a request to Donegal County Council of 10th May 1994. At first appeal the RV was reduced from £350 to £300.

4. Mr. Walsh said that the RV was assessed on the subject premises at revision on a capital value basis in the manner following:-

43,000 sq.ft. @ £22 psf = £946,000

NAV @ 7% = £66,220. NAV taken at £70,000 x 0.5% = £350 RV.

However at first appeal this approach was abandoned in favour of a turnover basis, which gave the following results:-

Turnover 1996	£563,567
Adjusted to 1988 (85%)	£479,032
NAV x 12%	£ 57,484
Say £60,000 x 0.5% =	£300 RV
NAV devalues at £1.39 psf on 43,000 sq.ft.	

In support of the N.A.V. Mr. Walsh gave two comparisons:-

(1) Harvey's Point Hotel (Jody Gysling)

VA94/3/032

RV £290 and

(2) The Sand House Hotel, Rosstown

RV £275.

5. Mr. McCarroll gave his opinion of rateable valuation at £160, which he supported by reference to the Seaview Hotel (VA96/3/016), RV £290, using the 1993 turnover figure backdated to 1988 with an 8.5% return. The calculation was as follows:-

1993 turnover	£486,111
To 1988	£420,000
@ 8.5%	£ 31,500
@ 0.5%	£160 RV.

6. In addition the evidence also disclosed that the overnight charges per person sharing in the subject property between 1st January and 31st May of each year was £26, between 1st June and 30th September was £50 and between 1st October and 31st December was £36. The source of this information was the Irish Accommodation Guide of 1998. Furthermore, it was pointed out that this hotel was seasonal in nature in that it opens between the 23rd February and 30th April, the 1st May and 30th September and 1st October to 20th December each year. See the said guide. However, in evidence it was that its opening season consists of 10 days at Easter and the May weekend and it is opened from 20th May to the first or second week in October.
7. The turnover figures in respect of these premises were given for the years 1991 to 1996. In 1991 the gross sales were £455,000 approx., in 1992 this rose to £486,000 and again in 1993, in 1994 it fell to £441,000, in 1995 it was almost £500,000, in 1996 it was £560,000 and a projection for the 1997 accounts is that these will show a figure in excess of £600,000. Throughout this period the gross profit was well in excess of 60% and by in large between 60% and 70%.
8. If for a moment in this case one considers an approach based on turnover, then by adopting the years 1994/1995/1996 to arrive at an average turnover figure, one gets a figure of £500,000. If then, purely for the purpose of this exercise one takes a percentage of 15% to adjust that figure to 1988 terms to reach a figure of £434,782.60. Again, purely for the purposes of calculation if one then adopts a 12% figure in order to arrive at an NAV, the resulting figure would be £52,173.
9. It should be noted that as a matter of valuation law and as a matter of valuation practice there is no basis for arriving at an NAV and thus an RV derived from a turnover basis. The turnover basis is but an element in what truly is a basis in its own right, namely the accounts basis or the receipts and expenditure basis. The problem with taking the turnover figure only is that the hypothetical tenant in accordance with the

statutory formula specified in *Section 11 of 1852 Act* is concerned with what is available to him in order that he might pay the appropriate rent for the hereditament in question. He will get some idea though not a complete picture of what might be so available from a consideration of a turnover figure. It would be much more practical and much more informative if in fact he had an entire set of accounts available whereby he could identify what the adjusted net profit would be and therefore would be in a position to see what would be available for tenants share and for rates and for rent. In that way his calculation as to what the available sum for rent might be, would be much more reliable and much more informative to him than simply if he had to make various deductions by using different elements where he has only the turnover figures. In the example of the figures given above there would be areas for dispute for example as to what would be the appropriate indices to use, what would be appropriate percentage within that indices in order to adjust the turnover figure to November to 1988 and of course there would be considerable differences of opinion as to whether or not the percentage figure of 12% was the appropriate figure to use in order to convert the adjusted 1988 figure to an NAV so that the RV could ultimately be obtained.

- 10.** In addition to the turnover figure both Valuers referred to other properties as their comparisons. On behalf of the Commissioner, Mr. Walsh referred to Harvey's Point Hotel and to the premises known as the Sand House Hotel. On behalf of the Appellant, Mr. McCarroll referred to the Seaview Hotel. A comparison between the subject property and the Seaview Hotel shows that in relation to the latter it has 18 bedrooms as against the subject property of 48 bedrooms. The Seaview has a 2* rating, whereas the subject property has a 3* rating, though the importance of this in valuation terms should not be overstated. The turnover figures are quite different in that for the Seaview Hotel in 1993 the figure was £780,000 as against £486,000 for the subject property. In 1994 the difference was repeated in that the Seaview Hotel had a turnover of almost £800,000, whereas in the subject property the turnover was £431,000. Again the floor area of the subject property is almost twice that of the

Seaview. Again the subject property has a leisure centre whereas the Seaview does not. The subject property closes, as indicated elsewhere in this judgement, for substantial parts of any given year whereas the Seaview Hotel is open all year round.

Furthermore, this Tribunal is mindful of the fact that in a judgement given by a different compliment of this Tribunal when dealing with the Seaview Hotel, that Tribunal expressed a view that the Seaview has in fact many of the characteristics of a public house rather than the characteristics that are inherent in a family run hotel.

- 11.** Accordingly, we are not satisfied that we can place any considerable reliance on this comparison in order to help us in arriving at what the correct NAV should be for the subject property.

- 12.** The first comparison mentioned by Mr. Walsh, Harvey's Point Hotel is also different to the subject property. The Sand House Hotel is a 4* hotel which is open all year round. It is located on or very close to a famous beach. Its location is more central than the subject property which is more removed. It is of better quality. It is more up-market. It has an RV of £275 which was agreed in the third quarter of 1992, though, as Mr. Walsh points out it page 3 of his précis of evidence, that agreement was reached between the Valuer appearing on behalf of that hotel and the Appeal Valuer without the basis of valuation being agreed and with no one particular method of valuation being preferred over and above other methods of valuation. Accordingly, for those distinguishing reasons and also because of the uncertainty as to what precise method was adopted as the preferential method of valuation, it is our view that once more we cannot place any real reliance on this RV in order to assist us in arriving at the correct rateable valuation. The result therefore, is that the evidence in this case is unsatisfactory from the Tribunal's point of view, this in trying to ascertain precisely what is the correct basis of valuation. Therefore it is important to realise that this judgement does not establish on a point of principle what is the correct method of valuation when dealing with hotels or with other similar establishments like the subject property.

- 13.** We believe that the evidence does not in any way support the suggested RV of £160 given to us by Mr. McCarroll. Equally so the evidence cannot be said to justify the result of Commissioner of Valuation at first appeal. We believe that the appropriate NAV for the subject property, that is the NAV calculated in accordance with Section 11, which in practical terms is what a hypothetical tenant, knowing of the hereditament in question, being informed of the history of the enterprise, taking it upon himself to have an independent view of how that enterprise might be improved in terms of profitability, should be and is, in the sum of £50,000.
- 14.** Accordingly, we declare that the correct NAV for this property is £50,000 which when converted by the agreed fraction of 0.5% gives a resulting RV of £250 as we so determine.