

Appeal No. VA98/4/019

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

**John & Mary Clifford**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Guesthouse at Map Reference 28C, Spunkane, ED: Emlagh, RD: Caherciveen, Co. Kerry

**B E F O R E**

**Liam McKechnie - Senior Counsel**

**Chairman**

**Finian Brannigan - Solicitor**

**Member**

**John Kerr - MIAVI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 9TH DAY OF MARCH, 2000**

By Notice of Appeal dated the 30th October 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £53 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that;

"Revised R.V. is excessive".

The appeal proceeded by way of an oral hearing which took place in the Council Chamber, Tralee UDC, Town Hall, Princes Quay, Tralee on the 23<sup>rd</sup> day of February 2000. Mr. Michael Moriarty of Moriarty & Murphy, Killarney, Co. Kerry appeared on behalf of the appellant. Mrs Mary Clifford, owner of the property, was also in attendance and gave evidence. Mr. David Molony, a Valuer with 18 years experience in the Valuation Office appeared on behalf of the Commissioner of Valuation. In accordance with the Rules of the Tribunal, the valuer on behalf of the Commissioner had, prior to the commencement of the hearing exchanged his précis of evidence with Mr Moriarty and equally Mr. Moriarty had submitted to us and exchanged with the Commissioner certain documents which included the essence of his case. All three parties gave evidence having taken the oath. That evidence was elaborated upon by way of cross examination. From both the evidence given in direct examination and that elicited by way of cross examination, the following essential facts appeared as being relevant and material to this appeal:

### **Location**

This property is located about a quarter of a mile north of Waterville on the main Ring of Kerry road. While situated on the main road, traffic from Caherciveen or the eastern direction, had an alternative route of getting to Waterville which if opted for, bypasses this property. Essentially however, the bulk of the traffic would traverse the road immediately outside the subject property. Waterville is about fifty miles from Killarney and Killorglin is about thirteen miles from Killarney. The area is undoubtedly attractive and draws a great number of people but essentially tourism here operates on a seasonal basis.

### **The Property**

The property itself comprises a two storey and dormer three star guesthouse of concrete block construction with smooth cement plaster rendering with pitched slate roof. It stands on its own gardens which are approximately one acre in area. The accommodation is agreed at 391.8 sq.m. (4,216 sq.ft.). The condition of the property is excellent having been constructed in August 1996 at a cost of about £120,000 which excludes the site. A sum of money up to perhaps £30,000 has been expended in what might be described loosely as the fixtures and fittings of this property.

### **The Valuation History**

The valuation history is that the subject property was inspected in July, 1997. The list issued on the 7<sup>th</sup> of November 1997 when the Rateable Valuation of £55 was placed thereon with a description of "Guesthouse". That included a domestic element of £16. On the 1<sup>st</sup> of December Mr. Moriarty appealed this R.V. to the Commissioner of Valuation. On the 30<sup>th</sup> of September 1998, the results of first appeal issued with a change being made in the original valuation of £55 which was reduced by £2 making a new valuation of £53. On the 30<sup>th</sup> of October as we have previously said, Mr. Moriarty then appealed to this Tribunal against that figure of £53. There is no issue on rateability in this case. Therefore the appeal relates to quantum only.

There is no issue on the method of valuation although in the précis of evidence Mr. Moloney has submitted two bases upon which his approach was made. The first was based on a comparable method of approach and the second, given very much in the alternative, was based on the contractor's method.

It is the opinion of this Tribunal that unquestionably, given the evidence which is available, the comparable method is the most appropriate and most correct method of valuing this property. Accordingly, no reliance is placed on the contractor's method. Before dealing with the comparisons in any detail there are a number of miscellaneous points that perhaps ought to be looked at.

- (1) Firstly, this property is undoubtedly visible and quite easily visible from the main public road. It is set back a distance, the exact measurement of which has not been given but from the photograph submitted is clearly in the order of perhaps 30 yards or thereabouts.
- (2) Secondly, this business is seasonal in nature and whilst we appreciate that this may in fact be a management decision rather than a decision relating to the property used as a business, nonetheless, we cannot but have regard to the fact that the period or periods of the year when income is derived from this property is limited.
- (3) Thirdly, it has been given a three star rating in the Bord Failte official guide.
- (4) Fourthly, accounts have been produced to us for a three year period from the 5<sup>th</sup> of April, 1999. Given our decision previously as to the correct method of valuation in such cases

it is not necessary to analysis these accounts in any depth or to rely upon them with any great force. It is self evident that this business is in a start up situation and as in any other comparable business will either suffer a loss or will not show its true potential for a number of years.

Looking at the comparisons, we have been given details of four in number by Mr. Molony on behalf of the Commissioner of Valuation and for ease of reference these comparisons are contained in Appendix A to this judgement.

We have been given also four comparisons by Mr. Moriarty and for ease of reference these are contained in Appendix B to this judgement.

In general terms, could we say the following about the comparisons: the details given to us in relation to each of the comparisons perhaps could be greater. Our appreciation and our ability to truly distinguish between comparisons is entirely based on the evidence adduced. Sometimes indeed frequently, the members of this Tribunal will not have any direct knowledge of the locality or indeed of the properties in question and accordingly we are entirely reliant on the quality and comprehensiveness of the evidence so given. For example, in all cases we should have details of the date of valuation, the location of the property and a description of the property. Dealing with guesthouses we should know the number of rooms and the rates that are being sought for such accommodation. We should know the standard and the condition of the premises and so on. It is only when we are given that type of information, that we are in a position to in any real sense, make a proper and valued judgement on these comparisons. However without that information, it is still incumbent upon us to deal with the evidence as it is.

With regard to Mr. Molony's comparisons, two are given which are located within Killarney or within a short radius of Killarney – they are comparisons No.1 and No.3.

- (1) The first comparison has an area of 5,420 sq.ft. which is a good deal in excess of the area of the subject property and thereon apparently at 1997 revision a rate per sq.ft. of £2.50 (£26.90 per sq.m.) was agreed.

- (2) The second Killarney comparison is comparison number three which is located on the Tralee-Killarney road and is described as Lot 1Fa "Deerpark". Again that is a guesthouse with almost 6,000 sq.ft. where a rate per sq.ft. was agreed at the first appeal in 1996 at £2.75 per sq.ft. (£29.35 per sq.m.).
- (3) The second comparison given is located in Killorglin and is about 4,400 sq.ft. in area assessed at £2.50 per sq.ft. (£29.59 per sq.m.) at first appeal in 1997.
- (4) The fourth comparison referred to by the Commissioner of Valuation is the only common comparison between the parties in this case. The property is known as "Lakelands Guesthouse" situated at Lot 11Aa.B1. Waterville and we will return to that in a moment.

The comparisons giving by Mr. Moriarty were;-

- (1) the property known as "Westfield Guesthouse" in Killorglin which has an area of 7,400 sq.ft. Because of its location and particularly because of its size we do not believe that it is in any way comparable to the subject property.
- (2) The second comparison is a guesthouse in Killorglin, which has an area of almost 4,400 sq.ft. with a very substantial domestic element of 2,357 sq.ft. It has an NAV of £2.50 per sq.ft. but beyond that we do not have a great deal of information with regard to it.
- (3) Mr. Moriarty's comparison No.4 "the Smugglers Inn Guesthouse" on Cliff Road, Waterville, Co. Kerry. Prior to 1988, the method of approaching a valuation in circumstances such as we have here was based on the square metre approach. That changed with the passing of the Act in 1988. The best information we have about this comparison is that it was either agreed or determined under the old system, namely the rate per square metre system and accordingly since the Law and practice has changed for a decade or more, that comparison cannot be safely relied upon by us as being of help in determining the valuation in this case.

That leaves the common comparison of "Lakelands Guesthouse". Mr. Malony has strongly urged upon us that this is not a true comparison even though it is situated in the same area as the subject. He says so because it is more rural in terms of its location and its standard of finish is less than and substantially less than the subject property. On the other hand Mr. Moriarty on

behalf of the appellant urges very strongly upon us that this is the comparison which we should adopt.

There is a concept in valuation law known as the rating area. Essentially this means that if in respect of a subject property, there are other properties within the same rating area which can be directly compared with that property then those within that area should be relied upon. Indeed even if adjustments have to be made, and which can be made which do not interfere with the evidential basis of those comparisons then again properties situated within the same rating area should firstly be relied upon. It is only if one cannot ascertain properties even with adjustments, which are comparable that one goes outside that rating area. This is a general rule, there are certain well recognised and known exceptions to this. For example in hereditaments that are not frequently seen around the country like perhaps pharmaceutical plants, perhaps football pavilions, leisure centres or other hereditaments which are not commonly in existence in all rating areas. In such circumstances then it is quite permissible to go outside this rating area but in general terms if one can identify property that is comparable to a subject property and within the same rating area, then that is, in evidential terms, of more benefit to this Tribunal than property located elsewhere.

### **Findings and Determination**

In our opinion there are a number of features that ought to be highlighted in respect of the subject property:

- (1) Firstly, it has only five bedrooms and therefore the area of accommodation is quite limited.
- (2) Secondly, it has no bar or wine licence.
- (3) Thirdly it would appear that there is no public lighting immediately in the vicinity of this house and that the local authority have not as yet constructed or laid down footpaths to accommodate pedestrian traffic.
- (4) In addition, we are told that the landscaped nature of the property is less than optimum and that steps are in hand or will be in hand in the near future to ensure an entire resetting of the area immediately to the front of the house and perhaps to the side of the house.

- (5) Furthermore and this is a point of the greatest substance and of the greatest weight with us, there is no doubt in our view but that a location like Killarney or within a certain radius of Killarney is entirely different from a location in or near Waterville. Killarney is undoubtedly the focal point of tourism in this region. Whether you are on the Killarney-Kenmare road or whether you are on the Killarney-Cork road matters undoubtedly but not to a very significant extent.

Waterville is extremely attractive but its trade is seasonal in nature, it is located fifty miles from Killarney and therefore property in Waterville cannot in the sense of location for rating purposes be compared directly with property in Killarney.

In addition we are conscious of the fact that there is a growing competitive element in this business, not only from locals but also from the changing nature of accommodation required which now varies from bed and breakfast being a traditional one, to time share, to cottages and so on. So taking those factors into account and bearing in mind the NAV in respect of the "Lakelands" property, it is our opinion that the appropriate NAV on the subject premises should be as follows:

Gross external floor area:	391.8 sq.m. @ £21.52 per sq.m. (4,216 sq.ft.) @ (£2.00 per sq.ft.)	= £8431.54
Estimated NAV:	£8,431 X 0.5%	=£42.16
	<b>Say</b>	<b>£42.00</b>

And the Tribunal so determines.