

**Appeal No: VA17/5/412**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015  
VALUATION ACTS, 2001 - 2015**

**INLAND PROPERTIES LTD**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of  
Property No. 87858, Hospitality at 1Aa Barrymore, Athlone, County Roscommon.**

**B E F O R E**

**Barry Smyth – FRICS, FSCSI, MCI Arb**

**Deputy Chairperson**

**Patricia O'Connor - Solicitor**

**Member**

**Fergus Keogh – MSCSI, MRICS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 18<sup>TH</sup> DAY OF OCTOBER, 2019**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 11<sup>th</sup> day of October, 2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €850,000

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because :

- *“The Valuation is excessive and inequitable”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €690,000.

## **2. REVALUATION HISTORY**

2.1 On the 12<sup>th</sup> day of January, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €1,050,000.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €850,000

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €850,000.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> day of October, 2015.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 20<sup>th</sup> day of June, 2019. At the hearing the Appellant was represented by Mr. Donal O’ Donoghue MRICS, MSCSI, Registered Valuer and the Respondent was represented by Mr. Alan Sweeney B.Sc. (Property Val & Mgmt), MSCSI, MRICS of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

## **4. ISSUES**

4.1 Quantum of Valuation.

## **5. RELEVANT STATUTORY PROVISIONS:**

5.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

5.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

## **6. APPELLANT’S CASE**

6.1 By way of preliminary issues, the Chairman requested clarification on two points:

- (i) There was a discrepancy of 500 square meters in the floor areas between the parties.
- (ii) Whether bank interest and depreciation had been added back by the Appellant in his R&E valuation.

6.2 Mr. O’Donoghue confirmed that the floor area had been agreed at the Respondent’s assessment and that the difference was not material in this case as floor area was not the basis of valuation. He also confirmed that depreciation and existing bank charges have been added back following his discussions with the Valuation Office.

6.3 Mr. O’Donoghue adopted his precis and described the property as a four star hotel with 176 bedrooms, 10 conference suites, spa and pool facilities, bar, three restaurants with grounds and customer parking. He said that the business is largely driven by group bookings including weddings, conferences and family weekend offers.

- 6.4 Mr. O'Donoghue stated that if he were to have used the shortened method of valuation he should have included a reduction for location. He suggested that an allowance of 15% should be given to the Appellant which he broke down as being 10% for goodwill and 5% for the operator's exceptional skills. Mr. O'Donoghue stated that his preferred method of valuation was the R and E method. He said that both the Appellant and the Respondent largely had the same turnover figures but differed in their estimation of fair trade/turnover. He said that the Respondent's costs were estimated to be broadly in line but that their figures for wages was 40% lower than the trading figures. He also pointed out that the figure for depreciation for the previous year was significantly lower than the figure for some of the previous years. Mr. O'Donoghue gave his opinion of value as €690,00 the average of his shortened method of €724,750 and his R&E of €655,000.
- 6.5 Mr. O'Donoghue put forward three NAV comparisons as set out more fully at Appendix 1.
- Comparison 1: Hotel, Co. Roscommon. 51 bedrooms, NAV €250,000
- Comparison 2: Hotel, Co. Westmeath, 167 bedrooms, NAV €625,000
- Comparison 3: Hotel, Co. Westmeath, 128 bedrooms, NAV €460,000
- 6.6 Mr. O'Donoghue commented on his comparisons as follows:
- Comparison 1 is much smaller than the subject property and have been allowed a 25% allowance in respect of its size scale and location.
- Comparison 2 is within a town centre close to all facilities and amenities.
- Comparison 3 is comparable to the Subject Property and competes with it.
- 6.7 On cross-examination, Mr. Sweeney asked if it was correct to state that the subject property was driven by group bookings versus tour buses. Mr. O'Donoghue stated that both he and the Respondent had been advised by the group manager who told them that the subject property did not get tour buses simply because of its location which was too close to both Dublin and Galway.
- 6.8 Mr. Sweeney asked about the platinum award which the operator had been awarded and questioned whether this was because the operator was "an exceptional operator". Mr. O'Donoghue stated that the award was similar to the ISO 9000 and was not a competition but instead was awarded by Deloitte to Irish businesses or companies which reached particular standards in their business. Mr. Sweeney put it to him that

there were 136 winners in the previous year but Mr. O'Donoghue was not of the view that the number of winners denigrates the merit of a Platinum award received by the operators in respect of the high standards which they maintain.

- 6.9 Mr. Sweeney asked whether goodwill should be applied and how it should be assessed. Mr. O'Donoghue stated that it should be assessed on a "stand back and look" approach which he admitted was not an exact science and that adjustments could be made.
- 6.10 With regard to comparisons, Mr. O'Donoghue stated that the only other comparison which he had financial information for was Comparison 2 and that that valuation had been agreed with the Valuation Office. He did not believe that goodwill was included as an intangible asset in the accounts.
- 6.11 Mr. O'Donoghue stated that Kilronan Castle (which he had not used as a comparison) was the next largest hotel based on bedroom size and that there were no other hotels in Roscommon over 100 beds. When asked why he had excluded it as a comparison, Mr. O'Donoghue stated that it was a proper castle or manor style property and he did not think it was a suitable comparison.
- 6.12 Mr. Sweeney asked whether Mr. O'Donoghue had carried out any other analysis of Comparison 2 for example room rate and Mr. O'Donoghue said that he had not. He stated that he had looked at the rates of Comparison 3 but specified that it was not for this hearing.
- 6.13 Mr. Sweeney pointed out that the Commissioner allowed the full amount for wages in his calculations and Mr. O'Donoghue accepted that and said that he was defending the R & E method or shortened method. He pointed out that his wages figure was 40% higher than the accepted standard hospitality sector and he attributed this to the location of the hotel and its requirement for a huge labour cost. Mr. O'Donoghue confirmed that he was relying on the Carlton Hotels judgement (High Court Ref. 2012/1024SS) which he said allowed the Tribunal to use whatever method you wished to get the right answer. Mr. Sweeney pointed out that the governing legislation had been amended since Carlton and Mr. O'Donoghue stated that he did not believe that the principles had changed.

- 6.14 Mr. O'Donoghue stated that the shortened method of valuation evolved following analysis of the rental information of hotels and their accounts and he accepted that 94.9% of occupiers had agreed their valuations. Mr. O'Donoghue stated that he did not believe there were any truly comparable properties in the Roscommon or Athlone regions and that the River Shannon was the boundary for five counties so the most comparable properties were in the centre of that area. He felt that he had sufficient information to prepare R & E accounts and confirmed that he had taken the figures from the 2016 Accounts as his estimate of fair maintainable trade, broadly speaking. He referred to the Guidance Note on the R & E method which he had set out at page 24 of his precis as supporting his approach. He said that he did not have the rental evidence to value the subject property so instead he got the accounts and prepared his figures using the R & E method. When pressed by Mr. Sweeney, Mr. O'Donoghue confirmed that he understood the Commissioners' approach to valuations in Roscommon but that in this instance he felt that the Commissioners' valuation was too high.
- 6.15 Mr. O'Donoghue said that this was not what he termed "a one size fits all" exercise and that the method adopted by the Commissioner gave too high a valuation. Mr. O'Donoghue accepted that the method used by him was "a simplistic approach" but he felt that it was a bit bizarre that a town centre location had a lower rate than the subject property, particularly when it had a global hotel brand over the door. He stated that Comparison 2 had been given a stand back and look allowance.
- 6.16 Mr. O'Donoghue did not accept Mr. Sweeney's suggestion that there was no consistency with his approach. He confirmed that he had adjusted turnover and expenses appropriately. He stated that it was most appropriate to use the figure for last years rates as a payable expense in his method. Mr. O'Donoghue did not accept that S43 of the Valuation Act is the correct approach and stated that he was happy with his approach.
- 6.17 The Tribunal asked Mr. O'Donoghue to confirm what supported his opinion that no one else could operate the subject property in the same way as the current operators. Mr. O'Donoghue pointed to the fact that they had been awarded the best managed company and that no other hotel had achieved that award. When pressed, Mr. O'Donoghue said that he had to look at other comparable properties in the region and

that when they were devalued on a room by room basis, the subject property was valued at €1200 higher than other comparables which were better located or circumstanced.

6.18 Mr. O'Donoghue confirmed that the subject property's occupancy rate was in the region of 70%. He confirmed that Comparison 3 had been sold by a receiver for €8 million and it is owner occupied. In relation to the Athlone comparisons, Mr. O'Donoghue stated that the three of them have pools and leisure facilities.

6.19 Mr. O'Donoghue stated that the floor area had been agreed and that depreciation excluding land and buildings and existing bank charges have been added back on following his discussions with the Valuation Office. He also confirmed that he had added back the rates but not the director's salaries.

## **7. RESPONDENT'S CASE**

7.1 Mr. Sweeney adopted his precis. He said that the effective measure of valuation for the Commissioner is the shortened method based on R & E and rents where available. He said that this method has been used in recent years and has been widely accepted. He pointed out that the Appellant has developed a hybrid approach which relies on a shortened method and a full R & E method and that there was no valuation in Roscommon based on that basis. He said that the subject property is in good condition and that it was hard to tell the difference between the old and the new parts. He pointed out the rents passing in the accounts and stated that he believed that this was part of a sale and leaseback arrangement.

7.2 Mr. Sweeney stated that financial information was only provided at Repts stage and quoted the turnover.

7.3 Mr. Sweeney provided seven comparisons which are set out fully in Appendix 2.

Comparison 1: Hotel, Co. Westmeath, 68 bedrooms, NAV €400,000

Comparison 2: Hotel, Co. Roscommon, 84 bedrooms, NAV €475,000

Comparison 3: Hotel, Co. Westmeath, 30 bedrooms, NAV €58,900

Comparison 4: Hotel, Co. Roscommon. 18 bedrooms, NAV €65,000

Comparison 5: Hotel, Co. Roscommon. 12 bedrooms, NAV €100,000

Comparison 6: Hotel, Co. Westmeath, 167 bedrooms, NAV €625,000

Comparison 7: Hotel, Co. Westmeath, 128 bedrooms, NAV €460,000

7.4 Mr. Sweeney commented on his comparisons as follows:

1. He felt that this was the best comparison. It is located near the subject property and was bought from the receiver for €3.8 million.
2. He stated that a large part of this property is relatively new. This property was purchased in 2006. This property was given a Stand Back and Look allowance as there were major works required in front of the new section of the property when it was purchased.
3. He stated that it was difficult to find comparisons in Roscommon.
4. He stated that what was interesting about this comparison was the cost of the hotel in February 2015.
5. He described this comparison as being predominantly a bar and restaurant.

Mr. Sweeney said that the R & E method as set out at page 24 of Mr. O'Donoghue's precis was not a reliable method of comparison.

7.5 On cross examination Mr. Sweeney confirmed that there was no rental evidence available in Roscommon. In reply to Mr. O'Donoghue's question as to best to approach this problem as a valuer, Mr. Sweeney stated that Mr. O'Donoghue had carried out a full R & E valuation whereas he would look at all methods. Mr. Sweeney also pointed out that when a valuer is adjusting accounts, it needs to be done with care. Mr. Sweeney stated that there were two approaches set out on the R & E Guidance Note being either to accept the depreciation figure or allow for removal of tenant's chattels. He stated that the most appropriate way of consistency is to allow for a sinking fund and said that even looking at fixed assets, Mr. O'Donoghue's approach was most unusual and that unless they were forensically accounted, one cannot rely on the total amount in the 2015 accounts.

7.6 Mr. Sweeney agreed with Mr. O'Donoghue that the subject property was rural but pointed out that it was on the lake. He also agreed that his Comparison 1 was smaller than the subject property and estimated that it was about 1/3 of the size. Mr. O'Donoghue put it to him that Comparison 1 was situated adjacent to the largest employer in the area. Mr. Sweeney replied that it was located in an industrial estate. He stated that Comparison 2 competes with the subject property for wedding business.



He confirmed that Comparison 3 was a smaller hotel on the same road which would take business from the subject property. Mr. Sweeney stated that the properties were compared on a like for like basis and pointed out that the largest hotels have economies of scale.

- 7.7 Mr. O'Donoghue asked Mr. Sweeney if he would agree that the Hodson Bay group were good operators and Mr. Sweeney said that they had 3 hotels and were constructing a fourth. On being pressed further, he agreed that they were good operators. Mr. O'Donoghue then put it to him that even allowing that they were good operators, their payroll was still in excess of 40%. Mr. Sweeney replied that he had to compare like with like and that he would compare the Comparison 6 with the Hodson Bay as they operated a substantial wedding business. He stated that he had not seen anything to say that the valuation for the subject property was too high.
- 7.8 The Tribunal asked about the rent passing in the accounts. Mr. Sweeney stated that the directors of the company built a spa and pool and that this was a sale and leaseback. He confirmed that there is no rent passing now. The Tribunal asked if the Commissioner preferred the shortened method even when accounts are available. Mr. Sweeney said that they would carry out an R & E valuation. If there was information available for rent subsequently which was higher or lower than what the scheme throws up, then they would look at adjusting the figure having regard to the full R & E. He confirmed that if financial information has not been submitted, then all they can do is project turnovers as best they can.
- 7.9 Mr. Sweeney confirmed that he was not in agreement with the allowances suggested by the Appellant of 10% for skill and 5% for location. He said that goodwill was not allowed to other groups. He said that on occasion goodwill is allowed but that this more for independent operators or specific operators for example with a food and beverage background who can provide substantiated evidence that one property is outperforming the other.
- 7.10 The Tribunal asked about giving a 5% allowance because of the subject property's rural location and Mr. Sweeney stated that what this property had going for it is the fact that it is overlooking the lake. The Tribunal asked about comparisons on the basis of

devaluing the bedrooms and Mr. Sweeney said that he did not condone the approach of analyzing the bedrooms and pointed out that if they took that approach then Comparison 5 for example would be vastly undervalued. He said that he would not rely on that approach to support a reduction in NAV. He said that Comparison 6 had very little profile attached to the shopping centre of the town and it was no way comparable to the subject property.

## **8. SUBMISSIONS**

8.1 There were no legal submissions.

## **9. FINDINGS AND CONCLUSIONS**

9.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Roscommon County Council.

1. The Tribunal notes that the subject property is a well-established hotel with a floor area of 15,350 sq.m., 176 bedrooms, conference/wedding facilities, spa and pool, bar and three restaurants.
2. The Tribunal is of the view that the subject property benefits from its' rural location as shown by the trade as described, for example weddings, conferences and suchlike.
3. The Tribunal notes that the Hodson Bay Group was the first hotel group to win the Platinum Award in 2016 having previously received the Deloitte Best Managed Companies award for seven consecutive years. While this is undoubtedly a significant achievement for the group, the Tribunal notes that this award is based on quality assurance requirements to be met by the company rather than an actual industry wide competition and is limited to the category of entrants (firms must be Irish/Northern Irish, substantially privately owned, managed and controlled with a significant turnover and established for at least five years). Accordingly the Tribunal does not accept Mr. O'Donoghue's contention that such an award places the Appellant in the category of an exceptional operator.

4. In light of the above, the Tribunal does not consider that an allowance is necessary for either goodwill or location.
5. It appears to the Tribunal that the shortened method generally is based on full R & E Assessments where the percentages applied to rooms, food etc is agreed and full figure accounts are available.
6. The Tribunal does not consider that the Appellant's R & E assessment is a true R & E as it does not follow the accounts and it appears that his assessment might even give rise to a higher NAV. The Respondent's R & E assessment supports the shortened method. It also more than supports the NAV and was preferred by the Tribunal for that reason.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent that the correct NAV is €850,000.

And the Tribunal so determines.