

Appeal No. VA10/5/079

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Highview Inns Hotel Ltd. (Michael Carroll)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 436745, Hotel at 25/26 Harbour, Skerries, County Dublin

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Niall O'Hanlon - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF FEBRUARY, 2011

By Notice of Appeal dated the 26th day of August, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €177,400 on the above described relevant property.

The grounds of appeal are set out in the Notice of Appeal and in accompanying documents, a copy of which are attached at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing and was held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 18th day of January 2011, and was resumed on the 26th day of January 2011. At the hearing the appellant was represented by Mr. Alan McMillan, Director, GVA Donal O Buachalla, while Mr. Liam Cahill, Valuer and Team Leader in the Valuation Office, represented the respondent, the Commissioner of Valuation.

The Issue

The issue between the parties is that of the 'Method of Valuation' used by the Valuation Office together with the appellant maintaining that the Net Annual Value (NAV) of €177,400 is excessive. The method used by the respondent was the Shortened Method, while the method offered by the appellant was the Receipts and Expenditure Method (R&E).

Valuation History

The subject property was included in the Revaluation of all relevant properties in Fingal County Council. A valuation of €177,400 was assessed on the property and a proposed Valuation Certificate was issued. GVA Donal O Buachalla on behalf of Highview Inns Hotel Limited made representations to the Revision Officer on 8th October 2009, and after consideration of the representations a Valuation Certificate issued on 11th December 2009 for €177,400. On 7th February, 2010 an appeal application was made to the Commissioner of Valuation and following this appeal a Valuation Certificate issued on 30th July 2010 for €177,000.

The valuation as assessed is attached herewith at Appendix 2.

The Property

The subject property is located on the east side of the Harbour Road in Skerries and close to the Pier and facing westwards over Skerries Harbour. This is a family run hotel and is managed by the Carroll family. It is registered with the Irish Hotels Federation and is graded as a 2 star hotel. While the hotel in its current state operates to its full trading potential, it lacks the design and layout of a modern purpose-built hotel. Skerries is a popular coastal commuter town in north County Dublin with a population of 9,000 people and is about 35 km north of the capital. The overall area is approx 1,070 sq. metre and comprises a two-storey front building with a reception area, kitchen, and restaurant while 10 bedrooms occupy the

first floor. The adjoining single-storey building houses the bar area and toilets, while an open smoking corridor connects to the night club that is situated to the rear of the premises. There is a small walled storage yard to the rear of the night club. There are no car parking facilities on site, however there is limited on-street parking close by.

Accommodation

Floor areas are agreed as follows:

The property has a total area of 1, 070 sq. metres

The Appellant's Case

Mr. Alan McMillan, Director, GVA Donal O Buachalla for the appellants took the oath and adopted his précis as his evidence-in-chief. He described the layout of the hotel to the Tribunal. He said that the hotel has a 2 star rating and is not a 3 star hotel as stated by the respondent. He also confirmed that the hotel has 10 bedrooms and 1 office and not 11 bedrooms as stated by the respondent. He said that the owners purchased the property in 2004, and that the issue here is to value the tenant value of rent and not the capital value. He contended that the valuation task as at 30th September, 2005 should be based on a Receipts & Expenditure (R&E) method of valuation as outlined in the RICS Guidance Note, (a copy of which was provided to the Tribunal by the appellant in his written submission) and is the most appropriate manner in which to carry out the valuation pursuant to Section 48 of the Valuation Act, 2001. The appellant was relying on the R&E method with reference to the actual accounts provided and in this case relied on the years subsequent to the Valuation date of September 2005.

He also mentioned a meeting that was held on 11th January, 2007 between the respondent and the Irish Hotels Federation (IHF). He said that at this meeting the R&E method was advised by the VO as being the correct method of valuation to be used for valuing hotels. He further stated that the suitability of R&E was subsequently affirmed at a symposium that was jointly organised by the SCS and the IAVI in September 2008.

Mr. McMillan continued his evidence by explaining that the R&E method of valuation seeks to establish and analyse the trading potential of what is not a hypothetical but a real property, and thereby to establish the rent which the hypothetical tenant would pay at the relevant date, as defined by Section 48 of the Valuation Act, 2001. This is achieved by estimating the sales

and costs in order to deduce the Divisible Balance (being the amount to be shared between the hypothetical tenant and the hypothetical landlord). The tenants share is defined as the amount which must be sufficient to induce the tenant to take the property and to provide a proper reward to achieve profit, an allowance for risk and a return on tenant capital.

Mr. McMillan explained for the Tribunal the Receipts & Expenditure (R&E) guidance note in the appellant's précis under the heading 'Salaries'(page 13 paragraph 5.29) that says "... where the occupier is an individual or where the hypothetical tenant might be expected to carry on the undertaking without advice from directors it is normal to allow for remuneration solely in the tenants share". In this case there are just two working directors, and if they were to be replaced, then two new staff members would need to be employed to replace them.

He contended that the proposed 50:50 split of the Divisible Balance was fair and reasonable and consistent with former decisions made by the Tribunal including the **Kelly's Strand Hotel v Commissioner of Valuation (VA/97/6/007)**, **Glentworth Catering Services v Commissioner of Valuation (VA94/1/015)**, **Berne Hotel t/a Killiney Court Hotel v Commissioner of Valuation (VA93/3/048)** and **Mary O'Neill t/a O'Dea's Hotel v Commissioner of Valuation (VA94/1/014)**. Mr. McMillan then outlined for the Tribunal the rate of development and the increase in hotel room capacity in the Dublin area from 2005 to 2009 which indicated an increase of 36% in room capacity in peak season, and said that this oversupply had now reached a capacity crisis.

Mr. McMillan concluded his evidence by stating that in his opinion a fair and proper estimate of valuation of the subject property is €87,000.

26th January 2011.

The hearing resumed on 26th January 2011.

The Respondent's Case

Mr. Liam Cahill for the Respondent took the oath and adopted his précis as his evidence-in-chief. He described the layout of the hotel as already mentioned above, and said that he was happy with the 10 bedrooms mentioned as confirmed by the owner rather than the 11 as per his précis, and was happy to confirm a two-star rating and said that he inspected the property in June 2009. He said that turnover for the years 2006, 2007 and 2008 as per the accounts for

the subject showed a healthy performance. Mr. Cahill then listed the 4 Methods of Valuation being Rental evidence, Comparative method, Contractors or Capital value method and the R&E method.

He said that in regard to the rental evidence there was one rent on the Twelfth Lock Hotel available to him. In relation to the comparative method he said that he relied on two judgments in relation to hotel properties in South Dublin including **Q.E. Facilities Ltd. t/a Tower Hotel v Commissioner of Valuation (VA08/5/225)** and **Kingsoak Taverns Ltd t/a Clarion Hotel Liffey Valley v Commissioner of Valuation (VA08/5/224)**. In the **Tower Hotel** determination the Tribunal accepted in principal Mr. Cahill's valuation model, which appears to have been accepted by a number of ratepayers and other advisers, while in the **Clarion** hotel it determined that the NAV of the property be in accordance with Section 48 of the Valuation Act, 2001.

Commenting on the contractor's method, Mr. Cahill said that when valuing the subject he did not rely on this method. When commenting on the R&E method, Mr. Cahill said that he had learned a lot and is now considerably more informed of its application and methodology having regard to the experience of the Fingal revaluation exercise. He said that this method is very complex and requires attention to detail and that if all of the financial information is not given then it is extremely difficult to apply R&E.

Mr. Cahill continued his evidence by listing the matters to be considered when using the shortened method, and that this method is part of the comparative method. In this instance matters to be considered include the financial accounts, the economy, rent, the tenant's share in relation to salaries, repairs and the split here, as well as the treatment of depreciation. He was advocating the shortened method for the subject. When asked under cross-examination to comment on when using the shortened method that rental evidence is needed, Mr. Cahill said that he had the rental evidence of the Twelfth Lock and the purchase price of the subject to rely on. Mr. Cahill concluded his evidence by saying that he considered the application of the Shortened method in this case to be correct.

Findings

1. The Tribunal thanks both parties for the quality of their submissions and arguments during the course of both sittings of this case.

2. The Tribunal is aware of, and acknowledges the difficulties encountered by the parties in offering sufficient information to support their respective positions, given the lack of Hotel Rental evidence in the Fingal Rating Authority area.
3. The property is a mix of older buildings, is not a modern purpose-built hotel, and therefore attracts higher maintenance costs.
4. The respondent used the shortened method when calculating the subject NAV. The principal pieces of information that the respondent relied on were the rental evidence on the Twelfth Lock and the purchase price paid for the subject property in 2004. The Tribunal rejects the shortened method on the basis of the insufficiency of rental evidence in this case.
5. The respondent suggested that the R&E method would be difficult to apply in the absence of financial information. The Tribunal notes that the appellant has advanced financial accounts for the purpose of applying the R&E method of valuation.
6. The Tribunal is not persuaded that it should vary the split of the Divisible Balance in this case from 50:50.

Determination

All the foregoing considered, the Tribunal prefers the percentage offered by the appellant and has determined that the Divisible Balance split on a 50:50 basis would give a figure of €86,762.

Say, €87,000

And the Tribunal so determines.