

Appeal No. VA95/2/004

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

John Martin Smith, Fort Lucan Adventureland Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Amusement Centre and Land at Map Ref: 18C, Townland: Westmanstown, E.D. Lucan North, Co. Dublin
Quantum - Method of Valuation

B E F O R E

Fred Devlin

FRICS.ACI Arb. (Acting Chairman)

Con Guiney

Barrister

Barry Smyth

FRICS.FSCS

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF MAY, 1996

By Notice of Appeal dated the 24th May, 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £80 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "Fort Lucan is an outdoor adventure playground for children, therefore due to the climatic conditions in Ireland we are only fully operational for 6 months of the year, thus it is very unfair to have to pay rates as if we were able to operate for 12 months. I consider Fort Lucan should be looked on as a unique case, and our rate valuation cut by 50%".

The Property:

The property is an adventure playground situated one mile from Lucan village in a rural setting. Approximately $\frac{3}{4}$ of an acre is enclosed by a 14 foot high timber stockade. Located in this enclosure are permanent buildings which contain the toilets, shop, nursery, office and two playrooms. The remainder of the enclosure houses various adventure activities which include an assault course, aerial runway, high tower walks, slides, swings and climbing frames. There is a gravelled car park to the front. The enclosure comprises an area of 2,944 square metres and the building comprises an area of 196 square metres.

Valuation History:

Fort Lucan was originally valued on 1994/2 revision at £95. This was reduced to £80 on 1994/2 first appeal.

Written Submissions:

A written submission was received on the 19th day of March 1996 from Mr. John Martin Smith on his own behalf.

In his written submission, Mr. Smith made the following points:-

- (1) The comparisons of Giraffe play centres were not appropriate. He said that these were enclosed areas and not effected by Irish weather and could operate twelve months of the year. Mr. Smith said that the entire play area in Fort Lucan is open to the elements and totally dependent on the weather.
- (2) He maintained that indoor play areas have a poor history of viability, for example the closure of the play area in The Square in Tallaght, The Fun Factory in Blackrock and Giraffes in Swords.
- (3) The high cost of insurance if obtainable in the first place.

Mr. Smith said that based on his Profit and Loss Accounts for the years ending October 1995 and October 1994 there was no significant profit in the venture and it would be hard to imagine anyone wanting to rent the property.

In conclusion he proposed a rateable valuation of £40.

A written submission was received in the Tribunal Offices on the 4th day of March 1996 from Mr. Malachy Oakes, a District Valuer with over 20 years experience on behalf of the respondent.

In his written submission, Mr. Oakes described the subject premises and its valuation history as set out above. He set out his calculation of rateable valuation as follows:-

Valuation

The net annual value was assessed as follows:-

(a)	Entrance shop area -	2,109 sq.ft. @ £2.00 =	£ 4,218
	Enclosure	29,500 sq.ft. @ £0.30 =	<u>£ 8,850</u>
			<u>£13,068</u>

RV @ 0.63% = £82. Say £80.

(b)	Turnover 1994	£127,000
	NAV @ 10%	£ 12,700
	RV @ 0.63%	£80.

He also gave two comparisons as follows:-

- (1) **Giraffe Enterprises Limited**
11AC/12 Coolmine Industrial Estate
Blanchardstown Coolmine

RV: £90 (Let on a 35 year lease 2/90 @ £3.56 per square foot).

(Warehouse) play centre	4,209 sq.ft. @ £3.00 p.s.f.	£12,267
First floor	280 sq.ft. @ £2.00 p.s.f.	<u>£ 560</u>
		<u>£12,827</u>

- (2) **Giraffe (Swords)**
21A/3 Barrysparks
Swords Seatown

RV: £90 (Let on a 33 year lease from 1991 @ £340 per week or £17,680 per annum).

(Warehouse) play centre	4,420 sq.ft. @ £3.00 p.s.f.	£13,290
First floor	924 sq.ft. @ £1.00 p.s.f.	<u>£ 924</u>
		<u>£14,214</u>

Oral Hearing:

At the oral hearing held in Dublin on 22nd day of March, 1996 the appellant, Mr. John Martin Smith, Managing Director of Fort Lucan Adventureland Limited appeared on his own behalf and the respondent was represented by Mr. Malachy Oakes, District Valuer with the Valuation Office.

Prior to the oral hearing, Mr. Smith submitted a summary of evidence by way of a letter addressed to the Registrar and with the consent of Mr. Oakes he adopted this as being his sworn testimony. In further oral submission, Mr. Smith contended that insufficient allowance had been made to reflect the fact that the playground was an open air facility. Whilst it was open all the year round the viability of the operation was very much dependent upon the weather. During the off peak period, that is, between November and mid-March the level of business was very low and uneconomic. Indeed the only purpose in keeping open was to prevent trespass and to provide security.

Mr. Smith said that the playground was the only one of its kind in this country and was built to UK standards of safety. Throughput was in the order of 25,000 to 30,000 paying patrons per year and turnover for the years ending 31st October, 1994 and 31st October, 1995 was IR£143,791 and IR£142,108, respectively. Approximately two thirds of this turnover represented entrance fees and the remainder was the turnover obtained in the shop.

Mr. Oakes having taken the oath adopted his written submission as his evidence in chief given under oath. Mr. Oakes in supplementary oral submission agreed with the appellant that Fort Lucan was a unique property and as such there was no direct comparison. He acknowledged the fact that due to the open nature of the playground the level of use would on occasions be adversely affected by the weather but said that he had regard to this in arriving at his opinion of net annual value. In his opinion the enclosed Giraffe Centres at Swords and Coolmine were also affected by the weather in that patrons would not wish to use them during the summer months.

Determination:

The Tribunal accepts the fact that Fort Lucan is a somewhat unique property and the only one of its type in this country.

It also accepts that the absence of truly comparable properties makes the valuer's task more difficult.

The Tribunal was impressed by the evidence of Mr. Smith and accepts that the economic viability of the enterprise is very much dependant upon the vagaries of the Irish weather. The Tribunal also accepts that the level of business during the off peak period is at such a level as not to cover the operating costs incurred during this time. On the other hand however the level of income achieved for the past two years and the fact that it shows an operating profit before tax and after quite substantial finance costs indicates that the enterprise is in fact viable.

In arriving at his opinion of net annual value Mr. Oakes relies upon the assessments of the Giraffe Indoor Centres at Swords and Coolmine and also had regard to the turnover achieved at the subject property. The Tribunal notes that the Giraffe Centres are occupied under lease arrangements and that the respective rateable valuations of £80 and £90 are well supported by the rents being paid.

In the absence of rental evidence for the subject property and comparisons that are in fact truly comparable, the Tribunal having taken into account all the evidence adduced by the parties finds that the most appropriate valuation method to adopt is that based upon turnover. Taking into account the fact that the enterprise is seasonal and has a high off peak period when the level of income does not cover operating costs, the Tribunal finds that the figure of 10% applied by Mr. Oakes is on the high side and considers 9% to be more appropriate.

Accordingly, therefore, the Tribunal determines the rateable valuation to be £70 calculated as follows:-

Turnover for year ending October, 1994	IR£144,000
Less 15% to reflect 1989 levels	IR£122,400
Net Annual Value at 9%	IR£ 11,016
Rateable Valuation at 0.63%	IR£69.40
Say	IR£70

