

Appeal No. VA89/0/097

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

O'Shea's Hotel, Tramore

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed Hotel, offs and yard, Lot No: 14,16, West Strand Street, Tramore, Co. Waterford
Quantum - Competition, decline in business, investment in the premises

B E F O R E

Paul Butler

Barrister (Acting Chairman)

Mary Devins

Solicitor

Padraig Connellan

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
DELIVERED ON THE 27TH DAY OF JUNE, 1990

By Notice of Appeal dated the 27th day of July, 1989, the Appellant appealed against the decision of the Respondent fixing the rateable valuation of the above mentioned hereditaments at £230.00.

The hereditament in question is a hotel known as O'Shea's Hotel. It is a grade C hotel situated in West Strand Street, Tramore, Co Waterford. The main building, which is in excess of 150 years old, is of rendered rubble masonry construction with part solid and part suspended floors, together with a pitched slated roof. It has 12 guest bedrooms, 8 en-suite.

Valuation history

No 15 and 16 Strand Street was first valued as the Railway Hotel in 1926 revision at £45. In the 1949 revision following the granting of a licence the valuation was revised to £80. In the 1972 revision following extension and alterations the valuation was increased to £115 - subsequently reduced to £120 on 1972 Circuit Court settlement. In the 1974 revision following the erection of a function room the R.V. was increased to £180 -subsequently reduced to £175 on 1974 first appeal. In the 1988 revision following a request from the agents to "revise with a view to reducing valuation - commercial content reduced" the valuation was increased from £175 to £320. The appellant appealed the increase in valuation to the Commissioner of Valuation. Mr Oakes was deputed to inspect the premises and report. Having considered his report the Commissioner reduced the valuation to £230.

In a written submission received in the Tribunal on the 22nd June, 1990, Messrs Donal O'Buachalla & Co Ltd, Valuers, Rating and Property Consultants, Estate Agents and Auctioneers, on behalf of the appellant gave a synopsis of the appellant's case. Mr Malachy Oakes a valuer with 16 years experience in the Valuation Office presented a written submission on behalf of the respondent which was also received by the Tribunal on the 22nd June, 1990.

The oral hearing took place in the Courthouse, Waterford on the 26th June, 1990. Mr Jack Devlin, a Chartered Surveyor employed by Messrs Donal O'Buachalla & Co Ltd appeared on behalf of the appellant and Mr Oakes appeared on behalf of the respondent.

In opening, Mr Devlin said that the Tribunal should have regard to section 11 of the Valuation (Ireland) Act, 1852 and to section 5 of the Valuation Act, 1986. He further said that note should be taken of the judgment of Barron J. in the Rosses Point case (High Court 1986 No. 603 SS) which decision referred to the profit earning ability of an entity as being a determining factor in arriving at net annual value. Mr Devlin said that his estimate of the open market value of the premises was £225,000. Mr Devlin indicated that there was agreement between the parties on the size of the premises in square metres and that the percentage point of 0.5% of net annual value was also agreed as the percentage to yield the rateable valuation. He indicated that the rateable valuation of £175 was fixed in 1974 and that the premises had not materially changed since that date. Profit earning ability has been greatly reduced. Mr Devlin indicated that a sum of £125 would be more equitable. He said that £25,000 was the maximum sum a tenant could be expected to pay for the subject property.

Mr Robert Power, an accountant, gave evidence on behalf of the appellant. He said that he had prepared accounts for the two year period up to September 1985 and for the two year period up to September 1987. He also said that, while working with another firm of Accountants, he prepared accounts for the period up to 1983. He produced the accounts in question and copies thereof appear in the submission above referred to. Mr Power indicated that the results show that the business declined substantially over the period in question. He emphasised that it was a seasonal business in that most of the hotel's business was "bunched into" the months of June, July and August. At appendix C of the said submission occupancy rates were produced for the period June 1988 to May 1989 and the same show that in only two months of the year, namely July and August did occupancy exceed 50%. In January the same was as low as 2.5%. Mr Power said that the accounts produced were agreed with the Inspector of Taxes. He expressed a view that a problem with the business was not due to management but was due to the seasonality of the business and increased competition in the area.

Under cross-examination Mr Power did not accept that the figures given for bank interest and charges, motor expenses, hire purchase, leasing and rental, depreciation, travel and accommodation, loan interest or loss on disposal of fixed assets were items not proper for inclusion under the heading "Overhead Expenses".

Re-examined, Mr Power again said that the hotel is being managed very tightly and that the big problem to the business is competition and the three month season. An estimate to show that repairs to the flat roof will cost some £9,000 was produced.

Mr Power stressed that, while the gross profit has shown to have increased, the net profit has shown substantial reverse.

The appellant, Mr Joseph O'Shea, said in evidence that there has been no change or extension to the premises since the valuation of £175 was first fixed. He purchased the premises in 1968 when they were in a very run down condition and he built up the business. He laid emphasis on the fact that the licence/driving laws are now being much more vigorously enforced and that people were disinclined to drive out from the centre of population in Waterford to premises such as his.

Under cross-examination Mr O'Shea said that the eight en-suite bedrooms were built in the last three to four years. The dining room was not extended but was made more modern. At this stage, in answer to Mr Oakes, Mr Power indicated that the approximate cost of the bedroom refurbishment was £2,000 per bedroom. He could not give a cost in respect of the dining room refurbishment.

In answer to questions from Mr Oakes, Mr Devlin accepted that the loss situation had improved substantially but emphasised that there was still a loss. He accepted that gross profit had

increased by some 10% and he produced a manuscript accounting exercise by which some of the disputed overheads were removed and still came to a net annual value of some £23,000. He accepted the accounts that he produced would show a profit situation for a hypothetical tenant.

Mr Oakes in evidence referred to his written submission and said that insofar as the accounts are concerned gross profit is the criterion which established whether a hotel is profitable. In 1983 there was a gross profit of 30%; in 1987 the gross profit was 40%. These figures show that profitability was going up. He said that working from these figures he adjusted the net profit. He emphasised that improvements had been made, in particular the bedrooms had been upgraded. Mr Oakes expressed the view that the value of the premises was approximately £370,000.

Both parties produced similar comparisons and the same appear with their written submissions.

Determination

Even taking into account the dispute on the figures it appears therefrom that a hypothetical tenant could not be expected to pay more than £25,000 per annum for these premises. The Tribunal has, however, taken into consideration, on the one hand, the fact that there has been a falling off in this type of hotel business in recent years, that there has been increasing competition from neighbouring businesses and, on the other hand, the fact that substantial improvements had been made to the premises since that sum of £175 has been fixed. In all these circumstances the Tribunal finds that the original valuation of £175 should not be interfered with and, accordingly, fixes the rateable valuation thereat.