

Appeal No: VA19/5/1054

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Roganstown Hotel & Country Golf Club

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 359211, Hotel at Naul Road (Swords), Dublin, County Dublin.**

B E F O R E

Barry Smyth - FRICS, FSCSI, MCI Arb

Deputy Chairperson

Barra McCabe - BL, MRICS, MSCSI

Member

Raymond J. Finlay - FIPAV, MMIL, ACI Arb, TRV, MCEPI, PC Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF MARCH, 2024**

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th day of October, 2019 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 €414,000, which was subsequently increased to a sum of €449,900 in the Respondent’s précis of evidence.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *"It does not achieve correctness of value, more particularly, as based on my receipts and expenditure valuation approach and calculation, previously provided to the Valuation Office, through the representation state, I believe a lower valuation as set out herein is more representative of a reasonable Net Annual Value in accordance with section 48 of the act and a shortened basis of valuation is not appropriate in this case. Furthermore, I do not believe equity and uniformity of value have been achieved between comparable properties as I believe the subject property has unique considerations which differentiate it from similarly categorised*

properties in the list as this is a restored period country house set on 300 acres of grounds, which requires considerable upkeep and maintenance compared to modern hotels of equivalent bed numbers and a significant portion of the income is derived from low margin labour intensive areas of hospitality including leisure, spa and golf."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of **€100,000** on Notice of Appeal, which was increased to a sum of **€263,000** in the Appellant's précis of evidence, and further increased again to a sum of **€270,000** in a second précis of evidence submitted by the Appellant.

2. REVALUATION HISTORY

2.1 On the 29th day of March, 2019 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 €414,000.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €414,000.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September, 2017.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 30th day of June, 2022. At the hearing, the Appellant was represented by Ms Siobhan Murphy MSCSI MRICS IRRV (Hons), of Avison Young and the Respondent was represented by Mr Dean Robinson MSCSI, MRICS, ACCA Dip, RICS Dip Rating, 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 their respective précis as evidence-in-chief in addition to giving oral evidence.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 Located adjacent to Swords Open Golf Course about five kilometres west of Swords, ten kilometres east of Ashbourne and eight kilometres northwest of Dublin Airport, the subject property is situated off the R108 regional road leading to Ballyboughal village to the north and the R125 leading to Swords. This is a four star country house hotel incorporating a former period dwelling known as Roganstown House, which was added to substantially in 2004. The current bedroom accommodation comprises fifty-two ensuite bedrooms over two floors with restaurant, bar, conference/function rooms, meeting rooms, resident's lounge and reception area. The leisure offer comprises a spa reception, seventeen metre swimming pool, sauna, steam room, jacuzzi, gym, hair salon and spa area with six treatment rooms. There is also a 155 acre, eighteen hole golf course with golf pro shop, golf members bar and golf changing rooms. The property extends to 6,170 m² with 235 surface car park spaces adjoining the hotel.

4.3 The current owners brought the property in 2004, which is currently held under a long leasehold between related parties, Joseph and Denis McGloughlin (Landlord) and Nethercross Limited (Tenant) for a term of 99 years and 3 months from 16th March 2004. It was agreed between the parties therefore that this lease had no bearing on the NAV of the subject property.

4.4 There was initially some dispute in relation to the treatment of income from the golf club element of the overall property but it was agreed that the golf club element of the receipts would be excluded from the calculations and the golf club buildings would be valued on the comparative basis at an agreed figure of €26,000.

5. ISSUES

5.1 The primary issue that arises in this Appeal is the quantum of value.

6. RELEVANT STATUTORY PROVISIONS:

6.1 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.”

6.2 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.”

7. APPELLANT’S CASE

7.1 After adopting her précis dated 26th April 2022 (the “First Précis”) and her supplemental précis dated 12th May 2022 (the “Second Précis”), putting the contents of both documents into evidence, Ms Murphy made a number of submissions in relation to the operation of Roganstown Golf Course, Swords Open Golf Course, and the effect of these on the valuation method of the subject property. These courses are operated by separate companies but have common directors from the McGuinness / McLoughlin family. While both golf clubs keep separate golf memberships and green fees, it was decided in 2016 to close the Swords Open Golf Course clubhouse and permit all members of that club to use the club facilities including changing rooms, pro shop and other facilities in Roganstown Hotel and Country Club from that point onwards. Ms Murphy also identified a number of outhouses and other structures that had shared use between the golf courses including for storage of machinery and to accommodate shelter for users of the driving range and an external WC block. Ms Murphy submitted that all revenue and expenses associated with the operation of the golf course should be excluded from the valuation of the subject property as it is exempt under the definition of land developed for sport, but she did accept that any buildings or structures associated with the golf course are relevant rateable property.

Ms Murphy proposed a NAV for the subject property of €270,000 based on the average of two different valuation methods. The first valuation was based on the Appellant's Receipts and Expenditure ("R&E") calculation with the Landlord's share or NAV based on a 50% share of the Divisible Balance using the 2017 income and expenditure figures for the subject property, after which the Appellant added in an additional NAV for the golf changing rooms, pro shop, maintenance shed and driving range and other buildings, based on comparative rental value for the relevant floor area of those parts of the subject property. This gave rise to a valuation of €111,465. The second valuation was based on the Fair Maintainable Trade (FMT) method adopted by the Respondent under the general scheme of valuation for hotels applied in Fingal Local Authority area, but using different FMT figures to that of the Respondent and with the addition of the golf buildings as before. This gave rise to a valuation of €423,500. Ms Murphy then proceeded to add these valuation figures together and divided them by two to find the average figure. She then rounded the average figure up to €270,000.

7.2 In her First Précis, Ms Murphy submitted that the "shortened method" or the "Fair Maintainable Trade" (FMT) method of valuation, which the Respondent applied as a general scheme of valuation to value all hotels in Fingal County Council, was not reasonable in the context of the NAV outcome based on her full R&E calculation of the 2017 income and expenditure accounts for the subject property. Ms Murphy believes that this full R&E calculation should be considered by the Tribunal in conjunction with uniformity of approach as envisaged under section 19(5)(b) of the Valuation Act 2001 (the "2001 Act") as amended by the Valuation (Amendment) Act 2015 (the "2015 Act"). In her final analysis, Ms Murphy contended that for a number of different reasons, that the best way to achieve both "*correctness of value*" and "*equity and uniformity*" between properties on the list was to apply an adjustment (or discount) to the FMT method of valuation. Based on the foregoing, the Appellant applied a 35% 'End Allowance' to an FMT calculation based on different FMT figures to that of the Respondent's FMT calculation.

7.3 Under cross examination by Mr Robinson, Ms Murphy said that she did not believe the FMT method of valuation adopted by the Respondent should be applied to the subject property as it does not give a fair figure and is not equitable as the result is disproportionate. She said that the correct way to value the subject property pursuant to section 48 of the Act, was to first look at her R&E calculation based on the income and expenditure accounts for 2017.

Thereafter, in order to fulfil the requirements of section 19(5) of the Act, the Valuer needs to stand back and consider whether equity and uniformity has been achieved by the Valuer.

Mr Robinson raised the issue of a third company in addition to 'Nethercross Ltd' and 'Swords Open Golf Course Limited,' which was called 'Roganstown Golf and Country Club Public Limited Company' (the "Third Company"). Ms Murphy informed the Tribunal that the Third Company was a non-trading company with no income and expenditure passing through it. She said the accounts for the Third Company were not provided because the Respondent never requested this information pursuant to section 45 of the Act.

When put to Ms. Murphy that while the Appellant valued the golf element in the Second Précis at €26,000, the overall valuation was only increased from €263,000 to €270,000, she replied that the golf club element was already absorbed in her initial valuation of €263,000 but that she had added an additional €7,000 to her valuation. She acknowledged the Respondent's definition of a "relevant property" was correct.

In relation to the difference in "Drink Sales" FMT figures between the First Précis and the Second Précis, Ms Murphy said this was only marginally adjusted and the Appellant was running with a different figure based on the financial accounts. She said the end allowance or discount of 35% applied to the FMT valuation in the First Précis was not included in the Second Précis because her estimate of NAV of €270,000 was the opinion of value based on an average figure of her own R&E calculation of €111,465 and the FMT calculation with adjusted income figures of €435,500.

Ms Murphy said that she had provided no comparable valuations or properties because there were only NAV comparables available. It was difficult to compare the subject property with NAV's of other hotels when the Appellant did not agree with the FMT method of valuation of the Respondent and when she had no access to relevant information on the comparables. Notwithstanding the foregoing, Ms Murphy did say she was happy to adopt the Respondent's NAV comparables.

In response to Mr Robinson's question, she said she did not adopt the 'Contractors Method' of valuation over the R&E method because the Contractors Method is perceived to be the last method of valuation a valuer should employ to value commercial property. Ms Murphy did not agree that the FMT method was a starting point for the valuation of the subject property nor with the percentages applied by the Respondent and noted that she had presented different percentages at representations stage. She could agree on the income and expenditure figures and the relevant rateable buildings including the golf club building. She came to her valuation figure of €270,000 by taking a 'stand back and look approach', and considering what is fair

valuation for the NAV in the context of section 19(5) of the Act and in the context of the turnover being achieved by the operators of the subject property. When put to her that it was still not clear to the Respondent how section 19(5) applies when no comparables were provided by the Appellant and when they also decided to longer apply an 'end allowance' in the Second Précis, in contrast to the First Précis, Ms Murphy responded that her valuation was a combination of the FMT method and the 'stand back and look approach'. She said that she disagreed with the FMT method as it was too broad a method of valuation. She did not agree with the blanket FMT method of valuing hotels adopted by the Respondent because the Respondent reported that less than 60% of properties provide business accounts to them upon request. She therefore questioned the analysis of the R&E valuations that gave rise to the FMT percentages. The Appellant was not willing to go through the percentages because she did not value the property like that, providing by way of example how a leisure centre is valued.

She acknowledged that the 2017 audited accounts were not uploaded following the Respondent's section 45 request, but that they were provided at representation stage. In respect of the unaudited R&E figures provided at pages 17 to 19 of the Appellant's First Précis, and pages 28 to 29 of the Appellant's Second Précis, which are available at Appendix 1 of this judgment (N/A to public), Mr Robinson pointed out that the Respondent had no reason to believe these figures nor was there any way to assess or verify them. Ms Murphy said she was trusting the figures provided by her client, one of the principals of whom gave oral testimony at the appeal hearing. When asked why 'Directors Remuneration' had not been included in the 2017 figures provide at Representation stage, she said these figures were excluded because at that stage the Appellant did not have that particular information. Mr Robinson then raised a number of queries in respect of the R&E figures provided by the Appellant. Ms Murphy said there were two amounts in the financial accounts for Director's wages and a separate figure for Director's remuneration. She said that depreciation related to both the freehold property and fixtures and fittings. The line item entitled "Fixtures and Fittings" in the R&E calculation included the reception desk, carpets, and soft furnishings, and that one of the Directors, Mr Ian McGuinness would provide further testimony on this at the hearing. Ms Murphy acknowledged that the percentage applied to the 'Tenant's Share' of the divisible balance in the R&E valuation was increased from 40% at Representation stage to 50% on appeal and this was in line with Tribunal judgments and common practice and was appropriate in relation to the risk.

When put to Ms Murphy that the only piece of evidence put before the Tribunal by the Appellant was the R&E calculation, her response was that both the Appellant's opinion of

NAV at €270,000 and the Respondent's FMT valuation were before the Tribunal. Ms Murphy accepted that her opinion of NAV was a lower percentage of hotel turnover than that of the Respondent's, This she said, arose because the NAV comparisons are based on the FMT valuation method with which she does not agree. Ms Murphy also did not agree with the various percentages applied to the turnover of different specified parts of the Appellant's business at the subject property. She was however happy to adopt the Respondent's NAV per bed space.

Following a number of questions from the Chair of the Division, the Tribunal was informed that the buildings located at Swords Open Golf Club were accounted for and that the former club house, which has been unused since 2016, was still in situ. Ms Murphy was unable to explain what the 'Sundry Income' line item in the FMT valuation referred to, but explained that this was in fact the Respondent's valuation and not that of the Appellant.

7.4 Mr Ian McGuinness, Managing Director of Roganstown Hotel & Country Club, after affirming his evidence was true, gave oral testimony to the Tribunal. Mr McGuinness informed the Tribunal that he ran Roganstown Hotel & Country Club and that his brother was Head Greenkeeper at Swords Open Golf Club. He said there was no Director's remuneration as such. The cost of running the business had risen and was quite high. They struggled to get staff as there was no bus service in the area. Management consultants, the Prem Group took over day to day management of the hotel in 2018 and 2019 and charged a management fee to do so, which was reflected in the business accounts. The Prem Group terminated their management of Roganstown Hotel & Country Club on an amicable basis, thereafter, citing the limited number of hotel bedrooms and recommended that a further sixty rooms be added to the existing fifty-two bedrooms. Mr McGuinness said there was no passing trade and no scale to the hotel.

When asked would he accept €414,000, which is the proposed NAV on the list, as annual rent for the subject property, Mr McGuinness confirmed that he would definitely accept that level of rent for the subject property. Under cross examination, Mr McGuinness said that nobody asked him to sign a Valuation Tribunal Declaration in relation to the Valuation Tribunal's Guidelines and Rules. He confirmed that the management changes were not in place in 2017 and as such the Prem Group had not taken over management of the hotel for that trading year. Mr McGuinness also stated that no profit goes back to the Directors, but that Directors remuneration did not decrease in 2018 and 2019 when the Prem Group were running Roganstown Hotel & Country Club. Finally, Mr McGuinness confirmed that the figure

provided for the administration of the golf course, was based on his own estimate for the purpose of the Valuation Tribunal appeal.

7.5 In her summary, Ms Murphy said that the Appellant contends for an average of the Appellant's R&E calculation and the Respondent's FMT calculation with adjusted income figures. She said solely applying the FMT calculation of the Respondent was penal, resulting in a NAV that far exceeds the previous valuation. In addition, she clearly highlighted the extraction of the golf club revenue from the calculations.

8. RESPONDENT'S CASE

8.1 Mr Robinson adopted his précis putting the contents of same before the Tribunal as evidence in chief. He reminded the Tribunal that this was a Revaluation and not a Revision under the Act, and that this had implications for the Appellant in regard to the type of evidence that the Tribunal could take into account when making its decision but did not identify what this was.

It was Mr Robinson's submission that contrary to the Appellant's view, the Revaluation undertaken by the Respondent did in fact meet the provisions set out in section 19(5) of the Act with respect to correctness, uniformity, and equity. He said that the end allowance or discount that the Appellant applied to the FMT valuation in the Appellant's First Précis goes against the essence of section 19(5) with respect to uniformity, equity and correctness and there is no evidence to support this. There was also no basis for the Appellants approach of splitting the difference between a R&E valuation and a FMT valuation.

He said that there are two components of a FMT valuation (i) the estimate of FMT for each income stream based on anticipated profits and (ii) the application of a percentage rate to each stream. Mr Robinson contended for a higher valuation of the subject property than on the list, which had been calculated without the benefit of the 2017 accounts, based on the Respondent's revised FMT calculation utilising anticipated income and the general scheme of valuation adopted by the Respondent with the addition of the golf club buildings as agreed at €25,967 and asked the Tribunal to affirm a valuation of €449,900. Mr Robinson's valuation is set out in the appendices section (N/A to public).

8.2 Under cross examination by Ms Murphy, Mr Robinson said that he inspected the property on 10 May 2022, subsequent to receiving the Appellant's précis and that it was appropriate to inspect all properties on the list. The Respondent had inspection notes in file, taken by Mr Liam

Cahill of the (then) Valuation Office going back to 2007. He also confirmed that there were no key rental transactions and that possibly only 50% of hotels had provided the required financial information.

Mr Robinson explained that the Respondent's valuation had not been increased at Representation stage but was subsequently increased at Tribunal stage owing to the receipt of 2017 accounts and the valuation of the golf club buildings.

He said that in terms of priority, the provisions in the Valuation Act were more important than Guidance Notes. He said that the valuation of every property was not going to increase by 20% and that is the reason that the Respondent seeks financial accounts. In directing the Tribunal to page 39 of his précis for detailed explanation and reasons why, Mr Robinson said that the R&E calculation adopted by the Appellant was wholly inadequate for the purpose of valuing the subject property. Additional reasons were provided including the different sets of accounts for Nethercross Ltd, Swords Open Golf Course Limited and potentially the third Company, Roganstown Golf and Country Club Public Limited Company. There were also more than one "relevant property" as defined in the Act, and there was income associated with a non-relevant property, which further confused matters. He contended that a Valuer could not value a relevant property using multiple sets of financial accounts across multiple properties. When asked why the Respondent did not undertake an R&E calculation on the subject property, he replied that it was for the aforementioned reasons that the Respondent was unable to do so, even if it wanted to undertake such a calculation.

Ms Murphy put it to Mr Robinson that there was considerable case law on the 'stand back and look approach' and that there were mistakes and flaws in the Respondent's FMT valuation, to which he responded that the general scheme of valuation met the requirements of section 19(5) of the Act with respect to equity, uniformity and correctness. He said the financial accounts for the subject property showed that there was year on year growth of 5% per annum and the Respondent did not accept that the Director's only sole source of remuneration from the business was that contained under the 'Wages' line item in the accounts. In respect of the difference between the FMT method and the R&E method, Mr Robinson said that the net profit figure is not used in preference to the gross profit figure. When questioned about the Respondent's NAV comparables, a table of which can be seen at Appendix 2 (N/A to public), he acknowledged that while comparison no.2 was closest to the subject property geographically that no financial accounts were provided for this property and that it was subject to an appeal to the Valuation Tribunal.

He accepted that anticipated income could remain steady but not where the annual accounts showed annual percentage increases. He said that the financial accounts for 2015 to 2017 showed 10% growth but he had allowed 5%. The FMT is based on financial accounts and that is why they should be used uniformly.

He said that any limitations of a property can be reflected by changing the percentage applied to the FMT if there is evidence provided.

In relation to capital figures in Mr Robinson's précis Ms Murphy pointed out that the property had never been sold and that the figures related to a refinancing arrangement and capital expenditure.

8.3 In response to questions from the Chair, Mr Robinson said that the Respondent has received eight or nine sets of accounts out of a total of twenty-six relevant properties. He said that the percentages applied by the Respondent in the FMT calculation was derived from the knowledge and experience of the Respondent and their valuation opinion, and that the same percentages were applied to all types of comparable properties in that category.

8.4 In his summary Mr Robinson said that there were two issues 1) whether or not to utilise anticipated profits and 2) does the Act in Section 19(5) preclude the concept of "stand back and look".

It was good valuation practice to include the anticipated income of a business, something that as referenced in his précis. He said the Appellant had had three opportunities, at Representation stage, First Précis and Second Précis to provide comparable evidence, but had failed to do so. The Appellant also failed to provide the full 2017 financial accounts for the subject property when requested to do so by the Respondent. Mr Robinson submitted that the Appellant had not established the relevant property and did not present all the relevant sets of financial accounts. In addition, he said that there was no commentary provided on the Appellant's own R&E calculation. He said there were technical shortcomings in the Appellant's figures and gave a number of examples of this including not deducting Director's remuneration, nor providing any explanation for the tenants share of the profits in the Appellants R&E calculation and finally, the averaging of the Appellant's R&E calculation and the Respondent's FMT calculation with amended income figures. Mr Robinson said that in accounting terms, EBITDA had never been employed before when valuing a property such as the subject property. This was evidenced by the difference between the Respondent's ratio of NAV to

turnover, and the Appellants NAV to turnover. Finally, Mr Robinson asked that the Tribunal dismiss the appeal and affirm the Respondents valuation of the subject property at €449,900.

9. SUBMISSIONS

9.1 There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 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 Fingal County Council.

10.2 In considering what the Fair Maintainable Trade may be, and what factors affect it, consideration has to be given to more than just the turnover, and judgement has to be made as to whether a premises is under or over trading and what level of Fair Maintainable Trade the reasonably competent operator or Hypothetical Tenant could achieve or maintain. There is also the question of equity and fairness between rate payers and it must be borne in mind that what is being valued is the building and not the business.

10.3 The Tribunal finds in the first instance that both parties agree that appropriate method of valuation for the golf buildings, to include pro shop, changing rooms, outdoor toilet block, maintenance shed and driving range shed, is the comparative method of valuation, wherein both parties derived a value of approximately €26,000.

10.4 It is noted that the Appellant questioned the analysis of R&E valuations of hotels in the rating authority area as the basis for the FMT approach in view of the small percentage of returns of accounting information and the total lack of key rental transactions. While initially rejecting the percentages applied by the Respondent, the Appellant proceeded to use the same percentage figures in her own FMT valuation. As such the Tribunal finds that the percentages applied by the Respondent were in fact accepted by both parties.

In respect of the discount or 'end allowance' of 35% contended for by the Appellant in its First Précis, the Tribunal understands that the Appellant decided not contend for this end allowance in its Second Précis and instead opted for a blended method of valuation, derived from the average of the Appellant's own R&E calculation and the Respondent's FMT

calculation, with unexplained adjustments made by the Appellant to the various income streams therein, based solely on the 2017 financial year.

10.5 In regard to the Appellant's R&E calculation, the Tribunal finds there are some weaknesses with this in circumstances where no commentary was provided with an explanation of how the Appellant came to the conclusions it did, and no comparables were offered as evidence that the Appellants R&D calculation was sound in respect of the NAV of other hotels operating in Fingal. The Tribunal accepts the serious limitations of analysing the NAV of other hotels where the figures used in their FMT calculations are only available to the Respondent, and not to the Appellant. As a result, the provision of NAV comparisons under these circumstances is somewhat futile and only allows for an analysis based on the number of hotel rooms which may not reflect the source of value of the property. While it does appear that the Respondent's scheme of valuation is based on relatively limited evidence with regard the number of section 45 requests made and the number of financial accounts actually received, the Tribunal, when considering an appeal of a revaluation and notwithstanding the proximity of hotels in County Meath, cannot consider this as evidence for reducing the NAV of the subject property in line with an entirely different rating authority. Neither is the Tribunal able to consider the annual report of 'Crowe' on the hotel sector as an appropriate primary source of comparable evidence by which to reduce the proposed NAV of the subject property. In respect of the Appellant relying solely on the 2017 financial accounts for the subject property, the Tribunal finds that from the accounts provided, the turnover and gross profit of the business increased from 2015 up to 2019. It is the view of the Tribunal that the Appellant should have relied on three years accounts with the customary practice being to use the year before the year of the valuation date, the year of the valuation date and the year after the valuation date, which would be 2016, 2017 and 2018 for the purposes of this valuation. The Tribunal also finds that the Appellant put forward no reasons for taking the average two valuation methods in order to derive the Appellants contended for valuation of the subject property.

10.6 The emerging tone of the list / NAV comparisons provided by the Respondent included five hotels and two golf clubs. Comparison no.2 is discounted for the purposes of this appeal because it is the subject of an appeal itself. In the view of the Tribunal, Comparison No.5 in Portmarnock provides some evidence of a basis for valuing the subject property. While it is acknowledged that comparison number 5 is not situated in a rural location, it is fifteen kilometres from Dublin city centre, located next to a links golf course that operates entirely

separately, with a similar number of bedrooms to the subject property, but does also benefit from a night club to the rear. It is also holds one star less than the subject property with a three star grading and the occupiers did provide financial information for the years 2014 to 2017 albeit not available to the Appellant or the Tribunal. The NAV of comparison no.5 is higher than that of the subject property with a similar NAV percentage of turnover and NAV per bedroom. The other comparisons had a greater combination of differences be it location, number of rooms, type of hotel or the nature of the offer. They did however illustrate to the Tribunal that the valuation of the subject property was within the range of other hotels located within Fingal County Council area. In the absence of any significant challenge to the NAV comparisons provided by the Respondent or the provision of alternative comparisons by the Appellant, the Tribunal has no alternative, but to accept these comparisons as evidence that the subject property falls within the parameters of the scheme of valuation and is not an outlier nor has been unduly penalised because of the performance of the Appellants in running the business. The Respondent also provided a schedule of hotels in Fingal based on NAV as a percentage of Receipts available at Appendix 3 (N/A to public), which demonstrates that the NAV as a percentage of Receipts of the subject property is within the parameters of the general scheme of valuation.

This Tribunal is conscious of not straying from an established method of valuation without exceptionally good reason and does not propose to affirm a new valuation method based on an average calculation of two other valuation methods, especially where insufficient explanation of the figures and no market evidence or alternative emerging tone of the list comparisons were provided. The burden of proof lies with the Appellant and in the absence of a considered alternative valuation containing detailed explanation and logical reasoning, the Tribunal has no choice but to proceed with the FMT method of valuation. The Tribunal, based on its own analysis of three years financial accounts for the subject property from 2016 to 2018, and the strictures of section 19(5)(b) of the Act, concludes that while the percentages applied in the FMT valuation could not be amended as no evidence of alternative percentages was put forward, there is scope to vary the estimate of FMT a hypothetical tenant would consider achievable.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal, but increases the valuation of the Property to €420,000 as set out at Appendix 4 (N/A to public).

And the Tribunal so determines.

RIGHT OF APPEAL

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal's determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.