

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr DK Thomas

Appellant's Address: Llain Holiday Centre, New Quay SA47 0PZ

Appeal number: 682029103480/192NV17/9

The Matter Appealed against: 2017 Rating List

Date of Hearing: Friday 30th November 2018

Appearances: Miss D Thomas (for the appellant) & Ms V Crisp (for the respondent Valuation Officer)

Date of Decision: 19th December 2018

Decision of Tribunal: Appeal Dismissed

Members of the Tribunal: Mr TW Jones (Chairman), Mrs JM Jones & Mr WG Lewis

Tribunal Clerk: Mr G Harris

Introduction:

1. Mr Thomas made a proposal to alter an entry in the 2017 Rating List on 19th May 2017, in which he sought a reduction in the Rateable Value (RV) in respect of Llain Holiday Centre, Llanarth from an amount of £12,000 to £8,250 with effect from 1st April 2017, on the following grounds –

The business turnover has decreased since 2010 not increased no justification for a 45% increase not sustainable by the business also reduction in capacity.

2. This is a summary of the case and is not intended to be an exhaustive record of the proceedings. However, the parties can be assured that all the evidence was fully considered by the tribunal when it arrived at its decision. Consequently, the absence of reference to any statement, or evidence, should not be construed as being overlooked.

Summary of the Case

3. Mr Thomas was unable to attend the hearing due to illness and was represented by his daughter Miss D Thomas. She explained that her family ran a multi activity centre mainly for school children open between April and October with approximately 20 staff members. It consisted of a small bunkhouse and chalets with climbing towers, an assault course and a pool which had been destroyed by storms the previous winter.

4. As a business they had not expected a 45% increase in their RV. They had paid the demand notice for 2017/18 however could not afford to pay the 2018/19 demand. Miss Thomas explained that they were not the type of people not to pay and had sought advice from the VOA, although they had been difficult to contact, the Billing Authority and had also written to their local Assembly Member and Member of Parliament. They had been advised to apply for a hardship grant but considered this to be a temporary fix.
5. Miss Thomas explained that she had been advised by the VOA that her RV was based on the businesses' Fair Maintainable Trade (FMT) however contended that her turnover had dropped significantly since 2010. Capacity had been reduced during 2015 and they had since closed the business and placed it on the market during 2016, it being currently under offer. Her father had suffered a heart attack and the system did not take into account personal circumstances. The family had run the business for 27 years and the new rates amounted to 10% of her turnover.
6. Ms Crisp introduced her credentials as a representative of the Valuation Officer and presented the Tribunal with a background to the appeal. The hereditament comprised a 3 bedroom wooden chalet lodge, seven 2 bedroom cabins, three 2 bed glamping huts, a camping and caravan site for 5 vans with associated shower and toilet block. In addition there was a restaurant, a 200m² indoor activity barn, a covered swimming pool and equipment sheds. Activities provided included an assault course, climbing tower, high ropes, zip wire and kayaking. Ms Crisp provided the Tribunal with maps of its location together with external photographs.
7. Ms Crisp explained that the RV of a non-domestic hereditament was defined under Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988, as amended by the Rating (Valuation) Act 1999, as –

2(1) The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from non-domestic rating] shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions-

 - (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;*
 - (b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;*
 - (c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.*
8. Ms Crisp explained that the method of valuation used for properties such as holiday centres was a receipts based method where the Fair

Maintainable Turnover (FMT) was established. The FMT adopted should represent the annual trade considered to be maintainable at the Antecedent Valuation Date (AVD), 1st April 2015 having regard to the physical nature of the property and its location as at 1st April 2017 when the new rating list came into force, on the assumption that the enterprise will be carried out by a 'reasonably efficient operator' responding to normal trading practices and competition in the locality.

9. Holiday centres were valued on a % of receipts, the rental bid, which was applied to the FMT. The valuation of Llain Holiday Centre was based on accounts provided to the VOA prior to 1st April 2017 and more recently Miss Thomas had provided accounts for the year ending 31st May 2015. The turnover for 2012-2015 was summarised in the following table -

Turnover year ending 31st May	2012	2013	2014	2015
Letting income	203,808	148,377	134,063	106,052
Tuck Shop	5,459	3,524	2,991	2,488
Total income	209,267	151,901	137,054	108,540

10. In light of these figures Ms Crisp's valuation was as follows –

Fair Maintainable Turnover £120,000 @ 10% = £12,000

11. Ms Crisp contended that given the nature of the appeal property the current RV of £12,000, based on a FMT of £120,000 at the AVD, was not unreasonable and requested that the tribunal dismiss the appeal.

The Reasons for Decision

12. Having considered all the evidence placed before it the tribunal decided as follows: -
13. In his proposal Mr Thomas had contended that the Rating List was inaccurate and his RV should be reduced to £8,250. In cases such as this higher court authorities had accepted the burden of proof rested with the appellant on the basis that 'he who asserts must prove'. Moreover, it was an accepted tenet of law that any assertions made before a Tribunal should be underpinned by evidence. Therefore, in the case under consideration the persuasive burden of proof rested with the appellant ratepayer and not the respondent Valuation Officer by virtue of a statutory duty to prepare and alter the Rating List.

14. The Tribunal empathised with Miss Thomas, however was of the opinion that she had not been able to sustain her contention that the assessment was incorrect and had not provided any evidence to undermine the Valuation Officer's valuation of the property.
15. The Tribunal considered that the Valuation Officers adopted FMT of £120,000 was not unreasonable and that the resulting RV £12,000 was fair. With this in mind the Tribunal dismissed the appeal.

Certified a true copy on 19th December 2018