

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

**Campbell Catering Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the issue of Quantum of Valuation in respect of:**

Property No. 858890, Retail (Shops), at Waterford Regional Hospital (Oasis Café), Ardkeen, Dunmore Road, Waterford City, County Waterford.

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 28<sup>TH</sup> DAY OF JULY, 2015**

BEFORE:

**Barry Smyth – FRICS, FSCSI, MCI Arb**

**Deputy Chairperson**

**Mairead Hughes – Hotelier**

**Member**

**Michael Connellean Jr. – Solicitor**

**Member**

By Notice of Appeal received on the 2<sup>nd</sup> day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €126,500 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

*“The valuation is incorrect on the basis that it is unfair, inequitable, excessive and has not properly taken into account tone of the list evidence for the subject property & the impact of the increase of rates payable”.*

*"[n]ot in compliance with tone of the list for the subject property. The Rates factor is excessive – the Proposed Valuation would result in an excessive increase in rates payable from 2013 to 2014. The location is isolated and patrons are restricted to Hospital staff and visitors, The [sic] valuation is excessive in when [sic] compared to both tone and market values at other similar units in the adjoin [sic] shopping centres, city colleges and City of Waterford area. Also the valuation has not differentiated between uses (valuing each at the same value psm).”*

The Tribunal notes that the net annual value contended for by the Respondent at Tribunal appeal stage had reduced to €108,000 following a reduction in floor areas agreed between the parties prior to the hearing of the appeal and as stated in the Respondent's written evidence.

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence adduced before us Mr Ernan Coughlan of Aramark Property for the Appellant and by Ms Triona McPartlan of the Valuation Office for the Respondent, on the 23<sup>rd</sup> day of February, 2015,

### **DETERMINES**

That the NAV be affirmed at €108,000.

The reasons being as follows:

1. There is a three year Licence in place from 1<sup>st</sup> October 2012 with a licence fee payable.
2. While acknowledging the difference between a Licence and a Lease and a Licence fee and rent under the terms of a lease there are many similarities in this instance that lead the Tribunal to the view that the Licence fee is closely equivalent to a gross rent albeit that it includes catering equipment and does not impose the repairing and insurance liabilities as set out in the definition of "net annual value" in section 48(3) of the Valuation Act 2001.
3. The valuation date is 28<sup>th</sup> October 2011 which is 11 months earlier than the Licence fee was agreed.
4. There were no compelling comparisons or evidence that the NAV as entered on the list was incorrect except in relation to floor area which the Respondent's valuer corrected in her précis of evidence.
5. Further evidence that the Tribunal sought from the parties showed that there was no readily established relationship between rent and NAVs in institutional locations such as the subject and neighbouring premises in similar or other uses.
6. In applying a rate of €750 per sq. metre to the agreed floor area to assess the NAV the Commissioner has made a reduction from the licence fee reserved.
7. The floor area agreed at Tribunal appeal stage is less than that entered on the list and the NAV determined above reflects this change.