

Appeal No. VA16/2/011

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Figary Watersports Development Co. Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of in Respect of:

Property No. 2213894, Marina at 4B/1, Figary, Fahan, Inishowen, County Donegal.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF NOVEMBER, 2017**

BEFORE:

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Claire Hogan - BL

Member

Dairine Mac Fadden - Solicitor

Member

1. THE NOTICE OF APPEAL

- 1.1 By Notice of Appeal received on the 8th April 2016, the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €105 on the above described relevant property.
- 1.2 The grounds of appeal are extensively set out in the Notice of Appeal and include the following: *“The Rating Authority has not established any change of circumstances to warrant rating.... “We believe that the premises should be excluded from valuation at*

this point in time... “Amendment of Valuation List in relation to similarly circumstanced property set out the grounds on which the appellant considers that the property in question is not similarly circumstanced”.

2. THE HEARING

The Appeal commenced by way of an oral hearing in the offices of the Valuation Tribunal, 3rd Floor, Holbrook House, Holles Street, Dublin 2 on the 1st day of June 2017. The Appellant was represented by Mr. Mc Daid, its Managing Director. Mr. David Dodd BL (instructed by the Chief State Solicitor) appeared for the Respondent and called Ms Fiona Quinn who is employed in the Valuation Office.

3. THE PROPERTY AND ITS VALUATION HISTORY

- 3.1 The property is a marina situate in Fahan, County Donegal with a container in use as an office and two portaloos with shower facilities. The property is held under a foreshore lease from the Department of Communications, Marine and Natural Resources. It was agreed at the hearing that the top occupancy rates for the berths in the marina would be 168.
- 3.2 The property was valued in 2014 pursuant to a request received from Donegal County Council to the Valuation Office.
- 3.3 On the 14th March 2014 a copy of a Valuation Certificate proposed to be issued in relation to the property was sent to the Appellant indicating the value of the property as €130. Following the making of representations to the valuation manager in the matter, the proposed Valuation Certificate was amended reducing the valuation of the property to €105.
- 3.4 On the 14th November 2014, the Appellant appealed to the Respondent against the determination of value on the grounds that the valuation was incorrect.
- 3.5 On the 14th March 2016, the Respondent decided to disallow the appeal, leaving the net annual value of €105 unchanged on the Valuation Certificate that had issued on the 14th March 2014.
- 3.6 By Notice of Appeal received the 8th April 2016, the Appellant appealed to the Valuation Tribunal against the said decision of the Respondent at first appeal.

4. THE RELEVANT LEGISLATIVE PROVISIONS

In so far as relevant to this appeal, the applicable legislative provisions are as follows:

- 4.1 Schedule 3 of the Valuation Act 2001 (“the Act”) is headed “Relevant Property” and provides at paragraph 1 as follows:

“Property (of whatever estate or tenure) which falls within any of the following categories and complies with the condition referred to in paragraph 2 of this Schedule shall be relevant property for the purposes of this Act”.

Sub-paragraph (d) states “harbours, piers, docks and fixed moorings,”

4.2 Section 3 of the Act defines a “material change of circumstances” as a “change of circumstances which consists of inter alia -

(a) the coming into being of a newly erected or newly constructed relevant property or of a relevant property

4.3 Section 27(2) of the Act provides that “A rating authority may apply in writing to the Commissioner for the appointment by the Commissioner of a person under section 28(3) to exercise the powers under that section in relation to one or more properties situate in the area of that authority and specified in the application”.

4.4 Section 28 of the Act provides that

(4) A revision officer, if he or she considers that a material change of circumstances which has occurred since a valuation under section 19 was last carried out in relation to the rating authority area in which the property concerned is situate or, as the case may be, since the last previous exercise (if any) of the powers under this subsection in relation to the property warrants the doing of such, may, in respect of that property—

(b) if that property does not appear on the said valuation list and it is relevant property (other than relevant property falling within Schedule 4 or to which an order under section 53 relates), do both of the following—

(i) carry out a valuation of that property, and

(ii) include that property on the list together with its value as determined on foot of that valuation.

4.5 Section 49 of the Act provides that:

(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28 (4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

(2) For the purposes of subsection (1), if there are no properties comparable to the first-mentioned property situated in the same rating authority area as it is situated in then—

(b) in case an existing valuation list is in force in relation to that area, the determination referred to in subsection (1) in respect of the first-mentioned property shall be made by the means specified in section 48 (1) and by reference to the net annual values of properties (as determined under the repealed enactments) on 1 November 1988, but the amount estimated by those means to be the property's net annual value shall, in so far as it is reasonably practicable, be adjusted so that the amount determined to be the property's value is the amount that would have been determined to be its value if the determination had been made immediately before the commencement of this Act.

4.6 Section 227 of the Local Government Act, 2001 states:

(1) The maritime boundary of a county, city or town shall on the establishment day by virtue of this subsection be deemed to coincide with the ordinary high water mark for the time being, except where in accordance with section 10(4), such boundary already extends beyond that high water mark.

(2) (a) For the avoidance of doubt and without prejudice to subsection (1) it is hereby declared that all land which is above the ordinary high water mark for the time being and which is formed by reclamation or other construction works or by natural accretion or otherwise shall, notwithstanding the provisions of any other enactment, for all purposes, including all functions conferred on a local authority by this or any other enactment, be included in and form part of the county or city to which it is contiguous or connected or where it adjoins or is connected to more than one such county or city in proportion to the extent of the common boundary and the boundary of that county or city shall stand altered accordingly.

(c) In this section and for purposes of illustration only and without restriction of the definition of land in section 2 as including a structure, land shall be read as including piers, wharves, jetties, breakwaters, walkways, bridges, pylons, tanks or other installations, equipment or apparatus.

(3) Where a local authority becomes aware that land referred to in subsection (2)(a) has by virtue of this section become part of its administrative area, the authority shall notify the Chief Boundary Surveyor of that fact.

5. THE ISSUES

The issues to be determined by this Tribunal are firstly whether the subject property is a relevant property within the meaning of Schedule 3 of the Act, secondly whether the subject property is, having regard to the provisions of section 227 of the Local Government Act, 2001, within the jurisdiction of the relevant rating authority in this case, namely Donegal County

Council, thirdly whether there has been a material change of circumstances within the meaning of section 28(4) of the Act and fourthly the valuation to apply to the subject property.

6. THE EVIDENCE

6.1 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 commencement of the oral hearing, the representative for the Appellant submitted a further Statement for consideration by the Tribunal. The Tribunal adjourned for a short period to allow Mr Dodd on behalf of the Respondent consider this Statement after which he confirmed that while he would be taking issue with some of the matters in the Statement, he had no objection to it being admitted in evidence. The witnesses, having taken the oath, adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given either directly or under cross-examination.

6.2 Mr. Mc Daid, Managing Director of the Appellant gave evidence on behalf of the Appellant.

6.2.1 He argued that there was no basis for valuing the subject property as it was neither a revaluation nor a revision and that it was not newly constructed having been there since 2001. He said that revaluation required every relevant property in a particular rating area to be valued and this was not the situation here; revision implied that there had been such a previous valuation carried out and that there had been a material change, which he said was also not the situation here. He referred to section 28(4) of the Act which he said indicated that if a material change of circumstances had occurred since a valuation was carried out and if the property appeared on the valuation list, the Valuation Office could do one of several things, i.e. amend the valuation, exclude the property from the list on the ground that it was no longer relevant, or amend any other material particular in relation to that property as it appeared on the list. He said this property had not been previously valued. He referred to the main criteria for satisfying the material change of circumstances for a revision and argued that none of these applied to the property, that economic circumstances of a property do not of themselves constitute a material change and that there was nothing newly constructed at the property either onshore or within the marina basin. In view of all of this, he argued that no material change of circumstances had occurred and that therefore the Valuation Office could not legally consider the development for a revision. He also said that the Appeal Manager in his Notice of Decision to Disallow the Appeal accepted that no material change had occurred.

6.2.2 In relation to the properties submitted by the Valuation Office as comparable to the subject property, he said that they were all of fully functioning marinas and to compare the partially completed marina at Fahan to Kinsale Yacht Club, East Ferry Marina, Shannon Sailing Marina and the Royal Cork Yacht Club was nothing near to comparing like with like. He said that it was unfair

to compare the subject property to any completed marina or to infer that it had any meaningful and rateable value at this point in time.

- 6.2.3 In particular as regards the Kinsale Yacht Club, he said that they had over 300 berths at €254 a metre which was considerably more than the partially constructed subject property, that they had a very high standard of services such as mechanics, chandlery, boat repairs, sail makers, marine surveyors, a clubhouse (within which there were changing rooms, and a bar and restaurant with full wheelchair access) and a dinghy park.
- 6.2.4 As regards the Shannon Sailing Marina, he said it had 85 berths and not 60, a training school, boat sales, engineering services, boat wash valet, boat hire, lift in and lift out services, work shop support and chandlery.
- 6.2.5 East Ferry Marina, was he said, one of 6 marinas within the exclusive Cork Harbour with modern facilities and a very good pub and was used by the Royal Cork Yacht Club to run various courses such as dinghy sailing, powerboat and cruiser courses. He said it also had showers and changing rooms.
- 6.2.6 He said that the Royal Cork Yacht Club had a bar, restaurant and bistro and was equipped for catering services and provided facilities for meetings and conferences, has a dingy park and lift in and lift out services. He said that it offers repairs and sail maintenance and describes itself as one of the world's leading yacht clubs.
- 6.2.7 He said that the subject property was partially constructed on the east coast of a county which had the highest levels of unemployment in the county. He referred to legal proceedings with the Government concerning the subject property which he said was held under a lease which he said the government was looking to forfeit and that as a result of those proceedings which he said the Appellant had successfully defended, the Appellant had been unable to do any works since 2005, leaving the subject property in a partially constructed state. He said that they did not have a purpose built lift in/out service, did not have a finished road or car park, did not offer any boat maintenance services, chandlery, restaurant, bar nor boat sales. In other words he said, they did not have a fully functioning marina, unlike the comparators submitted by the Valuation Office.
- 6.2.8 He said that he had never been given reasons for why the initial valuation of €130 had been reduced to €105, that the revision certificate did not address any of the factors referred to by the Appellant in its representations and that the sentence in the Notice of Decision to Disallow Appeal from the Appeal Manager "*I wish to notify you that I have decided that no material change of circumstances has occurred in relation to this property, and accordingly, that your appeal has been disallowed*" made no sense. He said that the Revision Officer or the Appeal Manager should have given some indication of the statutory or regulatory reason for valuing the property, some description of their understanding of the information received from the Appellant, how or why it wasn't pertinent to the request, why they chose the

comparators and how they were perceived to be like-for-like. He said that the Appellant had requested a full reasoned decision in their appeal but none was given.

- 6.2.9 He said that the Appellant was asking the Tribunal to find that there was no basis for valuing the property in the first instance as it was neither a revaluation nor a revision, it was not a newly constructed property having been there since 2001, there was no material change of circumstances, no change in the value of the property, that the comparable properties were not comparable at all, and that the practice of providing appellants one line responses in relation to complex reviews and appeals was inappropriate and unacceptable administrative practice which put members of the public at a disadvantage throughout the process.
- 6.2.10 He also pointed out that Donegal County Council were the developers of a number of marinas in the County, namely at Greencastle, Bunagee, Killybegs and Rathmullan and that these were not rated and that to charge the Appellant rates would appear to be in breach of EU Competition Law and State Aid Rules.
- 6.2.11 In the written submissions exchanged prior to the hearing, the Appellant had submitted that the moorings in the subject property were not fixed moorings as required in Schedule 3 of the Act but were floating and could not possible be considered to be fixed since the tide rose and fell approximately 5 metres at Fahan. Reference had also been made to section 227 of the Local Government Act 2001 which the Appellant said stated that the jurisdiction of the Local Authority extended to include reclaimed land and that the definition of land included “ piers, wharves, walkways, bridges or other installation, equipment or apparatus”. The Appellant challenged that authority and submitted that the jurisdiction of the Local Authority extended only to the high water mark and that all areas of foreshore below the high water mark were outside the Local Authority’s jurisdiction and required a foreshore licence as opposed to rates.
- 6.2.12 Under cross-examination Mr Mc Daid said that he was aware of a number of marinas in the country which were paying rates, that the top occupancy rates for the berths in the subject property would be 168, that there was currently approximately a 40% occupancy rate with occupied berths in or around the 60-70 mark, that the walkway was fixed at the shore, that the poles to which the walkway were attached were made of tubular steel driven into the seabed, that there was a clamp on the pole to affix the pontoon to the pile, that 30/40% of the marina was taken up with the pontoon and that there were services bollards supplying water and electricity. He said that while he accepted that in the case of the East Ferry Marina, the pub was a separate entity that one attracted the other. It was put to him that the valuation of the subject property was at the “bottom of the list” as compared to the other comparators and he said that this was not comparing like for like, that the Appellant had brought

in heavy rock to protect the marina from the incoming tide, that the sea wall was higher than where the boats were berthed and that all land inside was reclaimed.

- 6.3 Ms Fiona Quinn gave evidence on behalf of the Respondent as to the valuation of the property.
- 6.3.1 She referred to the photographs which she took on the day she inspected the property and to page 7 of her précis which she said showed the offices and storage facilities. She said that the storage tank had since been removed and was not being valued. She said that the photo on page 8 of her précis showed the walkway which she said was attached to piles driven down into the seabed. The photo at the top of page 9 showed unfinished services' buildings which she said were not valued. She said that she had deemed the property to be relevant property as it was fixed and she also believed that there had been a material change of circumstances as the subject property had not been on the valuation list at that point.
- 6.3.2 She referred to comparable 1 being the marina at Kinsale, Co. Cork (occupier Trustees of Kinsale Yacht Club) and said that she had valued 76 berths at €230 per berth and 23 berths at €158 per berth restricted to reflect the fact that they were located over a wreck and she had valued also to reflect the services which the club had and its location.
- 6.3.3 As regards comparable 2 being a marina at Dromineer, Nenagh, County Tipperary (Occupier Shannon Sailing Ltd), she said that this was located inland and she had valued the berths at €200 per berth. In response to being asked why she had reduced the per berth valuation of the subject property by almost 40% as compared with this comparable 2, she said that this comparable had a higher valuation to reflect the services which the marina had being a shop and industrial building with services and when asked if location had been a factor in her valuation, she said that she had taken into account that Nenagh was 11km away.
- 6.3.4 She said that Comparable 3 being a marina at Walterstown, Cobh Co. Cork (occupier East Ferry Marina), was located 7km from Cobh. She had valued this at €200 per berth, and said that it had toilet and shower facilities but no club house. She said that there was a pub close by but this was not associated with the marina.
- 6.3.5 The final comparable, 4 being the marina at Carrigaline Road, Crosshaven, Co. Cork (occupier Royal Cork Yacht Club) was valued at €254.00 for 100 berths and a restricted valuation of €158.72 for 76 berths to reflect the fact that those berths were restricted. In response to being asked why she had reduced the per berth valuation of the subject property as compared with

this comparable 4, she said that this comparable had a higher valuation to reflect the facilities such as the club house, offices, and toilets.

6.3.6 Ms Quinn was cross-examined by Mr. Mc Daid.

6.3.6.1 When asked why she had carried out a valuation, she said that a revision had been requested by Donegal County Council.

6.3.6.2 When asked was she aware that Donegal County Council had marinas in the County, she said that she was not aware.

6.3.6.3 When asked why she had decided to look at valuations of marinas “further away”, she said that because this was a revision she had to look to the “tone of the list” and that there were no marinas on the list in County Donegal.

6.3.6.4 When asked if she had enquired of Donegal County Council if there were any marinas, she said that she would not ask that question as she had to look at properties already on the list and to the “tone of the list”.

6.3.6.5 When asked to say exactly what the material change she had referred to in her evidence was, she referred to the Act and said that if a property is considered to be a relevant property and was not on the valuation list, that a valuation must be carried out.

6.3.6.6 When it was put to her that therefore this must mean that there was no material change, she said that was the change and that it was deemed a change.

6.4 In response to questions from the Tribunal

6.4.1 As to whether the marinas operated by the Local Authority were subject to rates, she said that she did not know who the rated occupiers were and could find nothing on her list.

6.4.2 As to why Mr. Martin Fagan, the Appeals Manager had put “no material change of circumstances” on the Notice of Decision to Disallow Appeal, she said that this should have said that the appeal had been disallowed and that it was an administrative error which had occurred by ticking the wrong box.

7. APPELLANT’S SUBMISSIONS

Mr. Mc Daid said that he believed that there had been no material change and that this was not a revision. He said that the facts that he had given in his evidence were all true and that the Valuation Office should not have gone 300 miles to get their comparable properties which he said were all “state of the art”, when the subject property was “barely existing”. He said that they should have started with Donegal County Council’s marinas. He said that there was a violation of Competition Laws and State Aid rules. He said that Donegal County Council’s marinas were exempt from rates and that there should be a level playing field and that the subject property should also not be liable to rates.

8. THE RESPONDENT'S SUBMISIONS

- 8.1 Mr. Dodd's starting point was to refer to section 15(3) of the Valuation Act 2001 which he said stated that relevant property which was directly occupied by the State shall not be rateable and that while this was not an issue which was before the Tribunal it could explain why the Donegal County Council marinas were exempt. He then made reference to the definition of "material change of circumstances" in section 3 of the Act and in particular to paragraph (a) of that definition which specified "the coming into being of a newly erected or newly constructed relevant property or of a relevant property"; to section 27(2) of the Act which he said was authority for the rating authority requesting a revision and to section 28(4)(b) of the Act which provided that a revision officer may where a relevant property does not appear on the valuation list, carry out a valuation of that property and include the property on the list together with its valuation. He said that the real debate at issue was whether the subject property was a relevant property and he said that Schedule 3 of the Act deals with "Relevant Property" and he referred to paragraph (d) which includes within the definition of "Relevant Property", "harbours, piers, docks and fixed moorings". He said that the moorings in the subject property consisted of fixed moorings. He referred to a decision of the Valuation Tribunal in the case of the *Royal Cork Yacht Club* VA12/1/016 and asked the Tribunal to adopt it. He said the case before the Tribunal was on all fours with that case in that there were steel piles driven into the seabed, collars/brackets attached to the piles and the walkways attached by the collars/brackets, resulting in what he said are fixed moorings. He said that the ratio of the decision in the *Royal Yacht Club* was to be found in paragraph 42 where the Tribunal found that "*the fact that the walkway and gangland themselves float up and down purely and simply for the purpose of accommodating tidal movements, down not in our view make the structure as a whole something that cannot reasonably be described as a fixed mooring*". He also referred to the case of Trustees of Kinsale Yacht Club VA 90/3/14 in which it was also decided that moorings were fixed and rateable.
- 8.2 As regards section 227(2) of the Local Government Act 2001, he said that while it had not been referred to by Mr. Mc Daid in his oral testimony, it had been referred to by the Appellant in the written submissions in support of its argument that the subject property was below the high water mark and therefore outside the local authority area. Mr Dodd said that this argument was a red herring but that a clear answer could be found again in the decision of the Tribunal in the *Royal Cork Yacht Club* and in particular at paragraph 43 where the Tribunal found in that case that "*it is clear beyond doubt in our view that the local authority has jurisdiction to deal with this structure*".
- 8.3 As regards the error made by Mr. Fagan when he said that there had been no material change of circumstances, Mr. Dodd said that this was an administrative error, his decision had been correct but the reasons were incorrect as he had ticked the wrong box. He said that the hearing before the Tribunal was a full "de novo" hearing of the issues and was merit based and the Tribunal had to decide if the subject property should be on the valuation list or not and if it decided that it should, what the valuation should be. He said that the Tribunal had no judicial review jurisdiction under Order 84 or

otherwise and did not have any supervisory functions over the Commissioner which would entitle it to consider the reasons of the Commissioner.

- 8.4 He was asked by the Tribunal to address the issue raised by Mr. Mc Daid regarding the alleged breach of State Aid rules and of Competition Law. He said that the Tribunal did not have jurisdiction to deal with the alleged breach of State Aid rules- the High Court did not even have jurisdiction but that it was a matter for the European Commission. As regards the alleged breach of Competition Law, he said that the Tribunal also had no jurisdiction under the Competition Act 2002 and that to follow an Act cannot constitute breach of Competition Law.

9. FINDINGS AND CONCLUSIONS

- 9.1 From the evidence, the Tribunal finds that the marina under consideration constitutes a fixed mooring as described in sub-paragraph (d) of paragraph 1 of Schedule 3 of the Act. The Tribunal finds the decision of the High Court and Supreme Court in the *Kinsale Yacht Club* case to be helpful and concurs with the view adopted by the Tribunal in the *Royal Cork Yacht Club* case that the fact that the walkway and gangway themselves float up and down to accommodate tidal movement does not take the structure as a whole outside what could reasonably be described as a fixed mooring. It follows therefore that the Tribunal finds that the subject property is a “relevant property” within the meaning of the Act.
- 9.2 The Tribunal also finds that the Local Authority in this case, namely Donegal County Council does have jurisdiction to deal with the subject property. The Tribunal concurs with the view of the Tribunal in the *Royal Cork Yacht Club* case that the definition of land in section 227(2) of the Local Government Act, 2001 clearly includes a marina of this nature.
- 9.3 The Tribunal finds that there has been a material change of circumstances within the meaning of section 28 (4)(b) of the Act. It was accepted by the representative for the Appellant that the subject property had not prior to the valuation by the Revision Officer, appeared on the valuation list. The fact that the subject property was a relevant property but was not on the valuation list is the material change of circumstances which entitled the appointment of the Revision Officer to carry out a valuation of the subject property and include it in the valuation list.
- 9.4 It is accepted by all parties that in the subject case, the only other marinas in County Donegal are not on the valuation list and therefore they do not provide any assistance to the Tribunal in determining the value of the subject property. The valuation falls to be determined under sub-section 2 (b) of section 49. This requires that the value be determined by estimating the net annual value of the subject property which is defined in section 48(3) as “*the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average 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 and charges (if any) payable by or under any enactment in respect of the property, are*

borne by the tenant". This sub-section also requires that the amount estimated by those means shall in so far as it is reasonably practicable, be adjusted as provided for therein.

9.5 The Tribunal has noted the differences highlighted by the Appellant between the subject property and the comparator properties submitted by the Respondent. However, notwithstanding these differences, the Tribunal finds that while these properties may not be entirely comparable to the subject property, they are the best available guide to the Tribunal in determining the "net annual value" of the subject property. The Tribunal finds further that in valuing the berths in the subject property at €120 per square metre as compared with a valuation of €230 per sq. m and €158 per sq. m (restricted berths) for the marina at the Kinsale Yacht Club, a valuation of €200 per sq. m for the marina at Dromineer, Nenagh, Co. Tipperary, a valuation of €200 per sq. m for the marina at Walterstown, Cobh, Co. Cork and a valuation of €254.00 per sq. m and €158.72 per sq. m (restricted berths) for the marina at the Royal Cork Yacht Club, at Crosshaven, Co Cork, that a fair and equitable reduction has been made to allow for these differences and so as to satisfy also the adjustment requirement as set out in section 49 (2)(b) of the Act. The Tribunal has also noted that the Respondent in his written submission said that information on the Appellant's website states that a twelve month contract for a berth at the subject property is charged at €185/metre and that fees for hard-standing on the foreshore are €1,000 per year or €83.33 per month and that this was not disputed by the Appellant either in its submissions or at the hearing. The Tribunal notes also that the Appellant did not propose any alternative valuation.

9.6 The Respondent had agreed prior to the hearing that as the portacabin storage was no longer on site that this should be excluded from the valuation.

9.7 The Tribunal finds that the valuation of the portacabin offices at €18.00 per square metre is excessive having regard to their condition which was shown in the photographs submitted by the Respondent in evidence. The Tribunal determines that the net annual value of these storage containers is €12 per square metre.

9.8 The Tribunal had no jurisdiction to make any findings in relation to any alleged breaches of Competition or State Law as argued for by the Appellant and has no supervisory functions over the Commissioner of Valuation. The jurisdiction of the Tribunal derives from the Act and to matters set out therein.

9.9 The Appellant had complained that the Revision Officer did not give reasons for his decision. The Tribunal conducted a *de novo* hearing and full reasons for the findings are included in this report.

9.10 The Tribunal DETERMINES the net annual value of the subject property to be as follows:

Portacabin Offices – 12 SQ.M –	12.00 €/SQ.M,	NAV	€144.00
Berths 168 SQ.M –	120.00 €/SQ.M,	NAV	€20,160.00
Total:			€20,304
Rateable Valuation:	€101.52	SAY RV	€101

And the Tribunal so determines.