

Appeal No. VA12/1/019

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

**Susan Conaty & Thomas Thompson**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2210042, Shop at Lot No. Unit 4, Briarhill Shopping Centre, Doughiska, Ballybaan, East, County Borough of Galway.

**B E F O R E**

**Maurice Ahern - Valuer, IPAV**

**Deputy Chairperson**

**Michael F Lyng - Valuer**

**Member**

**Fiona Gallagher - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 24TH DAY OF AUGUST, 2012**

By Notice of Appeal received on the 6th day of March, 2012 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €119 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:

"The valuation is excessive having regard to the suburb location of the development. This unit is masked by the stairwell to the first floor level and is in a particularly poor location."

"This unit is masked by the stairwell to the first floor level and is in a poorer location than other units in the shopping centre. The low rent clearly indicates the poor location of the unit also to be considered is the length of time it took to create a letting on this unit."

"Please refer to other standard units in the centre which were the subject of any appeal to the Valuation Tribunal."

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, 3<sup>rd</sup> Floor, Holbrook House, Holles Street, Dublin 2 on the 17<sup>th</sup> day of May, 2012. At the hearing, the appellant was represented by Mr. Conor Ó Cléirigh FSCSI, MIAVI and the respondent was represented by Mr. Paul Mooney, BSc Real Estate, a valuer at the Valuation Office.

### **Location**

The property is located in the Briarhill Shopping Centre on the old Dublin / Galway Road close to the Lynch roundabout.

### **Description**

The property comprises a mid-terrace ground floor retail unit in a three-storey over basement commercial/residential scheme constructed in 2007.

The agreed floor area is 126 sq. metres.

### **Valuation History**

A proposed Valuation Certificate issued on the 11<sup>th</sup> May, 2011 with a rateable valuation (RV) of €140. Representations were received from Mr. Conor Ó Cléirigh on the 31<sup>st</sup> May, 2011. Following consideration, no change was made by the Revision Officer. A valuation appeal was lodged with the Commissioner of Valuation by Mr. Conor Ó Cléirigh on the 16<sup>th</sup> December, 2011. The result of this appeal was to reduce the valuation from RV €140 to €119. This appeal was lodged with the Valuation Tribunal on the 5<sup>th</sup> March, 2012.

### **Appellant's Case**

Mr. Conor Ó Cléirigh, having taken the oath, adopted his written précis and valuation, which had been received by the Tribunal and the respondent, as his evidence-in-chief. He stated that the subject property, because of its location within the Briarhill Shopping Centre, was totally masked by a stairway which obstructs its general visibility and will have a negative effect on this unit at all times. He stated that this was borne out by the fact that the unit was not let until April 2010 at a rent of €25,000 p.a. which he said was only a fraction of the going rent in the centre. He felt it was consistent to have a different assessment for this property to reflect its unique negative characteristics. Therefore, he considered that a reduction of 40% on the RV was justified.

## Valuation

Mr. Ó Cléirigh contended for the following valuation:

Retail Area 126 sq. metres @ €95 per sq. metre = €11,970

@ 0.63% = €75.41

Say €75

In support of his opinion of valuation, Mr. Ó Cléirigh put forward the following comparisons, all of which are situated in the Briarhill Shopping Centre:

1. Ulster Bank. He stated that this was a corner unit at ground floor with frontage to car park. It is valued at €186.54 per sq. metre.
2. Unit Nos. 2, 5 and 6, all ground floor units of 126.54 sq. metres, each valued at €156.86 per sq. metre (VA11/2/018 – Wine Street Bakeries Ltd.).
3. First floor retail units in the Briarhill Shopping Centre are valued at €86.20 per sq. metre.

## Respondent's Evidence

Mr. Paul Mooney, having taken the oath, adopted his written précis and valuation which had been received by the Tribunal and the appellant, as his evidence in-in-chief. Mr. Mooney contended for a Net Annual Value (NAV) of €18,840, calculated as follows:

Shop 126.54 sq. metres @ €156.86 per sq. metre = €19,840

Less Allowance of 5% for stairs

Valuation Office estimate of NAV €18,840

RV €119

In support of his opinion of NAV, Mr. Mooney put forward three comparisons, as follows:

### Comparison 1

Barney O'Hare, Briarhill Shopping Centre, Unit 2, Property No. 2204266 (VA11/2/017)

Level 0 Shop 126.54 sq. metres @ €156.86 per sq. metre = €19,840

RV €125

### Comparison 2

Wine Street Bakeries Ltd, Briarhill Shopping Centre, Unit 5, Property No. 2204267

(VA11/2/018)

Level 0 Shop 126.54 sq. metres @ €156.86 per sq. metre = €19,840

RV €125

### Comparison 3

Horkans Pet World Ltd, Briarhill Shopping Centre, Unit 3, Property No. 2210040

(VA11/2/018)

Level 0 Shop 126.54 sq. metres @ €156.86 per sq. metre = €19,840

RV €125

Mr. Mooney stated that all the units in Briarhill Shopping Centre were the same. The only issue, he said, was that three units were impeded by a stairway. He stated that this issue was discussed in the test case appeal **VA11/2/018 – Wine Street Bakeries Ltd**. In relation to the current appeal, Mr. Mooney was of the opinion that a 5% allowance in respect of the stairway issue was “generous enough”.

### **Cross-Examination**

Mr. Mooney agreed with Mr. Ó Cléirigh that the stairway was seldom used when the lift was available. Mr. Mooney stated that he had regard to the ‘tone of the list’ when carrying out his valuation. In reply to Mr. Ó Cléirigh, he said that all the units have the same pedestrian flow and that no special allowance was necessary for the subject as other units had similar inconvenience. Mr. Ó Cléirigh stated that the subject property had an impediment due to the stairway and that the ‘tone of the list’ should not debar his client from seeking a reduction. Mr. Mooney agreed that the stairway impedes the unit as it does the other adjoining units, but would not agree with Mr. Ó Cléirigh that the stairway affected the subject unit more than any of the other adjacent units in the centre. Mr. Mooney again emphasised that, in his opinion, the 5% allowance granted to the subject property in respect of the stairway was generous.

## **Findings**

The Tribunal thanks the parties for the submissions made and the evidence given during the hearing. Having carefully considered all the evidence and arguments adduced, the Tribunal finds as follows:

1. The statutory basis for valuing property on foot of a request of revision of valuation is set down in section 49(1) of the Valuation Act, 2001 which states: *“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.”* In other words, the valuation of the property concerned is to be determined in accordance with what is known as the “tone of the list”, although this expression is not explicitly referred to in the Act.
2. The comparison properties presented to the Tribunal by the parties included four ground floor properties located within the subject development, Briarhill Shopping Centre, all of which are valued at €156.86 per sq. metre.
3. The Tribunal notes that the subject property has also been valued by the respondent at €156.86 per sq. metre and accepts the respondent’s evidence that the 5% allowance made by the respondent for the impeding stairway is generous.

## **Determination**

Having considered all the evidence and arguments adduced by both parties and having regard to the above findings, the Tribunal upholds the respondent’s valuation and affirms the rateable valuation of the property concerned at €119.

And the Tribunal so determines.