

Appeal No. VA12/3/016 & 017

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

**Thomas Mullane**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2176466, Licensed Shop at Lot No. 4D/2, Knockdown, Kilmoylan, Glin, County Limerick and Property No. 2211115, Garage/Filling Station at Lot. No. 4D/2a, Knockdown, Kilmoylan, Glin, County Limerick.

**B E F O R E**

**Maurice Ahern - Valuer, IPAV**

**Deputy Chairperson**

**Michael Connellan Jr - Solicitor**

**Member**

**Thomas Collins - PC, FIPAV, NAEA, MCEI, CFO**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 23RD DAY OF JANUARY, 2013**

By Notices of Appeal received on the 25th day of July, 2012 the appellant appealed against the determination of the Commissioner of Valuation in fixing rateable valuations of €64 (VA12/3/016) and €38 (VA12/3/017) on the above described relevant properties.

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

*"Rural location. No Population. Licenced Pub." [sic]*

*"Rural location. No population."*

The appeals proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal on the third floor of Holbrook House, Holles Street, Dublin 2 on the 10<sup>th</sup> day of October, 2012. Mr. Thomas Mullane represented himself, and the respondent was represented by Ms. Triona McPartlan, BSc (Hons) Real Estate Management, a valuer at the Valuation Office.

In accordance with the Rules of the Tribunal, the respondent had forwarded a précis of evidence to the appellant prior to the commencement of the hearing and submitted same to this Tribunal. The appellant declined the opportunity of submitting a written précis of evidence in advance of the hearing. At the hearing, the appellant took the oath, outlined his oral evidence to the Tribunal and was cross-examined. The respondent's representative, having taken the oath, adopted her précis as being her evidence-in-chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

### **At Issue**

Quantum.

### **Description**

#### VA 12/3/016

The property consists of a single storey detached bar and lounge on rendered concrete and vinyl slate. The unit is located directly beside a petrol station and shop.

#### VA 12/3/017

The property is a small petrol station with shop attached.

### **Location**

The property is located in a rural area of Knockdown, Athea on the Glin/Newcastle West Road, Co. Limerick. The property is located opposite the Killeaney AFC sports pitch. The unit is located approximately 8km from Glin.

**Floor Areas**VA 12/3/016

The property was measured on a Net Internal Area (NIA) basis.

<b>Block</b>	<b>Use</b>	<b>Area Sq. Metres</b>
1	Lounge	167
3	Store	51
<b>Total</b>		<b>218</b>

VA 12/3/017

<b>Block</b>	<b>Use</b>	<b>Area Sq. Metres</b>
4	Shop	78.20
5	Store	13.50
<b>Total</b>		<b>91.70</b>

**Valuation History**VA 12/3/016

- Revision 2005. The property was previously valued in 2005- RV: €125. The occupier did not avail of the representation and appeal process.
- Revision 2007. Following an application for revision by Mr.Thomas Mullane in 2007, a valuer on behalf of the Commissioner of Valuation inspected the premises in November 2007 when it transpired that there were no physical alterations to the property that would constitute a ‘material change of circumstances’ (MCC).
- September 2008 - Appeal to Valuation Tribunal (**VA08/4/002 – Thomas Mullane**) regarding material change of circumstances – there was no change to the valuation by the Tribunal, i.e. the Tribunal determined that there was no MCC.
- 2011- Request from occupier for subdivision of petrol station and pub.
- 17<sup>th</sup> October 2011- Valuation Certificate (Proposed) issued at RV €72.
- 10<sup>th</sup> November 2011- Representations made to the Commissioner of Valuation.
- 17<sup>th</sup> November 2011- Valuation Certificate issued unchanged at RV €72.
- 20<sup>th</sup> December 2011- Appeal submitted to the Commissioner of Valuation.
- Appeal was lost due to clerical error. Valuer wrote to appellant on 9<sup>th</sup> May 2012.
- 12<sup>th</sup> Jun 2012- Appeal resubmitted to the Commissioner of Valuation.
- 26<sup>th</sup> Jun 2012- Valuation was reduced to €64.

- 26th July 2012 – the appellant appealed to the Valuation Tribunal.

#### VA 12/3/017

- Revision 2005. The property was previously valued in 2005. The occupier did not avail of the representation and appeal process.
- Revision 2007. Following an application for revision by Mr. Thomas Mullane in 2007, a valuer on behalf of the Commissioner of Valuation inspected the premises in November 2007 when it transpired that there were no physical alterations to the property that would constitute a ‘material change of circumstances’.
- September 2008 - Appeal to Valuation Tribunal (**VA08/4/002 – Thomas Mullane**) regarding material change of circumstances – there was no change to the valuation by the Tribunal, i.e. the Tribunal determined that there was no MCC.
- 2011- Request from occupier for subdivision of petrol station and pub.
- 17th October 2011- Valuation Certificate (Proposed) issued at RV €38.
- 10th November 2011- Representations made to the Commissioner of Valuation.
- 17th November 2011- Valuation Certificate issued unchanged at RV €38.
- 20th December 2011- Appeal submitted to the Commissioner of Valuation.
- Appeal was lost due to clerical error. Valuer wrote to appellant on 9th May 2012.
- 12th Jun 2012- Appeal resubmitted to the Commissioner of Valuation.
- 26th Jun 2012- Valuation remained unchanged at €38.
- 26th July 2012 – the appellant appealed to the Valuation Tribunal.

#### **Appellant’s Evidence**

Mr. Mullane, having taken the oath, stated that he had appeared before the Tribunal previously. He stated that he was appearing before the Tribunal to seek a reduction in the rateable valuations of the said properties. He said that the reason he is appealing is because the properties are located in a rural location with no population. He stated that the public house is open only in the evenings and on Sundays and that there are no taxis in the area. Abbeyfield and Glin, towns with properties which were provided as comparables in the précis of evidence of the respondent, are much larger than the location of the subject properties. Mr. Mullane stated that the properties had been for sale with four auctioneers for the past six months and that no enquiries had been made in respect of them. He went on to say that most of the agricultural land in the vicinity is set in forestry, that in his filling station the only thing

sold is petrol at a 2% profit margin and that four petrol stations had closed down in the area in the past six months. He further stated that whereas there had been 12 public houses, now only six are left in the area. He stated that he has two part-time staff helping him and this is only at weekends. He stated that no physical change had been made to the premises and that if matters remain the same, he will have no option other than to close down both premises. This concluded his evidence.

### **Valuation by the Appellant**

In his Notice of Appeal, Mr. Mullane contended for a rateable valuation of €10 in respect of each of the properties the subject of the respective appeals.

### **Appellant's Comparison Properties**

Mr. Mullane did not provide any comparisons.

### **Cross-examination of the Appellant**

When questioned by Ms. McPartlan, Mr. Mullane stated that when he contacted a number of retail outlets, such as Spar and Centra, none was interested in leasing his premises.

### **Respondent's Evidence**

Ms. McPartlan adopted her précis as her evidence-in-chief. She first referred to appeal **VA12/3/016**. She alluded to the valuation history of the subject property and stated that the reason for the reduction in the RV from €72 to €64 was the subdivision of the public house.

She went on to make the following points:

- The property was valued by reference to the 'tone of the list', Section 49 of the Valuation Act 2001. All of the comparisons referred to in her précis are currently on the Valuation List.
- All comparisons are of a similar size and nature to the subject property.
- The appellant has indicated that the property is located in a rural area with a small population. The property is indeed located in a rural location; however, the property is located beside a petrol station and is across from a sports pitch. The property therefore benefits from passing trade.

- This property was subdivided and was initially valued at €80 per sq. metre for the lounge portion. Due to the subdivision and taking into account the appellant's appeal to the Commissioner of Valuation, it was decided to reduce the valuation to €70.38 per sq. metre so that it be more in line with the 'tone of the list'.
- The current economic conditions are not reflected in the valuation as the property has been valued in line with the 'tone of the list'. The Valuation List is static and does not fluctuate up or down with economic conditions. She is of the view that the issues raised by the appellant have been adequately reflected in her opinion of value.

### Valuation by the Respondent

Ms. McPartlan contended for a rateable valuation of €64 for the subject property, calculated as follows:

	Sq. Metres		€per Sq. Metres	NAV
Lounge	167	@	70.38	€1,753.46
Store	51	@	20.00	€ 1,020
<b>Total</b>				<b>€2,773.46</b>

Rateable Valuation = Total NAV €2,773.46 x 0.5% = €13.86

RV €64

Next, Ms Partlan went on to refer to appeal **VA 12/3/017**, as follows:

- This property was valued by reference to the 'tone of the list', Section 49 of the Valuation Act 2001. All of the comparisons referred to in her précis are currently on the Valuation List.
- All comparisons are of a similar size and nature to the subject property.
- The appellant has indicated that the property is located in a rural area with a small population. The property is indeed located in a rural location; however, the property is located beside a public house and is across from a sports pitch. The property therefore benefits from passing trade.
- The current economic conditions are not reflected in the valuation as the property has been valued in line with the 'tone of the list'. The Valuation List is static and does not fluctuate up or down with economic conditions. She is of the view that the issues raised by the appellant have been adequately reflected in her opinion of value.

### Valuation by the Respondent

Ms. McPartlan contended for a rateable valuation of €38 for the subject property, calculated as follows:

	Sq. Metres		€per Sq. Metre	NAV
Shop	78.20	@	38	€2,971.60
Store	13.5	@	15	€ 202.50
Throughput 400,000		@	0.011	<u>€1,400</u>
<b>Total</b>				<b>€7,574.10</b>

Rateable Valuation = Total NAV €7,574.10 x 0.5% = €37.87

RV €38

### Respondent's Comparison Properties

Comparisons submitted by Ms. McPartlan for VA12/3/016:

#### Comparison No. 1

Property: Main Street, Glin

Property No. 1220764

This property has an area not related to the pub/lounge, for the purposes of this valuation the licensed house portion was analysed only.

	Sq. Metre		€per Sq. Metre	NAV
Bar Space	143.06	@	€70.38	€10,068.56
Store	10.68	@	€20.50	€218.94
				<b>€10,287.50</b>

Rateable Valuation = Total NAV €10,287.50 @ 0.5% = €51.43

RV €51.43

#### Considerations:

- Located approximately 8km from the subject property
- Domestic element overhead- not purpose built
- Store is valued at a higher rate than the subject property

- This property is on the Valuation List and is therefore in accordance with section 49(1) of the Valuation Act, 2001

### Comparison 2

Property: The Cellar Bar, Main Street, Abbeyfeale

Property Number: 1256010

	Sq. Metres	€per Sq. Metre	NAV
Bar	106	@ 92.26	€9,779
Cellar	62	@ 41.00	€2,542
Ancillary	58	@ 27.34	€1,585
Domestic	N/A	N/A	€2,184
<b>Total</b>	<b>226</b>		<b>€16,090</b>

Rateable Valuation = Total NAV €16,090 @ 0.5% = €80.45 Rounded to €82.53 (due to Punt)

### Considerations:

- Located in Abbeyfeale, Co.Limerick
- Property is located approximately 19 km from the subject property
- The unit is not purpose-built
- The property is valued at a higher level than the subject property
- Similar in size to the subject property
- This property is on the Valuation List and is therefore in accordance with section 49 (1) of the Valuation Act, 2001

Comparisons submitted by Ms. McPartlan for **VA12/3/017**:

Ms. MacPartlan stated that there were no filling stations in the locality and that this was the reason she had to go outside of the area in search of comparisons.

### Comparison No.1

Property: Reidy's Service Station, Rathkeale, Shanagolden

Property No: 1270894



	<b>Sq. Metres</b>		<b>€per Sq. Metre</b>	<b>NAV</b>
Shop	189.94	@	65.00	€12,346.10
Store, Safe	47.04	@	41.00	€1,928.64
Throughput	900,000	@	0.01	€9,000
<b>Total</b>				<b>€23,274.71 [sic]</b>

Rateable Valuation = total NAV €23,174.71 @ 0.5% = €116.37

RV €15

### **Considerations:**

- Located approximately 20km from the subject property
- Located on the outskirts of Foynes
- Similar to the subject property
- Valued at a significantly higher level than the subject property.

### **Comparison No.2**

Property: Iain and Martina Mc Intyre, Shanagolden, Limerick

Occupier: Costcutter Express

Property No: 2165001

	<b>Sq. Metres</b>		<b>€per Sq. Metre</b>	<b>NAV</b>
Shop	135	@	61.48	€8,299.8
Offices	3.61	@	41.00	€148.01
Store	17.6	@	41.00	€721.6
Throughput	547,500	@	0.01	€5,475
<b>Total</b>				<b>€14,644.41</b>

Rateable Valuation = Total NAV €14,644.41 @ 0.5% = €73.22

RV €7

### **Considerations:**

- This property is located on the main Foynes/Shanagolden/Ardagh/Newcastle West Road just north of Shanagolden
- Property is similar to the subject property
- Comparison is valued at a higher level than the subject

**Comparison No.3**

Property: Kildimo, Limerick

Occupier: James Downes

Property No: 1273826

	<b>Sq. Metres</b>		<b>€per Sq. Metre</b>	<b>NAV</b>
Shop	166.6	@	75.00	€12,495
Store	27.53	@	50.00	€1,376.50
Throughput	1,000,000	@	0.01	€10,000
<b>Total</b>				<b>€23,871.50</b>

Rateable Valuation = Total NAV €23,871.50 @ 0.5% = €119.35

RV: €120

**Considerations:**

- This property is located on the main Foynes/Shanagolden/Ardagh/Newcastle West Road just north of Shanagolden
- Property is similar to the subject property
- Comparison is valued at a higher level than the subject.

This concluded Ms. MacPartlan's evidence.

**Cross-examination of the Respondent**

There was no cross-examination by the appellant. Ms. MacPartlan was asked by the Tribunal if she had inspected any of the comparisons and she replied that she had not and that it was not standard practice to visit comparable properties.

**Findings**

The Valuation Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions at hearing, and finds as follows:

1. The valuations of the subject properties fall to be determined in accordance with Section 49(1) of the Valuation Act, 2001 as follows:

*“49.—(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. In rating law and practice the onus of proving that the valuation appearing on the Valuation List is incorrect lies with the appellant.
3. The appellant did not provide the Tribunal with any comparative evidence in support of his opinion of valuation in respect of either property.
4. The Tribunal notes the respondent’s evidence in respect of VA12/3/016 that the valuation relating to the public house was reduced at Section 30 appeal stage, having regard to the issues put forward by the appellant at that stage.
5. The Tribunal also notes the respondent’s evidence in respect of VA12/3/017 that the filling station has been valued at a lower level than the comparisons put forward by the respondent.
6. While the Tribunal appreciates the difficult economic circumstances of the appellant, when considering the appeal it must have regard to the relevant provisions of the Valuation Act, 2001 and the Tribunal finds that the respondent has valued the properties concerned in accordance with Section 49 of the Act.

### **Determination**

In view of the foregoing, the Tribunal determines that the valuations of the respondent be upheld and affirms the rateable valuations as follows: RV€4 in respect of VA12/3/016 and RV€8 in respect of VA12/3/017.

And the Tribunal so determines.