

**Appeal No. VA14/5/538**

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

**Carmel O'Callaghan (Wilde & Green)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2205845, Retail (Shops) at Milltown Road, Milltown, County Borough of Dublin.

**B E F O R E**

**Niall O Hanlon - BL**

**Deputy Chairperson**

**Frank Walsh – QFA, APA**

**Member**

**Carol O'Farrell - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 4TH DAY OF MARCH 2015**

By Notice of Appeal received on the 3rd day of September 2014, the Appellant appealed against the decision of the Commissioner of Valuation in fixing a rateable valuation of €91,500 in respect of the property the subject of the appeal.

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

*“Pursuant to Sections 35(a)(i)&(ii) and Section 48 & 49 Valuation Act 2001 the valuation is incorrect based on valuation levels applied to other comparable properties in similar locations as stated in the Valuation List.”*

**Introduction:**

By Notice of Appeal received by the Tribunal on 3<sup>rd</sup> September 2014, the Appellant appealed against the determination of the Respondent in respect of the property the subject matter of the present appeal.

Oral hearings of this appeal took place in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on 27<sup>th</sup> January, 2015. Mr Conor Ó Cléirigh of Conor Ó Cléirigh & Co., appeared on behalf of the Appellant. Mr Tomás Cassidy appeared on behalf of the Respondent.

**The Issue Arising:**

The Net Annual Value of the subject property was determined at €91,500. However, following the lodgement of this appeal, the Respondent made an allowance of 10% to reflect the frontage to depth ratio of the subject premises.

At the hearing the net issue between the parties was the rate per sq. metre to be applied in arriving at the NAV of the subject property. The Respondent argued for a rate of 282.44 per sq. metre (NAV of €82,350), strongly arguing in favour of the Zoning Method.

The Appellant argued for a rate of €170 per sq. metre (NAV of €49,548) and contended that the Zoning Method was not appropriate in this instance.

This appeal has arisen from the recent revaluation of the Dublin City Council rating authority area which was undertaken pursuant to Part 5 of the Valuation Act 2001.

**Section 48:**

The valuation of the subject property is to be conducted according to the provisions of the Valuation Act 2001 (hereinafter 'the Act'). The Net Annual Value (NAV) of the property is to be arrived at in accordance with Section 48 of the Act. The estimate is based on a hypothetical tenant paying a rent for exclusive occupation, one year with another for a property in its actual state on the assumption that the probable annual costs of repairs, insurance and any other expenses necessary to maintain the property in that state including rates and other taxes are borne by the tenant.

**The Property the Subject of the Appeal:**

The subject property is located at Mount St Anne's on Milltown Road close to the junction with Dundrum Road.

The subject property is a purpose built ground floor retail unit in a mixed use development. The unit has a good standard fit out with air conditioning, tiled floors and plastered walls. The entrance faces directly onto Milltown Road. The subject property has the benefit of a patrons' seating area to the front of the unit. There are fee-paying car parks located directly across the road and to the rear of the subject unit.

The net internal floor area of the subject property has been agreed at 291.46 sq. metres.

**Tenure:**

The property is held under a 25 year lease with 5 yearly rent reviews from 4<sup>th</sup> February, 2008 at a rent of €135,000 per annum.

Mr Ó Cléirigh gave evidence that the rent was reduced in early 2008 to €93,500 and increased in April 2013 to €100,000 per annum.

**Comparison Properties:**

Evidence was adduced by the Appellant relating to a number of retail units.

**Comparison 1 –**

134-135 Milltown Road, Milltown, Dublin 6, Property No. 848582, total area 674.7 sq. metres, assessed at €140 per sq. metre.

**Comparison 2 –**

15, 17, 19, 20 Dunville Avenue, Ranelagh, Dublin 6, Property No. 849703, total area 1,281.71 sq. metres with retail/store area, assessed at €140 per sq. metre.

**Comparison 3 –**

50-58 Ranelagh Road, Dublin 6, Property No. 5004716, total area 889.71 sq. metres, assessed at €160 per sq. metre.

**Comparison 4 –**

1-4 Camden Street Lower, Dublin 2, Property No. 814550, total area 647.57 sq. metres, assessed at €165 per sq. metre.

All of the Appellant’s comparisons were much larger properties and above the 500 sq. metre cut-off point for applying the Zoning Method.

Evidence was also adduced by the Respondent relating to a number of retail properties.

Comparisons as follows –

<b>Property Number</b>	<b>Occupier</b>	<b>Street</b>	<b>Zone A</b>	<b>Total Size (sq. metres)</b>	<b>NAV</b>
848293	Sheena Tully	Milltown Rd	€450	59.89	€20,700
848290	Margaret Mulville & Ann O’Brien	Milltown Rd	€450	57.78	€20,400
848292	Owen Reilly Property Consultants	Milltown Rd	€450	66.01	€21,400
848283	Revive Experience Ltd	Milltown Rd	€450	251.58	€58,000
848291	Inessa Whelan	Milltown Rd	€450	58.97	€18,690
848271	Yasmin Oxford	Milltown Rd	€450	38.54	€16,220

The Respondent produced rental evidence in respect of four additional properties to support the estimate of the Net Annual Value of the subject property. Mr Cassidy clarified that regard was had to the Lisney Overall Property Index to derive a Net Annual Value in respect of those four properties as at the 7 April 2011, the statutory valuation date.

All of the Respondent’s comparison properties were significantly smaller than the subject property.

**The Submission of the Parties:**

Mr Cassidy stated that all properties under 500 sq. metres are valued using the Zoning Method. He quoted from the Society of Chartered Surveyor zoning guidance notes that:

“Zoning has become established as an accepted method of establishing rental values for the majority of rental premises. Originally confined to prime location its use has now spread beyond this.”

Mr Ó Cléirigh also quoted from the same guidance notes: “Where zoning is applied it is also recommended the premises be considered on an overall basis as there are instances where zoning produces an anomalous result.”

### **The Findings of the Tribunal:**

Having heard and considered the evidence and submissions of the parties the Tribunal holds as follows –

1. The Tribunal is satisfied that the Zoning Method is appropriate in determining the Net Annual Value (NAV) of the subject property which has an agreed ground floor area of 291.46 sq. metres. We note that the Zoning Method was not applied in respect of the Appellant comparison properties, all of which have an area in excess of 500 sq. metres.
2. The Tribunal is satisfied that a rate of €450 per sq. metre is appropriate for a Zone A rate.
3. The Tribunal is also satisfied that the 10% discount applied by the Respondent to the valuation arrived at in applying the Zoning Method to the subject property, in accordance with the Society of Chartered Surveyors Zoning Guidance Note May 2009, is appropriate in the circumstances.
4. It is the Tribunal’s view that the rental evidence adduced by the Appellant does not support a NAV of less than €82,350 in respect of the subject property.

### **Determination:**

In view of the foregoing the Tribunal determines that the “Net Annual Value” of the subject property should be calculated as follows –

Zone A	130.54 sq. metres @ €450.00 per sq. metre	=	€58,743.00
Zone B	130.54 sq. metres @ €225.00 per sq. metre	=	€29,371.50
Zone C	30.38 sq. metres @ €112.50 per sq. metre	=	€ 3,417.75
Less: 10% reduction for frontage-depth ratio			<u>(€ 9,153.22)</u>
	Total NAV		€82,379.03

**Say = €82,350.00**