

Appeal No. VA14/5/917

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

**Curran Frozen Foods**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the issue of quantum of valuation in respect of:**

Property No. 835798, Industrial Uses (Warehouse), IDA Industrial Estate, Northern Extension, Cleaboy Road, Waterford, County Waterford.

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 18<sup>th</sup> DAY OF APRIL 2017**

BEFORE:

**Sasha Gayer – Senior Counsel**

**Chairperson**

**Brian Larkin – BL**

**Member**

**Frank Walsh – OFA, Valuer**

**Member**

**1. THE NOTICE OF APPEAL:**

1.1. By Notice of Appeal dated the 4<sup>th</sup> day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €50,900 on the above described relevant property. The said valuation had been assigned to the Property on foot of the revaluation of commercial properties in Waterford. The Valuation Order for the Waterford Revaluation specified the 28<sup>th</sup> of October, 2011 as the date of valuation. The Subject Property was, along with Property number 5004964, originally valued as one property pursuant to a proposed certificate issued by the Respondent on the 31<sup>st</sup> of May, 2013. This provided for an NAV of €70,700. Representations were lodged by the Appellant on the 27<sup>th</sup> of June, 2013 seeking a reduced assessment and subdivision of the parts.

- 1.2. The Respondent published the Valuation List for Waterford on the 31<sup>st</sup> of December, 2013 in which the, at that stage still undivided property, was assigned a reduced NAV of €60,300. On the 7<sup>th</sup> of February, 2014 the Appellant lodged an Appeal to the Commissioner seeking a reduced assessment and subdivision of the parts. The results of this Appeal were published by the Respondent on the 8<sup>th</sup> of August, 2014, which confirmed that the property had been subdivided and the Subject Property now had an NAV of €50,900 (with Property No. 5004964 having an NAV of €11,180). The Appellant has now appealed both assessments on both properties.
- 1.3. The grounds of appeal as set out in the Notice of Appeal as follows:

*“The subject property’s estimate of net annual value is excessive and inequitable, The [sic] buildings here are old, inferior 2<sup>nd</sup> gen in type, part asbestos roof and are thus less valuable. Additionally, the loading area has restricted headroom.”*

*“The suggestion that a freezer area is worth a premium of 33.3% is completely untenable given the age of the building and conditions in the local market as the hypothetical tenant would not pay the high extra cost for running the facility. Hence, we believe the maximum addition for the section is 10% above standard levels.”*

*“Part of the ground floor and 1<sup>st</sup> floor offices are actually unfitted stores and are hence worth less than warehousing due to the restricted headroom.”*

## **2. THE HEARING:**

- 2.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 29<sup>th</sup> day of June, 2015. The Appellant was represented by Mr. David Halpin of Eamon Halpin & Company Limited and the Respondent was represented by Ms. Gillian Beale BSc (Property Studies) ASCSI ARICS of the Valuation Office.

## **3. THE PROPERTY:**

- 3.1 The Subject Property is part of an industrial building which was constructed in the late 1970’s and was added onto in the 1990’s. The Subject Property was comprised of a warehouse with industrial offices and cold stores and chill areas in part.

3.2 The agreed floor areas are:

Level	Use	Area (sq. metres)
0	Offices	273.77
1	Offices	287.33
0	Store	13.55
0	Warehouse	852.06
0	Cold Room (Freezer Room -20C)	740.61

#### 4. THE RELEVANT STATUTORY PROVISIONS:

4.1 The rateable valuation of the Subject Property, with which the Tribunal is now concerned, was determined pursuant to Section 48 of the Valuation Act, 2001, which provides:-

*“Section 48-(1) The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.*

*(2) Subsection (1) is without prejudice to Section 49.*

*(3) Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, 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 costs 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.”*

#### 5. THE APPELLANT’S EVIDENCE AND SUBMISSIONS:

5.1 The Appellant argued that the estimate of NAV of the Subject Property was excessive in view of the type and nature of same. In particular, it was argued that the premium applied to the

cold room accommodation (33.3%) was excessive and inequitable and that given the nature of the letting market in Waterford at the Valuation Date, there was no evidence to support such a premium. Further, it was argued that that part of the property classified as “offices” was in fact only suitable for storage as it was comprised partly of unfitted sections.

- 5.2 The Appellant referred to seven comparisons. The first, was a unit in the IDA Business Park which had, like the subject property, been valued at €21/m<sup>2</sup>. However, it was argued that given the superior profile of this comparator property, the hypothetical tenant would not be interested in the Subject Property at a valuation of €21/m<sup>2</sup>. Comparators 2, 3 and 4 were all units which had been developed by the Appellant on the adjoining site in the IDA Business Park, Northern Extension. The NAV of each had been based on a value of between €23/m<sup>2</sup> and €25/m<sup>2</sup>. It was argued that each of these units had been assessed on the basis of their open market rents and were superior to the Subject Property. Comparator number 5 was a unit in the Westside Business Park which the Appellant relied upon as the stores in same were valued at €15/m<sup>2</sup>, which the Appellant argued illustrated the difference in level between stores and office/warehouse components of a premises. Comparators 6 and 7 were relied upon by the Appellant to support what in their view should be the uplift in respect of a cold storage area.
- 5.3 In particular, comparator number 7, which was a unit in Jamestown Business Park, Finglas, Dublin 11, showed an uplift for the cold storage in that building of 8.15%. The Appellant argued that during the revaluation carried out in Dublin just six months prior to the Waterford revaluation, the average uplift for cold storage was in the region of 10%. Therefore, it was submitted that an uplift of 33.3% was excessive.

## **6. THE RESPONDENT’S EVIDENCE AND SUBMISSIONS:**

- 6.1 It was indicated on behalf of the Respondent that he had, in estimating the NAV of the Subject Property, relied upon four items of market information. There were four so called “Informer” properties. The relevant information concerning each of these properties was, it was stated, investigated and analysed by the Respondent and the result of this analysis provided the Respondent with the Net Effective Rent (NER) in each case, which, it was stated, equated to the basis of valuation provided for in Section 48 on the relevant statutory valuation date.
- 6.2 This collection of NERs provided the basis for deciding what was the appropriate NAV per square metre, or Zone A, to be applied to a group of properties which the Respondent

considered shared similar characteristics – including the Subject Property. Accordingly, it was submitted that in the case of the Subject Property, a valuation level of €21/m<sup>2</sup> in respect of the warehouse/offices and stores and €28.35/m<sup>2</sup> was made in respect of the cold room, arriving at an NAV of €50,900.

6.3 The first three Informers were three adjoining units in the Waterford IDA Industrial Estate, Cork Road. Informer 1 was an end of terrace industrial unit incorporating a warehouse and ground floor office accommodation. Informer 2 incorporated a warehouse and ground floor office and Informer 3 was a mid-terrace industrial unit incorporating a warehouse and ground floor offices. Informer 4 was an industrial unit located in Tycor Business Centre, Waterford, which comprised a mid-terrace industrial unit incorporating a warehouse and mezzanine offices. The NER per square metre (which varied according to the classification of each part of the property) was higher than the Subject Property. The Respondent's evidence was that nine properties deemed to be similar to the Subject Property had been valued at €21/m<sup>2</sup> and that the Subject Property was the only one under Appeal to the Valuation Tribunal.

## **7. FINDINGS:**

The Tribunal, having considered the evidence adduced and the Submissions made by the parties, finds as follows:-

- (i) The onus of proof in this Appeal rests with the Appellant;
- (ii) The Tribunal accepts that the commercial rental market at the valuation date, 28<sup>th</sup> October, 2011, was poor with very limited activity;
- (iii) The Appellant did not establish to the Tribunal's satisfaction that the description of certain areas of the Subject Property should be changed for the purposes of valuation – i.e. from offices to stores;
- (iv) The Tribunal prefers the Respondent's description of the different parts of the Subject Property, as being more appropriate;
- (v) The Tribunal is satisfied that the Subject Property is inferior to the buildings on the adjoining site, Numbers 1, 2, and 3 Carrickpheirish Business Park, valued between

€23.00 per sq. metre to €25.00 per sq. metre. However, this is reflected in the values assigned to it by the Respondent subject to what is set out below;

- (vi) The Tribunal is satisfied that the premium applied by the Respondent to the cold room accommodation is excessive in this instance, and that a 10% premium is more appropriate.

## 8. DETERMINATION:

Accordingly, the Appeal is allowed and the NAV of the Subject Property is calculated on the following basis:

Level	Use	Area (sq. metres)		€/ per sq. metre	=	NAV
0	Offices	273.77	@	€21.00	=	€ 5,749.17
1	Offices	287.33	@	€21.00	=	€ 6,033.93
0	Store	13.55	@	€21.00	=	€ 284.55
0	Warehouse	852.06	@	€21.00	=	€17,893.26
0	Cold Room	740.61	@	€23.10	=	<u>€17,108.09</u>
	(Freezer Room -20C)			Total NAV	=	€47,069.00

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**And the Tribunal so determines**