

Appeal No. VA15/4/025

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

**Mr Thomas Barry**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In Relation to the Issue of Quantum of Valuation in Respect of:**

Property No. 5006469, Retail (Shops) At Lot No. (Unit 1) William O'Brien Street, Mallow, Mallow North Urban, Mallow UD, County Cork.

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 12<sup>TH</sup> DAY OF AUGUST, 2016**

BEFORE:

**John Stewart - FSCSI, FRICS, MCI Arb**

**Deputy Chairperson**

**Mairead Hughes - Hotelier**

**Member**

**Carol O'Farrell - BL**

**Member**

By Notice of Appeal dated the 12<sup>th</sup> November 2015 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €111.00 on the above described property on the grounds that he considered the valuation of the property to be excessive and inequitable for the reasons more particularly set out in the Notice of Appeal which related *inter alia* to the range of rateable valuations determined in respect of other properties on William O'Brien Street, Mallow, County Cork.

The Appeal commenced by way of an oral hearing in the offices of the Valuation Tribunal, 3<sup>rd</sup> Floor, Holbrook House, Holles Street, Dublin 2 on the 4<sup>th</sup> August 2016. The Appellant appeared in person. Mr John O'Connor appeared on behalf of the Commissioner

In accordance with practice, prior to the commencement of the hearing, the parties exchanged their respective précis of evidence and submitted same to this Tribunal. The Appellant and Mr O'Connor on behalf of the Respondent, having taken the oath, adopted their respective précis of evidence as being and as constituting their evidence in chief. The evidence was supplemented by additional oral evidence obtained either directly or on cross-examination.

### **The Property**

The property is a ground floor retail unit measuring 181.32 m<sup>2</sup> in a modern building and is located at Unit 3, William O'Brien Street, Mallow, County Cork.

### **The Issue Arising: Quantum**

The valuation of the subject property falls to be determined for the purpose of section 28 (4) of the Valuation Act 2001 and by virtue of section 49 of the said Act the value of the property had to be determined by reference to the values of other comparable properties as appearing on the valuation list for the rating authority area of Cork County Council. This appeal has arisen from the determination of that valuation undertaken pursuant of section 49 of the said Act. The Respondent issued a Final Valuation Certificate on the 20<sup>th</sup> October 2015 in the sum of €111.00. The Appellant argues for a rateable valuation of €50.79.

### **The Appellant's Case**

The Appellant referred to the seven comparable properties relied upon by the Respondent all of which are situate on William O'Brien Street and lie in close proximity to the appeal property and pointed out that five of them had ceased to trade and that the other two properties were occupied by nationwide traders. He observed that the tone of the list in respect of those seven properties had been established between 2004 and 2006 during the boom years of the Celtic Tiger era. Whilst he accepted that the rateable valuations of those properties represented the tone of the list, he contended the tone of the list was wrong. He put forward eleven comparable properties all of which are situate on William O'Brien Street,

predominantly on the opposite side of the street to the appeal property. One of those properties is in similar retail use and has a rateable valuation of €50.79. Under cross-examination, he accepted that two of those properties are in office use, that seven of the properties had been valued prior to 1988, that one property was a domestic dwelling and, in relation to property number 871398, he confirmed that he was not aware that this property had been valued in 1990 and had a rateable valuation of €123.00 per m<sup>2</sup>.

### **The Respondent's Case**

Mr. O'Connor relied on seven comparison properties located on William O'Brien Street, all of which were similar properties located in the same block of development. Six of the comparisons had been assessed at the same level, whilst the other property was valued at a higher level due to its double frontage onto two streets. He contended that the comparison properties put forward by the Appellant were not true comparisons and that the appeal property had been valued according to the established tone of the list for O'Brien Street as clearly demonstrated by the valuations determined in respect of the seven comparable properties. Under cross-examination, Mr O'Connor accepted that five of those seven properties had ceased to trade but pointed out that the Respondent is obliged by section 49 of the 2001 Act to determine the value of the appeal property by reference to the tone of the list in accordance with section 49 of the 2001 Act.

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

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 4<sup>th</sup> August 2016 adduced before us by the Appellant, who contended for rateable valuation of €50.79 and Mr O'Connor on behalf of the Respondent to the appeal,

1. The basis of the valuation of the appeal property is governed by section 49 of the 2001 Act. Section 49 provides for the determination to 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. The comparison properties relied upon by Mr O'Connor confirm to the Tribunal that William O'Brien Street has an established tone of €123.00 per m<sup>2</sup>.
3. The Appellant considered the rateable valuation of the appeal property by reference to properties which had pre 1988 values or properties which were not truly comparable.
4. The onus of proof rests with Appellant and in the opinion of the Tribunal the Appellant has not adduced any evidence to alter the rateable valuation as assessed by the Commissioner of Valuation.

### **Determination**

The Tribunal confirms the rateable valuation of €111.00 as determined by the Commissioner of Valuation for the appeal property.