

Appeal No: VA17/5/204

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Margaret Plunkett

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 1207373, Retail (Shops) at 3,4 Clonegal, County Carlow.**

B E F O R E

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Eoin McDermott – FSCSI, FRICS, ACI Arb

Member

Frank O'Grady – MA, FSCSI, FRICS, FIABCI

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF FEBRUARY, 2018**

1. THE APPEAL

- 1.1 By Notice of Appeal dated the 6th day of October, 2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €18,630 (€13,700 at appeal stage)
- 1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because : *“Incorrect areas – duplication of store/warehouse, supporting documentation for store, copy of planning permission granted 06/589 Carlow”*
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €5,367.88.

2 REVALUATION HISTORY

- 2.1 On the 11th day of May, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €14,570.
- 2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was increased to €18,630.
- 2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €18,630.
- 2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th day of October, 2015.

3. THE HEARING

- 3.1 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 16th day of February, 2018. At the hearing the Appellant was represented by Mr Barty O’Connor, FSCSI, FRICS of DNG O’Connor & O’Connor and the Respondent was represented by Mr Terry Devlin, BSc, SCSl, RICS of the Valuation Office.
- 3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

- 4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.
- 4.2 The subject property comprises an old industrial building now occupied as a part residential part general store, situated in the village of Clonegal, Co. Carlow.
- 4.3 Together with the retail area there is a store located in the yard to the rear of the building.
- 4.4 The floor areas were agreed between the parties; Retail ZA 66.96 sq.m. (NIA) and Store 176.64 sq.m.(GEA).
- 4.5 The property is owner occupied and held freehold.

5. ISSUES

- 5.1 The issue in question is quantum. The appellant claims the NAV is high and should be reduced to €5,367.88 due to the fact that the property is situated in a flood zone.
- 5.2 The respondent claims that the NAV is correct at €13,700, taking into account other retail and warehouse premises in County Carlow.
- 5.3 The matter of store / warehouse to the rear was clarified and agreed that the store was the building in the yard and no storage area existed in the main building and no duplication of accommodation was recorded.

6. RELEVANT STATUTORY PROVISIONS:

- 6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“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.”

6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“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 be expected to let from year to year, on the assumption that the probable annual cost 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 in respect of the property, are borne by the tenant.”

7. APPELLANT’S CASE

- 7.1 Mr. O’Connor, for the appellant described the rural location of the subject, the business being carried on therein, the long working hours and the low profit margins. Accounts were provided to show the level of turnover.
- 7.2 Information was also presented on the risk of flooding in the area and details of events in 2001 were documented with photographs. Another event in 2010 was also alluded to. Mr. O’Connor detailed how the risk of flooding was effecting the business and livelihood of the appellant.
- 7.3 He requested that these matters be taken into consideration when fixing the NAV.

8. RESPONDENT’S CASE

- 8.1 Mr Devlin for the respondent agreed the property was located in a rural area, some 10 km from Buncloody and clarified the floor areas and the issue of the warehouse/store in the yard at rear.
- 8.2 He provided two rental transactions as evidence of the rental levels in Co. Carlow, both fast food outlets in Hacketstown, c.15 km from the subject.
- 8.3 In addition two NAV comparisons were provided, showing Zone A levels of €130 per m.sq.
- 8.4 The evidence presented included the valuation of €1000 for the pumps.
- 8.5 Additional photographs of industrial properties in Co. Carlow were supplied and evidence given supporting a rental level of €23 per m.sq. for small units.

9. SUBMISSIONS

- 9.1 No legal submissions were made.

10. FINDINGS AND CONCLUSIONS

- 10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Co.Carlow.
- 10.2 The Tribunal having considered all the evidence, both written and oral presented before it, has arrived at the following conclusions;

- 10.3 The property is situated in a rural village with a population of c.200, some 10 km from Bunclody (pop. 2000) and 15 km from Hacketstown (pop. 600) in an area liable to flooding.
- 10.4 No evidence was provided to contest the Respondents opinion on the retail element of the valuation, nor the NAV attached to the pumps.
- 10.5 The construction and use of the store which is very basic, (concrete block and corrugated metal sheeting and light storage use), when viewed and compared with the other industrial units that were offered as comparitors, (modern high spec buildings), did bring into question the all inclusive “one size fits all” approach of the Valuation Office when making valuations on non standard properties.
- 10.6 It was also noted that the Respondent did not make any allowance for the fact that the property was located in a flood zone.

11. DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €12,000.

The net annual value of the subject property be set out below;

Retail	ZA	66.96 m.sq.	€130 /m.sq.	€8,704.80	NAV
Store		176.64 m.sq.	€ 13 /m.sq.	€2,296.32	NAV
Pumps		1		<u>€1,000.00</u>	
Total NAV				€12,001.12	

SAY €12,000

And the Tribunal so determines.