

Appeal No: VA17/5/083

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Majella Swan t/a Carlow School of Music

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5005189, Office(s) at 12/1 Larkfield, Carlow, County Carlow.

B E F O R E

Carol O'Farrell – BL

Chairperson

Donal Madigan - MRICS, MSCSI

Member

Eoin McDermott – FSCSI, FRICS, ACI

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 23RD DAY OF APRIL, 2018.

1. THE APPEAL

1.1 By Notice of Appeal received on the 4th 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 €7,590.

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

“1. The Valuation of the subject property is excessive and inequitable. The property’s value as applied by the Commissioner is not in line with its actual rental value.

2.The subject property is valued by the Commissioner as Office (house) and valued at €100/m² in line with all office (house) properties in the centre of Carlow. This is inequitable for 2 reasons: a) the subject property is located in a residential area and not in the centre of Carlow and hence a discount for location would apply and; b) The subject property is in the garden of the occupier’s domestic residence. Therefore, it should not be compared in any way with standard offices and would not be treated remotely similarly by the hypothetical tenant in terms of a rental bid.”

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,795.

2. REVALUATION HISTORY

- 2.1 On the 11th 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 €7,590.
- 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 manager did not consider it appropriate to provide for a lower valuation.
- 2.3 A Final Valuation Certificate issued on the 7th September 2017 stating a valuation of €7,590.
- 2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30th 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 15th March 2018. At the hearing the Appellant was represented by Mr Eamonn S. Halpin B.Sc. (Surveying) MRICS, MSCSI and the Respondent was represented by Mr Martin O’Donnell, FSCSI, FRICS of the Valuation Office. Ms. Ciara O’Donohue from the Valuation Office attended as an observer.

- 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:
- (a) the Property is a purpose-built music school to the side and rear of a domestic dwelling in a residential setting approximately 1.2 kilometres from Carlow town;
 - (b) the floor area of the Property is agreed at 75.99 m² on a net internal basis;
 - (c) the Property is owner occupied,
 - (d) the Property has a shared access with the adjacent dwelling and
 - (d) the Property has been valued in the category 'Office (House)' by the Respondent at €100.00 m², rounded downwards.

5. ISSUE

- 5.1 The appeal is only concerned with the issue of quantum. The determinant of the quantum appears to have arisen chiefly by the category into which this Property was classified for valuation purposes by the Valuation Office.

6. RELEVANT STATUTORY PROVISIONS:

- 6.1 The net annual value of the Property must 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 considered 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. Halpin for the Appellant was critical of the Respondent’s approach to the valuation of the Property. He regarded the process as flawed and based on an “obsessive quest” for uniformity without regard to other important considerations. He pointed out that the adjacent dwelling was purchased in 1993, a garage was demolished, and planning permission obtained c.1996 to construct the purpose-built music school. He also referred to the recession and the physical changes in the rural towns i.e. the increasing number of empty units. He stated that rental values were now more depressed in Carlow than in the 1980s though there were some recent signs of recovery. He was not aware of any other music school in the area. He pointed out that the Property had been valued in the ‘Office (House)’ category which includes former domestic properties quasi-retail properties and purpose built offices which are domestic in appearance and that all properties falling within this classification, of which there are 82 on the valuation list, the majority being in Carlow Town, are valued at €100/m² at ground floor level. Mr. Halpin perceived the Property to be more disadvantaged than the Respondent’s comparable properties because of its residential setting.

7.2 Mr Halpin contended for a NAV of € 3,790 calculated as follows:

$$\text{Office } 75.99 \text{ m}^2 @ €50.00/\text{m}^2 = €3,799, \text{ rounded to } €3,790.00$$

7.3 Mr Halpin stated that there are few properties truly comparable with the appeal Property however he considered purpose-built crèches as giving some indication of a starting level for properties in residential areas. He considered that the comparables he had provided in his précis of evidence were more relevant than those relied upon by the Respondent in valuing the Property and in support of his valuation Mr. Halpin put forward the following comparisons:

1. Property Number 2184579 - Friars Green, Carlow
Purpose built crèche in a residential area of 200.56 m² assessed at an NAV of €14,030 reflecting a unit rate of €70.00/m²

2. Property Number 2207760 - Quinagh Green, Carlow

Purpose built two-storey crèche assessed at NAV €13,840 reflecting unit rates of €70.00/m² for ground floor of 148.65 m² and €50.00/m² for first floor of 68.71 m²

3. Property Number 1141384 - Tullow Street, Carlow

Medical Centre assessed in the Office (House) category at NAV €13,550 as follows:

Ground Floor 118.20 m² @ €100.00/m²

First Floor 24.75 m²@ €70.00/m²

4. Property Number 2175370 – Tullow Street, Carlow

First Floor office in the Office: Own Door category in a mixed-use (retail, office and residential) block built in 2004 assessed at NAV €6,810 comprising 96.60 m² @ €70.00 /m²

5. Property Number 1140123 – Staplestown Road, Carlow

Office and store in a former domestic property in the Office (House) category assessed at NAV €4,600 as follows:

Ground Floor Offices 42.78 m² @ €100.00/m²

Store 3.23 m² @ €100.00/m²

6. Property Number 1987948 - Dublin Street, Carlow

Three storey office property in the Office: House category assessed at NAV €16,620 reflecting the following:

Offices ground floor 73.00 m² @ €100.00/m²

Offices first floor 91.00 m² @ €70.00/m²

Offices 2nd Floor 59.00 m² @ €50.00/m²

8. RESPONDENT'S CASE

- 8.1 Mr O'Donnell stated that the Respondent relied on five items of market information for determining the value of the appeal Property, the details of which are attached at Appendix 1 to this judgment. He explained in his précis that these transactions were investigated and analysed regarding the date of transaction relative to the valuation date, any inducements or other individual feature of the transactions to arrive at the net effective rents. (the 'NERs'). These NERs provided the basis for deciding the appropriate per square metre or Zone A to be applied to a group of properties sharing the same characteristics, which included the appeal Property.

8.2 Mr O'Donnell pointed out that 50 office properties were valued at €100/m² (ground floor) in Carlow Town, many of which are in the vicinity of the Property and that appeal Property is one of only two properties under appeal to the Tribunal.

8.3 Though accepting that the Property is in a resident area, Mr O'Donnell was of the view that as a well-constructed property with proximity to a main road facilitated easy access to and from Carlow Town and its environs, €100/m² was fair and reasonable. He acknowledged that the revaluation process was made difficult by the low rental information returns and that all the properties are not directly comparable but in the overall context he considered that the appeal Property had to be considered an office and his comparables indicated the level of rent that could be achieved for the Property.

8.4 The NAV of the appeal Property as determined by the Respondent is €7,590, calculated as follows:

Office 75.99 m² @ €100.00/m² = €7,599.00, rounded €7,590

8.5 In support of his valuation Mr. O'Donnell put forward the following nine comparisons:

1. Property Number 1141384 – Tullow Street, Carlow (same as the Appellant's comparison No. 3 above)

Two storey office type building assessed at NAV € 13,550 as follows:

Ground Floor 118.20 m² @ €100.00/m²

First Floor 24.75 m² @ €70.00/m²

2. Property Number 2184619 – Kilkenny Road, Carlow

Two storey building in offices assessed at NAV € 16,460 as follows:

Ground Floor Offices 111.26 m² @ €100.00/m²

First Floor 76.31 m² @ €70.00/m²

3. Property Number 2197470 – St Patricks Avenue, Carlow

Single storey building assessed at NAV €3,890 as follows:

Offices ground floor 38.97 m² @ €100.00/ m²

4. Property Number 2210588- Lacken Rise, Carlow

Office in house assessed at NAV €2,390 as follows:

Ground Floor office 23.91 m² @ €100.00/m²

5. Property Number 2207839- Chapelstown Gate, Carlow.

Crèche assessed at NAV €14, 390 as follows:

Crèche 149.38 m² @ €100.00/m²

6. Property Number 2110991- Abbeyvale Way, Carlow

Crèche assessed at NAV €9,760 as follows:

Crèche 97.60 m² @ €100.00/m²

7. Property Number 2197494 –Chapelstown, Carlow

Crèche assessed at NAV €19,540 as follows:

Crèche 195.41 m² @ €100.00/m²

8. Property Number 1138579 – Idrone Park, Carlow

Two storey crèche assessed at NAV € 17,370 as follows:

Ground Floor crèche 143.54 m² @ €100.00/m²

First Floor crèche 43.14 m² @ €70.00/m²

9. Property Number 2163810 - Burrin Manor, Carlow

Two storey building assessed at NAV €15,270 as follows:

Ground Floor crèche 75.66 m² @ €100.00/m²

First Floor crèche 77.06 m² @ €100.00/m²

9. FINDINGS AND CONCLUSIONS

- 9.1 On this appeal the Tribunal must determine the value of the Property to achieve, as far 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 Carlow County Council.
- 9.2 It would seem that the Respondent did not receive any open market rental information concerning properties in the Office:House category as the five key rental transactions investigated and analysed are in respect of offices in town centre or commercial locations. No doubt this is explained by the fact that most properties falling within the Office: House category are owner occupied so the Tribunal appreciates the difficulty if rental returns are low or even non-existent for particular categories of property. The number of properties falling for revaluation in a rating authority area can be significant in contrast to the resources available to the Respondent and, so the use of categories cannot, in practice, be avoided. However, care must be exercised in

categorising properties so that the result achieves the statutory objective set out in section 19(5) of the Act.

- 9.3 The rental evidence provided by the Respondent was in respect of offices which could not be considered comparable to the Property in terms of their use, character and location. The Tribunal is of the view that the hypothetical tenant would not be willing to pay a rent for the appeal Property equivalent to the rent of a ground floor office located in a commercial area or in a town centre location and that the hypothetical landlord would not ask for such a rent.
- 9.4 Mr Halpin's key evidence to support a reduction was the rent of a purpose-built crèche in a residential area crèche as the construction costs would broadly be the same whilst acknowledging that the crèches would have different requirements in respect of toilet facilities. In the course of the hearing the Chairperson requested Mr. O'Donnell to advise whether he agreed with Mr Halpin's assertion that every crèche in Carlow Town identified in the use category 'Crèche (Purpose Built)' was assessed at €70/m² and that every crèche whether purpose built or not, if identified in the use category 'Creche (House)' in the valuation list for the rating authority area of Carlow County Council was assessed at €100/m². Mr. O'Donnell subsequently confirmed to the Tribunal his agreement with that assertion.
- 9.5 The Tribunal considers that the Property having regard to its location and low profile, cannot be matched, to the same degree, with ground floor town centre offices. The Tribunal has taken into account the €100/ m² tone of the list values for ground floor offices in the town centre and commercial locations. This provided the Tribunal with some evidence to support a reduction in the value of the appeal Property and having considered the entirety of the evidence, it is the Tribunal's view, that the values of first floor offices in the town centre and of the properties falling within the use category 'Crèche (Purpose Built)' gives an indication of the level at which the hypothetical landlord would be prepared to let the Property.
- 9.6 Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to **€5,300**. This is calculated as follows:

Office (Music school) 75.99 m² @ €70.00 /m² = €5,319.30 say, €5,300.

And the Tribunal so determines.