

Appeal No: VA17/4/005

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

JJ FLEMING & CO - PAT FLEMING

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 5009553, Showroom at Local No/Map Ref: 17Ba/a, Tuam Road, Ballybaanbeg,
Mervue, East, County Galway

B E F O R E

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Grainne Duggan – BL

Member

Donal Madigan – MRICS, MSCSI

Member

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

1. THE APPEAL

1.1 By Notice of Appeal received on the 1st day of November, 2017 the Appellant appealed against the determination of the Respondent pursuant to which the rateable valuation of the above relevant Property was fixed in the sum of €637.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- The valuation is excessive.
- The valuation is incorrect
- Comparable neighbouring properties are less
- A portion of the building is vacant

- Current trading conditions indicate the valuation charge places an undue burden on the property

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €250.

2. VALUATION HISTORY

2.1 On the 8th day of June, 2017 a copy of a valuation certificate in relation to the Property was sent to the Appellant indicating a valuation of €694.

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 reduced to €637.

2.3 A Final Valuation Certificate issued on the 5th day of October, 2017 stating a valuation of €637

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 13th day of August, 2018. At the hearing the Appellant appeared in person and the Respondent was represented by Mr Patrick Murphy MA (Mgm), BSc (Surv), MSCSI, MRICS 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:

(a) The property comprises a motor showrooms plus offices in a modern building near the junction of the N6 and the Tuam Road, approximately 3 kilometres from the centre of Galway;

(b) The floor areas are agreed as follows:

Ground Floor Showroom 1,321.28m²

First Floor Offices 486.54m²

(c) The property is owner occupied.

5. ISSUES

5.1 The appeal is concerned with the quantum of the valuation only.

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.”

6.3 As this is a Revision type appeal, the provisions of section 49 of the Valuation Act 2001, as amended, are also pertinent, which provide, inter alia, that the value of a property shall be determined by reference to the values, as appearing on the valuation list relating to the same local authority area as that property is situate in, of other properties comparable to that property.

7. APPELLANT’S CASE

7.1 The Appellant, Mr. Pat Fleming, contends for a valuation of € 250.

7.2 The Appellant submitted a written precis of evidence setting out a brief narrative of his case with the aide of photographs including photographs/aerial photographs of the main comparable properties referred to in the Respondent’s submission.

He further contends, in summary, that:

(a) the subject property is perpendicular to the Tuam Road and thus is not parallel to the road as in the case of Monaghans (comparison No. 2 in Section B of the Appendix) or in the case of Colm Quinn (comparison No. 1 in Section B of the Appendix);

(b) the subject property has frontage of only 35 metres which is in contrast to Monaghans being 220 metres (140 metres motor showroom plus 80 metres Supermacs and others) and in contrast to Colm Quinn of 170 metres;

(c) the subject property has narrower exposure to the public road unlike the site of Monaghans which has a greater array of businesses with multiple access points and with a fast food outlet on the site plus a retail outlet, all of which enhance the public profile of this in contrast to the subject property;

(d) the subject property is solely dependent on the motor trade and is experiencing a period of severe economic downturn with new car sales falling and reflective of that, the dealership is in a period of notice termination from the distributor, with consequent uncertainty on the 23 families dependent on it putting the viability in doubt with the imposition of the further expense of € 42,000 annually;

(e) the selection of comparables by the Respondent is considered arbitrary by the Appellant and he feels in particular that Tony Burke (comparison No. 4 in Section B of the Appendix) and Windsor Motors (comparison No. 3 in Section B of the Appendix) are not appropriate and considers Hogan Motors on the Tuam Road more relevant with an NAV of € 135.

(f) He built the property himself at the direction of the Motor Distributor at great personal cost and had to personally supervise and source the costs but had taken account of rates in doing so but considers a charge over three and a half times over his previous level as being excessive, and

(g) He indicated that the original plan was to incorporate a first floor for showing cars but this had to be abandoned on account of the expense of fire certificates and consequently there is now a large area on this level not in use.

8. RESPONDENT'S CASE

8.1 Mr. Murphy, for the Respondent, submitted a detailed précis of evidence with text, maps and photographs, and he contends for a valuation of € 637 as appearing on the Valuation List which he calculates as follows:

Ground Floor	Showroom	1,321.28m ²	@ € 61.50 per m ²	= € 81,258.72
First Floor	Offices	486.54m ²	@ € 41.00 per m ²	=€ 19,948.14
				Total: € 101,206.86

Reducing factor X 0.0063 = 637.60 say, NAV € 637.

8.2 In support of his valuation Mr. Murphy puts forward four broadly similar properties in the general area as set out in Section B of the Appendix.

8.3 Mr. Murphy confirmed to the Tribunal that the comparables cited by him were all subject to representations or appeal and had been professionally represented.

9. SUBMISSIONS

9.1 There were no legal submissions in this case.

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 Galway City Council.

10.2 The Tribunal considers that the subject property is not at a disadvantage to the four comparable properties cited by the Respondent in terms of profile, visibility or volume of passing traffic.

10.3 The Tribunal, although sympathetic to the challenging trading conditions being experienced by the Appellant, cannot separate this from a consideration of the accuracy and fairness of the current valuation assessment in comparison with other valuations.

10.4 The fact that portion of the property occupied is not in active use is not, in itself, a reason to ignore this in the calculation of the valuation.

10.5 The Tribunal is assisted by the four comparables submitted by the Respondent and can find a discernible pattern in the levels of value applied, especially relevant in the case of the values ascribed to the showrooms and offices in each of those. These show levels of € 68.34 per m² for showrooms (in contrast to € 61.50 per m² for the subject property showroom) and € 41.00 per m² for first floor offices (the same as for the subject property offices).

10.6 The Tribunal considered the showroom component of the subject property to be much larger than in the case of the showrooms in the Respondent's four comparables, and examined if this would give grounds for a reduction in the rate of value applied. However, as the rate adopted by Mr. Murphy of the Valuation Office is € 61.50 per m² this showroom rate, it would appear, is already discounted from the main rate adopted for the comparable showrooms of €68.34 per m² –a discount of 10% and therefore the Tribunal cannot find grounds to reduce this further.

10.7 As this is a revision case and the tone of the Valuation List is established, there are no reasons readily presenting themselves to depart from that tone of values on the basis of the comparable assessments before us.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent at RV € 637.

And the Tribunal so determines.