

Appeal No: VA17/5/168

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BRENDAN GALLIGAN

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 1507176, Retail (Shops) at 46/47 Austin Friars Street, Mullingar, County Westmeath.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF AUGUST, 2018**

BEFORE

Pat Riney – FSCSI, FRICS, ACI Arb

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on the 04th 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 €12,320.

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: *“2 units in 46/47 Austin Friar St (1) 110SqM (2) 90 SqM. the larger one measured for valuation. €7,200 is rent agreed”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,200.

2. RE-VALUATION HISTORY

2.1 On the 12th day of January, 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 €12,320.

2.3 A Final Valuation Certificate issued on the 07th day of September, 2017, stating a valuation of €12,320.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30th day of October, 2015.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 Location: The subject property is located at Unit 2, 46/47 Austin Friars Street, on the eastern side of Mullingar Town. Mullingar is the principal town in Westmeath and the administrative headquarters for the county. Mullingar, with a population of c.20,928 people(2016 Census) is located on the axis of the Dublin -Sligo N4 artery and is less than an hour from Dublin.

4.3 Description/ Accommodation: The subject property is a former house converted to a retail unit at ground floor level. The domestic accommodation is not part of the valuation. The retail unit has wooden floors, painted and wallpapered walls and recessed lighting. It is currently in use as a hair and beauty salon and is well fitted out. The original floor area was assessed by the valuation office as c.103.63 sq. mtrs. and was reduced during the appeal to c.71.74 sq. mtrs.

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 The Valuation on this property was €12,320- the property was vacant for 6 years, along comes a Tenant - offers €600 per month rent, and then gets hit with rates of €403 p.m. How could a start-up business sustain that level of rates.

7.2 This month alone three outlets in Austin Friar Street closed. Examples were offered of a derelict pub and a closed hair salon, typical of the street. Details of another shop at 44 Austin Friar Street occupied by Mullingar Travel, were given, where a new rate was assessed, and a revaluation of €1,107.15

8. RESPONDENT’S CASE

8.1 The property was inspected on the 11th of May 2018, and a different floor area was assessed which is 71,74 sq. mtrs. The said area was less than was previously available to the Valuation Office. The original area of 103.63 sq. mtrs was used to calculate the NAV of €12,320 which was from a survey completed in 2015. However, the amended floor area has been used to reduce the valuation to €9,870.

8.2 The Unit has been valued in line with the three comparables on Austin Friar Street, submitted in section 4.2.2 in the respondents submission, which calculates each of the properties using a Zone A Rent @ €225 p.sq. mtr.

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 Westmeath County Council

10.2 It is noted the subject property had not been inspected during the current re-valuation, until after it was appealed to the Valuation Tribunal. The property was inspected by the Respondent's valuer on the 11th of May 2018, which resulted in the floor area being measured at 71.74 sq. mtrs. i.e. a reduction of 31.89 sq. mtrs. or c.30%. The Tribunal acknowledges the change in the NAV now being asserted by the Respondent at €9,870, in accordance with Section 48 of the Valuation Act 2001. We understand this would result in a rates liability for 2018 of €1,806.21 or c.€150 p.m.

10.3 We understand the property is held under a 4 year 9 Month Lease from the 14th of July 2017 at an annual rent of €7,200

10.4 The Tribunal have found the Respondents Comparison 1, Pasta Bella Ltd., Austin Friar Street, Mullingar to be of most assistance, and note the effective valuation date for the subject property is the 30th of October 2015

DETERMINATION:

Accordingly, for the above reasons, the Tribunal determines the NAV as follows:

Retail Zone A	25.62 sq. mtrs.	@ €225 p.s.m	€ 5,764.00
Retail Zone B	27.25 sq. mtrs.	@ 112.50	€3,065.62
Retail Zone C	18.37 sq. mtrs.	@ 56.25	€1,033.31
Retail Zone D	.50 sq. mtrs.	@ 28.13	€14.07
TOTAL			€9,877.00
			NAV Say €9,870

And The Tribunal so determines.