

Appeal No: VA17/5/798

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

AIDEEN CROSS

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 1738829, Office at Floor 0, 1, 35b Main Street, Rathangan, County Kildare.

B E F O R E

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Michael Connellan Jr - Solicitor

Member

Donal Madigan – MRICS, MSCSI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF AUGUST, 2018

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th 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 €5,740.

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 :

“I am marked on map as on Main Street but I am 50 feet off street down a lane with no shop front, I have store area but its not marked or allowed on form.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €2,472.30.

2. REVALUATION HISTORY

2.1 On the 7th day of March, 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 €6,200.

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 €5,740.

2.3 A Final Valuation Certificate issued on the 25th day of August, 2017 stating a valuation of €5,740.

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 May, 2018. At the hearing the Appellant, Ms Aideen Cross, appeared in person and the Respondent was represented by Ms Ciara Marron MSc, BSc, MSCSI, RICS, District Valuer 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 her précis as her 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) This property is located to the rear of buildings on Main Street, Rathangan and which is accessed down a right of way;

(b) The building is old and is two storey, with bridal showroom at ground floor and sewing room and ancillary storage at first floor;

(c) The floor areas are agreed though the Appellant divides the upper floor into two areas for valuation purposes but the overall floor areas are as follows:

Ground Floor Showroom 34.21m²

First Floor Workshop 42.30m²

(d) There is a toilet on the ground floor and basic services to the property.

(e) The property is owner occupied.

5. ISSUES

5.1 The only issue in dispute is the quantum of the valuation

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 Appellant contends for a valuation of € 2,472.30 which she calculated as follows:

Ground Floor Office 34.21m² @ 60.00 = [1,026.30]

First Floor Workshop 30.00m² @ 40.00 = 1,200.00

Storage 12.30m² @ 20.00 = 246.00

7.2 Allowing for numerical correction, the first line of her valuation should be € 2,052.60 which would increase the overall figure to € 3,498.60.

7.3 The Appellant relied on one comparable set out at no. 1 in the Appendix, Section A.

7.4 The Appellant contends that access is poor being down a right of way and that she has no street presence on the Main Street. The upper part is unsuited to customers and that the periphery (some 12.30m²) is only suitable as storage having much reduced headroom.

7.5 The Appellant confirmed that the building is not purpose built but was in fact a grain store that had been adapted over the years for the current use.

8. RESPONDENT’S CASE

8.1 The Respondent contends for a valuation of € 5,740 which she calculates as follows:

Ground Floor Office 34.21m² @ 90.00 = 3,078.90

First Floor Office 42.30m² @ 63.00 = 2,664.90

Total: 5,743.80 say, € 5,740.

8.2 In support of her valuation the Respondent submits three rental and four NAV comparables as set out in Section B of the Appendix.

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 Kildare County Council.

10.2 The Tribunal considers the quality of the three key rental transaction comparables advanced by the Respondent (no. 1-3 in Section B of the Appendix) to be superior to the subject having more prominence and being of a higher value use, as office, beauty salon and physiotherapy rooms, respectively. Likewise the level of NAV rates applied to what are, in the main, more prominent or better quality properties with the possible exception of comparable number 6, in Section B of the Appendix, do not reflect the character, use and lack of prominence and access of the subject property.

10.3 The Tribunal considers that a reduced rate must therefore be applied to the ground floor to reflect the age of building, the lack of prominence and access and that a corresponding lower level of value must be applied to the first floor to reflect the use and restricted headroom in part.

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 € **4,250**.

This is calculated as follows:

Ground Floor: Showroom 34.21m² @ 75.00 = 2,565.75

First Floor: Workshop 42.30m² @ 40.00 = 1,692.00

Total: 4,257.75 say, € 4,250.

And the Tribunal so determines.