

**Appeal No: VA17/5/804**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**JOHN MULLANEY**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 1168951, Retail (Shops) at Floors 0,1, 40 4Ob/1 O'Connell Street, Sligo, County Sligo.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 1<sup>ST</sup> DAY OF AUGUST, 2018**

**BEFORE**

**Rory Lavelle – FRICS, FSCSI, ACI Arb**

**Deputy Chairperson**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 12<sup>th</sup> 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 €76,300.

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 : *See attached*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €56,526.

## **2. RE-VALUATION HISTORY**

2.1 On the 16<sup>th</sup> 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 €94,300.

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 €76,300.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017, stating a valuation of €76,300.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30<sup>th</sup> 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 The location, description and floor area are agreed. The basis of valuation of the ground floor is not significantly different between the parties.

## **5. ISSUES**

5.1 Having read and considered the submissions the main area of dispute seems to be the treatment of the first floor which is accessed via a stairs 20m from the front entrance to the building.

## **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 refers to the property being long and narrow which inhibits modern layouts. The first floor does not benefit from a lift and access is via stairs 62 feet from the front door (Respondent has 20m). The Appellant states that the nature of the dimensions of the premises distorts the zoning approach and suggests applying the remainder zone to the first floor at €50 per square meter. He considers that a valuation of the first floor equivalent to 48% of the Ground Floor over values the first floor. Johnstons Court next door first floor rentals (NAVs) equate to 10% of the ground floor. He includes 6 property numbers with ground to first floor percentages varying from 11% to 36%. An estimate of valuation is included in Form A Revaluation Appeal Ground €51,388 and First €5,138, Total €56,526.

## **8. RESPONDENT’S CASE**

8.1 On the basis that there is not a dispute on the levels applied to the ground floor the Tribunal has confined their comments to the first floor only. The Respondent’s position is that this was valued in line with other comparable floors (€100 per square meter for first floors in retail use and €90 per square meter for office or storage use) an allowance was made to reflect

the position of the stairwell relative to the front entrance. The NAV of the entire first floor after the application of the allowance is €24,971.40. This devalues at a rate of €78.29 per square meter ( $\text{€24,971.40}/318.96 \text{ sq.m.}$ ), significantly lower than the levels applied to comparable first floors on O'Connell Street and Johnston Court. Based on the Respondent's analysis there is no indicative percentage relationship between ground and first floors. The varying size of the floor plates distorts this type of calculation as can be seen from the comparisons in the Appellant's submission. The Respondent goes on to breakdown the 6 NAV comparisons included in the Respondents submission to show first floor €90 per square meter for stores/offices and €100 per square meter for shop. A further six NAV comparisons are included to prove the rates used. The Respondent considers that the proposed €5,138 applied by the Appellant devalues as €16.11 per square meter which is clearly at odds with the emerging "tone" for 1<sup>st</sup> floors on O'Connell Street. The Respondent puts forward a NAV figure of €79,700 in their submission as against a figure of €76,300 on the Final Certificate.

## **9. SUBMISSIONS**

9.1 No legal points arise

## **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 Sligo County Council.

10.2 There is not a dispute as to the treatment of the ground floor. The Appellant has sought a considerably reduced rate for the first floor referring to the configuration of the building, the remoteness of the access stairs from the ground floor shop front and refers to relative percentages as against comparable properties. The Respondent's position is that a consistent rate has been applied to the twelve properties listed in their evidence and that a further allowance has been applied to the subject to take account of the issues raised by the Appellant.

10.3 The Tribunal is persuaded by the comparisons listed in the Respondent's submission and the fact that a further allowance was made to reflect specific factors which leads to a lower rate than applied to the comparisons. The Appellant's arguments leading to a rate of €16.11 per square meter for the first floor is at odds with the evidence supplied for other comparable

buildings on this Street. The Tribunal considers that the specific factors affecting the property are sufficiently recognised in the reduction applied by the Respondent. The Tribunal confirms the figure in the Respondent's submission.

**DETERMINATION:**

Accordingly, for the above reasons,

The Tribunal disallows the appeal and confirms the decision of the Respondent confirming the NAV as €79,700.

And the Tribunal so determines.