

Appeal No: VA17/5/105

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

CAHILL & SON (SUPERMARKETS) LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 108997, Retail (Shops) at Floor 53,54,55/1 and 52 Main Street, Castlerea, County Roscommon.

B E F O R E

Majella Twomey - BL

Deputy Chairperson

Pat Riney- FSCSI, FRICS, ACI Arb, FIABCI, PC

Member

Hugh Markey - FSCSI, FRICS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF NOVEMBER, 2018**

1. THE APPEAL

1.1 By Notice of Appeal received on the 4th 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 €165,700.

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 :

1.3

2. *“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 potential rental value.*

3. *The subject property is a supermarket in the Main Street Castlerea which has been constructed in a piecemeal fashion over the past 30 years. It is not directly comparable with purpose built out-of-town stores.*
4. *The subject's value must be defined by the values of property which surround. The Zone A level for retail in Castlerea is €80/m². This is significantly lower than the majority of towns in Roscommon. In short, the Commissioner's contention for an overall level of €65/m² for ground floor shop implies reverse quantum which is unlikely to exist anywhere in Roscommon, let alone in Castlerea where retail rents are some of the lowest in the country."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €110,000.

2. REVALUATION 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 €163,600.

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 increased to €165,700

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €165,700.

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 26th day of June, 2018. At the hearing the Appellant was represented by Mr David ES Halpin M.Sc. (Real Estate) Ba. (Mod) and the Respondent was represented by Ms Rita Harris BSc (Hons) Property Studies 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/her précis as his/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.

4.2 The subject property is located on Main Street, Castlerea, Co. Roscommon. It has a second entrance with a car park at the rear, with free parking. Access to the subject property is off the Ballindrimley Road at the end of Main Street.

4.3 The main commercial centre of the town is made up of Main Street and Patrick Street with secondary locations adjacent.

4.4 There is free parking throughout the town.

4.5 The subject property is a large retail unit in use as a supermarket. There is access to and from Main Street.

4.6 The original shop was extended in or around 1989 or 1990, involving an extension and a change of layout. In 2005, the property was developed and modernised significantly.

4.7 The floor areas are agreed- The ground floor shop area is 1942.38 sqm and the first floor office/store is 636.53 sqm.

5. ISSUES

5.1 The Appellant claims that the property's value, as applied by the Commissioner, is not in line with its potential rental value.

5.2 The Appellant also claims that the subject property has been constructed in a piecemeal fashion over the past 30 years and is not directly comparable with purpose built out of town stores.

5.3 The Appellant claims that the commissioner's level of €65 per sq. m. for the ground floor shop implies a reverse quantum.

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 Mr. David Halpin, for the Appellant, gave evidence in this case. He stated that the subject property was constructed in a piecemeal fashion and is located on Main Street, Castlerea.

7.2 Mr Halpin said that it was completely inequitable to suggest that the Zone A value in the street is €80 sqm and that this shop could achieve €65 per sqm overall.

7.3 It was stated that Roscommon town has a population of three times the size of Castlerea and the Supervalu in the centre of that town is valued at €70 per sqm. It was submitted that if the same logic were to be applied to the subject property's rental value that it would imply a much lower value for the subject.

7.4 Mr. Halpin said that the subject property is overly large for the town. He said that the store is unfitted and should be valued at half the level of the retail. He said that it was also inappropriate to add fitout allowance to the unfitted store.

7.5 Mr. Halpin gave evidence that the subject property is a non-standard supermarket located at the western end of Main St. Castlerea, Co. Roscommon. He said that it was constructed in a piecemeal fashion over decades. It was stated that the property contains many features of non-standard construction including interrupted frontage in that the frontage to the Main Street is disrupted by a domestic property. Furthermore, the property has a significant flat roof extension with lower head room immediately behind the former domestic premises. Behind this, there is a modern extension.

7.6 Mr. Halpin said that there is limited parking to the rear, with no direct vehicular access. The car park can only be accessed by driving 200 metres beyond the subject property, turning right, travelling a further 80 metres, turning right again and travelling a further 120 metres to reach the car park.

7.7 It was stated that the hypothetical tenant, namely Tesco, Aldi, Lidl or Dunnes would be unlikely to be interested in the property as this is not a standard 'big box' retail unit.

7.8 Mr. Halpin submitted that the Appellant has not been able to establish any open market transactions for supermarkets in Co. Roscommon and he said that he did not believe that the Commissioner is in possession of any open market rental evidence either. Mr. Halpin put forward nine NAV comparators.

7.9 The first comparator is Benny's Deli, which is on the main street and 150 metres from the subject property. The rate for the retail zone A is €80.00. Mr. Halpin said that the overall ground level was significant at 339.83 sq. m. and he admitted that the subject property is superior to this property. Mr. Halpin also put forward a comparator from Patrick St, Castlerea, called Wispy's Discount Store. This is 500 metres from the subject property and has a retail zone A level of €115. The third comparator is Hayes Pharmacy on Barrack St, Castlerea and it has a retail zone A NAV of €160.

7.10 Mr. Halpin also put forward a number of supermarket comparators. He referred to Lidl on Williamstown Rd., Castlerea, which has an NAV of €65 per sq. m. and which is 500 metres from the subject. He also put forward comparator number 6, Supervalu, Main St, Roscommon Town, which he says is similar to the subject but has uninterrupted frontage and a substantial rear profile to the town's main car park. It was stated that a 3% fit out allowance is applied here as opposed to 7% for the subject property. Mr. Halpin also put forward comparator number 7, Supervalu, Monksland, Athlone, Co Roscommon? The supermarket is valued at €70 per sq. m. Mr. Halpin stated that the supermarket is vastly superior to the subject in terms of location and potential for trade.

7.11 Finally Mr. Halpin submitted two other comparators – Supervalu in Boyle, Co. Roscommon, with a NAV of €65 per sq. m. for the supermarket and Lidl in Carrick-On-Shannon, also with a NAV of €65 per sq. m. for the supermarket.

8. RESPONDENT'S CASE

8.1 Ms Rita Harris for the Respondent put forward a key rental transaction. The comparator she put forward was a supermarket in Boyle. Co. Roscommon, the details of which are set out in Appendix A. That property has a total area of 1640 sq. m. and is let on a 21 year lease, which commenced in 2005, with a rent review in March 2016. It was stated that this is a large shop with access from the rear and which is of a similar type to the subject.

8.2 In terms of tone of the list, the Respondent set out a number of comparators. Comparator number 1 was Lidl, Castlerea, Roscommon. This property is located at the edge of Castlerea town. It is a detached single storey building with a large free car park. The NAV is set at €65 per sq. m.

8.3 Comparator number 2 is another Supervalu, situated on Main Street, Roscommon. This is on the Main Street and has a supermarket floor area of 1629.92 sq. m. The NAV for the supermarket area is €70 per sqm.

8.4 Ms. Harris put forward a third comparator, which was another Lidl store, situate at Boyle Road, Carrick-on-Shannon, Co. Roscommon. The supermarket area is 1293.02 sq. m and the NAV is €65 per sqm. This unit is purpose built and is located in Carrick Retail Park on Boyle Road, Carrick-on-Shannon,

8.5 Comparator number 4 is also a Lidl store in Cloonybeirne, Roscommon Town. This property is located in the outskirts of Roscommon town and the junction of the Roscommon/Lanesboro Road roundabout. The supermarket area is 1571 sq. m. and it has an NAV of €70.00 per sqm.

8.6 Ms. Harris final comparator is a Supervalu store, located at the Gateway Business Park, Monksland, Athlone. This is a two storey retail unit which forms part of a multi storey mixed use development located on the outskirts of Athlone town. The supermarket area is 1156.64 sq. m. and has an NAV of €70.00 per sq. m.

8.7 Ms. Harris was asked by the Tribunal why the figure of 7% was applied to the fit out and she said that this is a policy of the Valuation Office. She said that 7% is applied if the fit out is less than 10 years old. She said that decision was made by The Review Group.

9. SUBMISSIONS

9.1 No legal submissions were made.

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 Roscommon.

10.2 The Tribunal finds that in looking at comparable properties it must first look to properties which are in a similar geographical location /town and which are proximate. The Tribunal must also look at properties which are similar in use.

10.3 In this respect, the Tribunal finds that supermarkets in Castlerea are the most useful comparators in coming to a decision as to what the appropriate rate is to apply to arrive at the NAV. Consequently, the Tribunal finds that the Lidl in Castlerea is the most appropriate comparator. That supermarket is located in close proximity to the subject property and while it is in use as a supermarket, the Tribunal notes that it is comparable but also different in that it is purpose built and it has different physical characteristics.

10.4 Taking into account the fact that the Lidl is a new, large, purpose-built building with a car park annexed thereto, which allows for easy access, the Tribunal finds that this is superior to the subject property both in terms of access and structure. As the subject property is an inferior property to Lidl in terms of structure and access and as Lidl is valued at €65 per sq. m. the Tribunal finds that in the interests of fairness and equity the subject property should be allowed a reduction of 20% in terms of the NAV for the supermarket area.

10.5 The Tribunal notes that the subject property was developed and modernised significantly in 2005, and that the final certificate was issued on the 7th of September 2017. However, the revaluation date was the 30th of October 2015. Ms. Harris gave evidence that a 3% allowance is applied as a matter of course if the development took place within the past 10 years. The evidence before the Tribunal was that the works on the subject property took place in 2005. There was no evidence before the Tribunal as to when those works were completed and in the absence of evidence to the contrary, the Tribunal finds that it is highly unlikely, on the balance of probabilities, that they were completed in November/ December 2015, post the revaluation date. In the circumstances, the Tribunal adopts the Commissioner's own schematic and finds that a rate of 3% applies to the fit-out as opposed to the 7% which was, in fact, applied.

10.6 Having weighed and evaluated the evidence before it, the Tribunal finds that the NAV on the supermarket should be reduced by 20% and that a rate of 3% should be applied to the fit out. There was no clear evidence before the Tribunal as to why the off licence's NAV should be altered and in the circumstances, the Tribunal finds that this remains the same.

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 €131,000 (Decrease)

	Area	NAV	
Supermarket	1,942.38 sq. m.	€52	€101,003.76
1 st Floor Ancillary	636.53 sq. m.	€26	€16,549.78
Off licence			€10,000.00

Supermarket fit out @3%	€3030.11
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Total	€131,583.65
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SAY	€131,583.
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And so the Tribunal determines