

Appeal No: VA17/5/161

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

MENTROY LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1207684, Fuel/Depot at Local No/Map Ref: ON9E, Pollerton Big, Carlow, County Carlow.

B E F O R E

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Michael Connellan Jr - Solicitor

Member

Frank O'Grady – MA, FSCSI, FRICS, FIABCI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF JANUARY, 2019

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 €38,900.

1.2 The sole ground of appeal as set out in the Notice of Appeal is

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- The Appellant seeks to assess the valuation by reference to a single year only, being 2016.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €25,459.

2. REVALUATION HISTORY

2.1 On the 25th day of May, 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 €41,600.

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 reduced to €38,900.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €38,900.

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 7th day of November, 2018. At the hearing the Appellant, Mr. Noel Keenan appeared in person and the Respondent was represented by Mr Adrian Power-Kelly FRICS, FSCSI, ACI Arb, RICS Reg Val on behalf 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.

The property is located on the west side of the Grange Road, Pollerton Big, Carlow, approx. 530m north of the roundabout intersection with R76 (Pollerton Road). The surrounding area is predominantly residential in character with detached and semi-detached houses.

4.2 The subject site is mainly rectangular in layout with frontage to the Grange Road of 47m and an average depth of approx. 35m.

4.3 Carlow is the county town and has a population of approx 24,272 persons (census 2016). It is located on the R726, N80 and 4 km west of the M9.

4.4 The subject property is mainly a single storey, part over basement premises comprising a Filling station, Retail unit and a drive-through Car Wash, (housed in a single storey workshop building). The property is of standard construction with block external wall, rendered and painted and a double pitched tiled roof. Internally the floors are concrete slab with tiled finish and an acoustic tile ceiling.

4.5 The accommodation has been agreed between the parties (GIA).

Ground Floor ; retail 155.01 sq.m.

Basement ; offices 78.08 sq.m.

Car Wash 40.50 sq.m.

Side yard; 110.00 sq.m.

5. ISSUES

5.1 The matter at issue is quantum.

5.2 The Appellant claims that the valuation is excessive and unequitable and doubles his existing rates bill. He is seeking a reduction in the NAV to €25,459.00.

5.3 The Respondent states that the valuation of €38,900 is in line with the tone of the list for Carlow and he requests the Tribunal to affirm same in accordance with the Valuation Acts.

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 [REDACTED]

7.2 He further explained that the drop in turnover was due to increased competition from the larger multiples including other national petrol stations and the advent of Lidl and Aldi stores nearby (Appendix 3).

7.3 He commented on the fact that the forecourt was in a middle class residential area and not a main road location and therefore had limited passing trade.

7.4 Mr. Keenan confirmed that the turnover for the Car wash and Fuel sales was agreed (Appendix 1.) with the Commissioners representative and only the make-up of the shop turnover and the resultant NAV figure was in dispute.

8. RESPONDENT'S CASE

8.1 Mr. Power-Kelly for the Respondent adopted his precis and contended for a NAV of €39,900. The floor areas, accommodation, title and turnover figures were agreed.

8.2 To support his case Mr. Power-Kelly relied on 4 items of NAV comparisons (Appendix 2.)

1. PN 1139251 5 c Rathnapish, Carlow.

An Esso Service Station on the Dublin Road (N80).

NAV €67,400

2. PN 1137668 1 Green Lane, (R448), Carlow.

A Topaz Service Station in a residential area.

NAV €34,400

3. PN 1139128 Staplestown Road, (R725), Carlow.

A Top Service Station in a residential area.

NAV €49,700

4. PN 2178071 15 Tullow Road, Carlow.

An Applegreen Service Station on a main road (N80).

NAV €62,700

8.3 Mr. Power-Kelly concluded by stating that at the Reps stage the NAV had been reduced from €41,600 to €38,900 to allow for the residential location and the lower sales mix in the retail unit.

9. SUBMISSIONS

9.1 There were no legal submissions.

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 County Carlow.

10.2 The Tribunal noted the location of the property, the surrounding residential estates and also the nature of the trade carried on in the premises and the declining turnover of both the shop and service station. In the cross examination Mr. Power-Kelly confirmed that all the comparison properties were treated in the same way, based on turnover and CTO figures had been supplied by all concerned.

10.3 The Respondent also stated that the onus of proof was on the Appellant and no comparable evidence was introduced to indicate that the NAV was excessive or unfair.

10.4 Under cross examination of Mr. Keenan it emerged that the premises had ceased trading and new operators would shortly take over the running of the premises.

10.5 The Tribunal finds that the evidence produced at the hearing was very helpful, in particular Nos 2 and 3 from the Respondent, which are very similar to the subject in both location and turnover.

10.6. The final matter in question was the number of years of historic turnover it would be considered reasonable to use in calculating average and the Tribunal is of the opinion that to base all calculations on one year (2016) would be unfair and unreasonable to both parties and that several years turnover, where available should be used.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent and sets the NAV at €38,900.

And the Tribunal so determines.