

Appeal No: VA17/5/731

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ELAINE AYRES

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2201675, Retail (Shops) at 39/ Unit 2 (Flr 0) Main Street, Tyrrellspass, County Westmeath.

B E F O R E

Rory Lavelle – MA, FRICS, FSCSI, ACI Arb

Deputy Chairperson

Michael Connellan Jr - Solicitor

Member

Liam Daly – MSCSI, MRICS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH 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 €10,780.

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 :

“low population approx. 500 in Tyrrellspass area, so low footfall.”

“Business has dramatically decreased in postoffice withonline billing and customers being guided by DSP to migrate their social welfare payments into bank accounts.”

“The money Im left with, after a weeks work is very small after bills etc. I simply cannot afford to lose any more, would render my job unviable, as much as I love it.”

“Similar properties in the area are getting €100 per week, my valuation is calculated by the valuations office [sic] as €207 per week, this unrealistic for this area”.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,187.

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 €10,780.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €10,780.

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 April, 2018. At the hearing the Appellant (Ms Ayers) appeared in person and the Respondent was represented by Ms Triona Mc Partlan BSc (Honours) Estate Management, MSCSI, MRICS 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 location and description of the property are agreed between the parties. The floor area of Retail Zone A 52.98 square meters, Zone B 18.26 square meters and Store 18.53 square meters is not in dispute. The Respondent has adjusted their estimate of NAV to €9,590 to reflect the Stores area.

5. ISSUES

5.1 The Appellant does not dispute that rates are payable but does not consider Tyrrellspass to be comparable to the larger villages of Rochfortbridge and Kilbeggan. The Respondent has relied on 4 key rental transactions, one of which is in Tyrrellspass, 2 in Rochfortbridge and 1 in Kilbeggan, to arrive at a zone A rent of €150 per square meter. This is applied to all the villages. They also refer to 11 ground floor properties in Tyrrellspass valued at a zone A rate of €150 per square meter of which 4 are selected for inclusion in Ms McPartlan's evidence. The subject property is the only property under appeal to the Valuation Tribunal.

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 Ms Ayers considers the comparisons included in the Respondents submission are not relevant as they are from larger villages and one of them is a Creche. In particular she refers to Denise Gavigan – Prints and Portraits rental comparison, Tyrrellspass as paying €115 per week as having been vacant for a while and now let at €80 per week. The Respondent conceded that there was now a new occupier. Ms. Ayers referred to the population of Kilbeggan being 1200 and the population of Rochfortbridge being triple that of Tyrrellspass (483). Ms. Ayers referred to Dalys butchers as paying a rent of €100 per week and being 35 square meters smaller than the subject. However, there was no proof provided for this and Ms McPartlan objected to this as being hearsay. My Ayers refers to comparisons used as Pharmacy’s and Creches as being better businesses. Included in her submission is a letter detailing transactions from King Auctioneers and Accounts showing reducing turnover which is the result of online sales and states that much of what she sells can be bought in other shops in the village and concludes that a fair NAV is €5,372.

8. RESPONDENT’S CASE

8.1 Ms McPartland includes rental transactions together with emerging tone of the list evidence for Tyrrellspass in support of her case. The village includes 4 pubs, a petrol filling station, butchers, hairdresser and electrical shop. On inspection of the premises Ms McPartlan reduced her opinion of NAV to reflect a concrete block wall and storage area. She concedes that there is a lack of rental evidence, with only one transaction available in the actual village. Most of the properties appear to be owner occupied. However, based on the evidence available €150 Zone A has been applied to the various villages. She refers to the Gavigan property having not been appealed and accepts that the occupier has changed.

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 Westmeath County Council.

10.2 The Tribunal has heard the evidence of the parties and is persuaded by the Appellants arguments regarding the populations of the villages referred to. The Tribunal accepts that the lack of market rental evidence in such locations makes it particularly difficult for the Respondents to produce an accurate scheme that is applicable to all the villages. It is also clear from the evidence that there is a significant turnover of occupiers in these locations and that rent is most likely to be calculated on a weekly rather than a square meter basis. Further the emerging tone of the list evidence referred to does not reflect an actual market or lack of same in the villages.

10.3 The Tribunal considers that a reduction for population size should be allowed when comparing Tyrrellspass to Kilbeggan and Rochfortbridge and accordingly reduce the zone A rent by 20% to €120 per square meter.

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 €. Calculated as follows:

Use	Area Sq.M.	€/per sq.m.	NAV
Retail Zone A	52.98	€120	€6,357.6
Retail Zone B	18.26	€60	€1,095.6
Store	18.53	€15	€277.95
		Total NAV	€7,731.15

Say €7,730

And the Tribunal so determines.