

Appeal No: VA17/5/127

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BOYLANS FRUITS LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. 5010199, Industrial Uses at Mucklon, Enfield, County Kildare.**

B E F O R E

Rory Lavelle – MA, FRICS, FSCSI, ACI Arb

Deputy Chairperson

Donal Madigan – MRICS, MSCSI

Member

Kenneth Enright - Solicitor

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF APRIL, 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 €30,200.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- The subject property is a fruit processing factory built in a piecemeal fashion in a rural agricultural location. The rural location of the subject property is typified by the lack of broadband service in the area. The property appears to have been valued in line with purpose built industrial units in industrial locations across the country. The base rate for this property in this location would not exceed €25/m² with a 10% addition for cold storage as per VA14/5/917.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of € 21,200.

2. REVALUATION HISTORY

2.1 On the 30th day of June, 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 €30,200.

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 manager did it 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 €30,200.

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 29th day of November, 2019. At the hearing the Appellant was represented by the Mr Eamonn Halpin BSc (Surveying), MRICS, MSCSI of Eamonn Halpin & Co Ltd 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 his précis as his/her evidence-in-chief in addition to giving oral evidence.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts:

4.1 The property is located in a rural location c. 4 kms south of the M4 motorway, c. 6.1 kms from Enfield and c. 26 kms north west of Naas;

4.2 The property comprises two interconnecting warehouse units built at various stages with ancillary sections used for the processing of fruit;

4.3 The floor areas and yard area are agreed between the parties as follows:

Warehouse	541.11m ²
Offices	72.25m ²
Canteen	26.35m ²
Cold Store	122.08m ²
Canopy	28.01m ²
Yard	711.00m ²

4.4 The property is owner occupied.

5. ISSUES

The issue in dispute here is the quantum of the valuation only.

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. Eamonn Halpin, for the Appellant, contended for a valuation of € 15,560 which he calculated as follows:

€ €

Warehouse	541.11m ² @ 20.00 per m ²	10,822
Offices	72.25m ² @ 20.00 per m ²	1,445
Canteen	26.35m ² @ 20.00 per m ²	527
Cold Store	122.08m ² @ 22.00 per m ²	2,686
Canopy	28.01m ² @ 3.00 per m ²	84
Yard	711.00m ²	

15,564 say, € 15,560.

7.2 Mr. Halpin put forward six main comparables in support of his opinion with the first two of these being rental as well as tone of the list in type.

7.3 Mr. Halpin contended that the subject property suffers from being in an isolated rural location with no other commercial properties within a radius of 1.5kms of it and is also on a farm which in itself he perceives as a negative factor. He considers access is only from a local unnamed road and that the property is in a broadband blackspot. Furthermore, he states that the property is of fairly simple construction with low eaves height and has the benefit only of horticultural planning permission with further restrictions on significant noise levels outside of the period 8 am to 6 pm

7.4 Mr. Halpin considers this case comparable with the decision of the Tribunal in VA17/5/134 *McGrath Kitchens and Bedrooms Limited and Commissioner for Valuation*. The property which was the subject of that case is set out in No. 3 of Mr Halpin's tone of the list comparables in his precis and in Section A of the Appendix. He considers that any benefit accruing to the subject property by virtue of its modernity is outweighed by the lower eaves height, restricted planning and larger size.

7.5 Mr. Halpin contends that a lower rate per square metre can be derived from tone of the list comparables and envisages levels of between € 18-25.00 per m² being appropriate, with levels of € 20-40.00 per m² applying to superior units in populated areas.

7.6 Mr. Halpin considers that the additional value for cold storage can be derived from the decision in the Valuation Tribunal case of VA14/5/917 *Curran Frozen Foods and Commssioner of Valuation* where an addition of 10% was made to the base rate value to reflect this.

7.7 Mr. Halpin accepted that the yard had an area of 711 m² but contended that no value should attach to the yard on the grounds that it is not exclusively enjoyed with the buildings. Mr Halpin was questioned about this and the parties referred to photos contained in their respective precis of evidence. Mr Halpin accepted that there was another entrance to the farm land but stated that the entrance to agricultural buildings adjacent to the subject property was shared with the subject property. In response to a question from Ms Marron, Mr Halpin (following a brief consultation with his client) stated that these buildings stored farm equipment.

8. RESPONDENT'S CASE

8.1 Ms Ciara Marron, for the Respondent, contended for a valuation of €30,200 which she calculated as follows

	€	€
Warehouse	541.11m ² @ 35.00 per m ²	18,938.85
Offices	72.25m ² @ 35.00 per m ²	2,528.75
Canteen	26.35m ² @ 35.00 per m ²	922.25
Cold Store	122.08m ² @ 42.65 per m ²	5,206.71
Canopy	28.01m ² @ 5.25 per m ²	147.05
Yard	711.00m ² @ 3.50 per m ²	2,488.50
		30,232.11 say, € 30,200.

8.2 Ms Marron put forward eight comparables in support of her opinion, the first two of these being key rental transactions, as set out in Section B of the Appendix.

8.3 Ms Marron contended that the property is one of 20 valued at the rate of € 35.00 per m² in this locality and this is the only property the subject of appeal to the Tribunal.

8.4 Ms Marron submitted that the property is constructed to a good standard close to the M4 and to Dublin. It comprises of two interconnected warehouses, both of steel frame construction, one with concrete block walls and a cladded roof, the other with a double-skinned Kingspan finish. The buildings contain a small office and a store/loading bay with a canopy to the side. There is also a small canteen in a separate building.

8.5 Having referred to her photos and the block plan, Ms Marron submitted that the subject property, though adjacent to the farm, is separate from it. It is, she said, enclosed on three sides.

It was possible, she said, that there could be access at the rear to the agricultural land but there was no evidence on the day she saw it of agricultural access or machinery. On her inspection, Ms Marron noted the agricultural buildings adjacent to the subject premises contained crates used in conjunction with the business. The yard looked like it was used for employee parking.

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 Mr Halpin produced two rental comparisons and likewise MsMarron also produced two rental comparisons. The Tribunal has difficulty linking these to the actual levels of assessment adopted by the Commissioner of Valuation to derive unit values per m². For example, Ms. Marron's main rental comparison, No. 1 in Section B of the Appendix analyses to show a rent per m² of 26.13 whereas it is assessed at an NAV reflecting € 35.00 per m². Both Surveyors had difficulty finding comparables close to the subject property, not helped by the fact that there appear to be very few commercial properties in this part of the county, in any event.

10.3 The nearest comparables are the Appellant's no. 4 in section A of the Appendix-Alan Douglas Farm Machinery and No. 5 at Johnstown Bridge, each about 5 kms away from the subject property. The first of these is assessed at € 35.00 per m² on the buildings and € 3.50 per m² on the yard. The second is also assessed at € 35.00 per m² on the workshop element and at € 3.50 per m² on the yard. The Tribunal feels both of these are superior to the subject property in mode of use and specification. No. 5, moreover is in a superior location.

10.4 Although very far from the subject property, Mr. Halpin's comparable No. 3 (McGrath Kitchens and Bathrooms) shares many characteristics with the subject property in terms of locational issues, standard of construction and eaves height. This property was determined by the Tribunal at a NAV of € 20.00 per m². It is considered that, on balance, the subject property would be worth somewhat more than this comparable but not significantly so.

10.5 The Tribunal considers that a fair level of NAV for this property, reflecting its low eaves height, rural location and use is a rate of € 25.00 per m² on the warehouse, office and canteen space with a loading of 10% for the cold storage area and ancillary rates of € 4.00 per m² on the canopy and a rate of € 3.00 per m² on the yard. The Tribunal does not accept the fact that the yard is non-exclusive, as contended by Mr. Halpin, and from cross examination it was clear the yard should be taken into account.

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 € 21,600.

		€	€
Warehouse	541.11m ²	@ 25.00	13,527.75
Offices	72.25m ²	@ 25.00	1,806.25
Canteen	26.35m ²	@ 25.00	658.75
Cold Store	122.08m ²	@ 27.50	3,357.20
Canopy	28.01m ²	@ 4.00	112.04
Yard	711.00m ²	@ 3.00	2,133.00
			21,594.99 say, NAV € 21,600.

And the Tribunal so determines.