

Appeal No: VA17/5/156

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

VET & PET

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1137806, Health at 1.2 Little Barrack Street, Carlow, County Carlow.

B E F O R E

Rory Lavelle - MA, FRICS, FSCSI, ACI Arb

Deputy Chairperson

Michael Connellan Jr - Solicitor

Member

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

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF FEBRUARY, 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 €21,000.

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. *“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.*

2. *The subject property is a surgery on Little Barrack Street, a secondary location. The subject property is a cottage type structure and would not be overly attractive to the hypothetical tenant.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €11,580.

2. REVALUATION HISTORY

2.1 On the 11th 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 €21,000.

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 €21,000.

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 20th day of November, 2017. At the hearing the Appellant was represented by Mr Eamonn S. Halpin BSc (Surveying) MRICS, MSCSI and the Respondent was represented by Mr Terry Devlin BSc, 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 subject property is on Little Barrack Street, a residential street, close to Kennedy Street and Carlow Shopping Centre in the centre of Carlow town.

4.2 The property comprises 3 adjoining cottages presently trading as a Veterinary Surgery and Pet Shop. It is located off a roundabout with parking to the front and side.

4.3 Part of the property was first occupied as a surgery in 1986 and subsequently extended into the adjoining cottage.

4.4 The accommodation has been agreed between the parties at Surgery 210.65 sq.m.

5. ISSUES

5.1 The matter at issue is 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. Halpin acting for the Appellant adopted his precis as his evidence in chief and described the property as a hybrid, an amalgamation of 3 cottages into an unconventional retail/surgery premises.

7.2 He referred to a previous Tribunal decision on the property VA 99/2/003 and stated that the property was essentially unchanged. The Tribunal was of the view that "the premises was neither a conventional retail unit to be compared with shops in the Tullow Street and Barrack Street area nor is it as poorly appointed as described by Mr. Halpin." He stated and he believed the Tribunal then agreed that the premises was a non-standard property.

7.3 Mr. Halpin noted that the Commissioner had fixed retail levels in the neighbouring streets as follows:

- Kennedy Street €210/sq.m. Zone A and
- Barrack Street €160/ sq.m. Zone A

and was of the opinion that in accordance with the decision of the previous Tribunal the above figures should be discounted to allow for the unconventional nature of the premises and suggested a figure of €65/sq.m. and an NAV of €13,700.

7.4 The above figure is in excess of the earlier number advised to the Tribunal ie. €11,580.

7.5 To support his case 4 properties (1 rental and 3 NAV) comparisons were introduced.

1. Bombay Diner, 204/205 Lismard Centre, Barrack Street, Carlow.

Conventional retail unit, fully fitted as a restaurant and take away, located 200 metres from the subject.

Retail 222.58 sq.m. @ €85.20/ sq.m. overall.

NAV €18,970.

(Appendix 1.)

2. Kelly's Pharmacy, Kennedy Street, Carlow.

Standard double fronted, end of terrace retail unit, fitted out as a pharmacy, circa. 200 metres from the subject in a substantially better location beside McDonalds.

Retail 282.01sq.m. @ €67.90/ sq.m. overall.

NAV €19,150.

3. V.2, Little Barrack Street, Carlow.

A small section adjoining the subject property trading as a piercing parlor.

Office 5.45 sq.m. @ €100 / sq.m.

NAV €540.

4. Bethany House, Little Barrack Street, Carlow.

Part of a purpose built medical centre across the road from the subject, primarily occupied by the HSE.

Surgery 53.54 sq.m. @ €100 / sq.m. overall.

NAV €5,350.

7.6 In summary Mr. Halpin stated that the premises was not a conventional retail unit and deserved special treatment as it was a shop, a veterinary surgery and stores, a hybrid with no frontage or shopfront and not capable of being zoned so an overall approach was the appropriate valuation method. He emphasised that while absolute values may have changed, the relativity between the subject property and conventional retail units had not and therefore a reduction was called for.

8. RESPONDENT'S CASE

8.1 Mr. Devlin for the respondent adopted his precis and confirmend agreement on location, accommodation and title. He stated that all suchlike buildings were valued as surgeries across the board @ €100 /sq.m regardless of size. He sought confirmation of the NAV @ €21,000.

8.2 To support his case he introduced 3 Key Rental Transactions and 4 NAV comparisons.

1. 73 Burrin Street, Carlow.

First and Second floor offices in the centre of Carlow town.

55.89 sq.m. @ €60.65/ sq.m. overall.

NAV €3,390.

2. 28 Tullow Street, Carlow.

First and Second floor offices in centre of Carlow town.

78.53 sq.m. @ €63.16/ sq.m. overall.

NAV €4,960.

3. 1 Brown Street, Carlow.

First floor modern offices 68.75 sq.m. in centre of Carlow town.

68.75 sq.m. @ €130/ sq.m.

NAV €8,937.

(Appendix 2.)

4. Oaklands Veterinary Surgery, Rathnaphish, Carlow.

Ground floor office 213.05 sq.m. @ €100 /sq.m. overall.

NAV €21,300.

5. 84 Staplestown Road, Carlow.

Ground floor Doctors surgery 92.95 sq.m. @ €100 /sq.m.

NAV €9,295.

6. 92 Staplestown Road, Carlow.

Ground and first floor Physio clinic 61.78 sq.m. @ €100 /sq.m.

NAV €5,510.

7. Carlow Chiropractic Clinic, Dublin Road, Carlow.

Ground and first floor clinic 152.72 sq.m. @ €100 /sq.m.

NAV €15,272.

8.3 Mr. Devlin concluded by saying that there were few rental comparisons available for surgeries as they were mainly owner occupied and he thought that to adjust the office rentals which ranged from €75 - €150 /sq.m. to €100 /sq.m. for the surgeries was reasonable and fair and in line with all the others.

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 County Carlow.

10.2 The Tribunal noted the location of the property, the nature and the structure of the premises and the non-conventional layout and the user.

10.3 The comparisons offered were not that helpful as very little market information was supplied and very few similar properties have gone to the Appeal stage.

10.4 The information provided by Mr. Halpin in comparisons One and Two, Bombay Diner and Kelly's Pharmacy were of assistance to the Tribunal as was Mr. Devlins comparison Four Oaklands Veterinary Surgery as they gave an insight to values in Carlow.

10.5 The Tribunal was influenced by the decision of the previous Tribunal judgement (VA99/2/033) and their opinion that the majority of the premises was in retail use and also that it was a non-conventional retail outlet.

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 €16,500.

Calculated as follows;

Surgery 210.60 sq.m. @ €78.35 /sq.m. = €16,500.51

SAY €16,500 NAV.

And the Tribunal so determines.