

**Appeal No: VA17/5/387**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**BUSHGROVE LTD T/A EUROGIANT**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2195146, Retail (Shops) at Floor 1 Unit 13/14, Athlone Town Centre, Mardyke Street, Athlone, County Westmeath.

**B E F O R E**

**Barry Smyth – FRICS, FSCSI, MCI Arb**

**Deputy Chairperson**

**Pat Riney – FSCSI, FRICS, ACI Arb, FIABCI, PC**

**Member**

**Thomas Collins – PC, FIPAV, NAEA, MCEI, CFO**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 16<sup>TH</sup> DAY OF APRIL, 2019.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 11<sup>th</sup> 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 €89,200.

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

- The valuation as assessed is excessive and inequitable.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €69,000.

## **2. REVALUATION HISTORY**

2.1 On the 12<sup>th</sup> 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 €89,200

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 not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €89,200.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> 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 20<sup>th</sup> day of November, 2018. At the hearing the Appellant was represented by Mr Donal O’Donoghue BSc (Hons) Estate Management, DipVals, ASCSI, ARICS and the Respondent was represented by Ms Triona Mc Partlan 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**

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

4.1 LOCATION - The property is located in Athlone Town Shopping Centre which is in the centre of Athlone Town, which had a population of 21,349 in 2016. We understand The Shopping Centre was developed in the mid 2000’s, opened in 2007, and is approx 1 km off the M6/N6 Dublin to Galway road. The centre has 23,000 sq. mtrs. of shopping spread over 2

floors, and an underground car park which caters for over 1,200 cars, with the Sheraton Hotel adjacent thereto. The Tenant mix includes Marks & Spencer, Next, River Island, H & M, Tommy Hilfiger, Oasis, Starbucks, Easons, and in 2016 TK Max took up occupation of approx.2,000 sq. mtrs.

4.2 DESCRIPTION - The property comprises a large ground floor retail unit with some storage to the rear. The agreed Total Floor Area is 381.5 sq.mtrs.

4.3 TENURE - We understand Bushgrove Ltd hold the property under a 10 year lease from the 1st of March 2013, at €112,897.00 p.a. and that the Tenant received a rent free period of 13 months from commencement and thus the Net Effective Rent is €88,279.00 p.a

## **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. O’Donoghue stated the subject property had been revalued in 2017 as part of the overall Revaluation of the Westmeath County Council Area. He considered the NAV assessed by the

Valuation Office of €89,200 was excessive, and referring to his Precis in some detail, was of the opinion that he had justified the lesser NAV of €69,000.

7.2 In referring to his schedule of comparisons on page 10 of his precis, he accepted Unit 15, Regatta, had not exercised a break clause, had not been appealed, and that it was a turnover rent. He accepted that Unit 21, Shoe Lace, was assessed on a Licence Fee, and had not been appealed. He also accepted that Unit 30, Name It, was assessed on a turnover basis, and was on appeal. His analysis of the NER Zone A where there was no turnover element in the rent and the shops were still occupied ranged from €386 to €541 psm

7.3 Under cross-examination when asked as to whether the reason for turnover rents being used was that it was hard to obtain suitable tenants otherwise, he accepted this point. He stated that while the Centre was now good and long established, it had been built during 2005/7, recovered somewhat during the 2013/15 period, but not as much as the Dublin Market.

## **8. RESPONDENT'S CASE**

8.1 Ms McPartlan referred to her precis in some detail, and pointed out there were now only 2 Vacant Units in the Centre. This Unit was prominently located within the centre with The Works and JD Sports as neighbouring units.

8.2 In referring to Unit 27, Skechers, and Unit 18, Pandora, Key Rental Transactions in Athlone Town Centre, she noted that the analysis of the net effective zone A rent was €840 psm in the first and €615.85 in the second and each had been valued in assessing the NAV at a Zone A rate of €550 p.s.m, and were in close proximity to the subject property. Ms. McPartlan also pointed out there were 40 properties in Athlone Town Centre at a Zone A of €550 p.s.m, NAV and that the subject property was one of 16 properties under appeal to the Valuation Tribunal.

8.3 Ms. McPartlan also referred to her 3 NAV Comparisons, Unit 11, The Works, next door to the subject, Unit 53, McGorisks Pharmacy, directly opposite the subject, and Unit 15, Regatta Great Outdoors, all in Athlone Town Centre, and in close proximity to the subject. In each of these valuations, the Zone A rate used was €550 p.s.m., and no appeal was lodged to the Valuation Tribunal.

## **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 have considered all the Submissions and evidence adduced during the Oral Hearing, by both parties, and consider the Respondents Precis to be of more assistance. The zone A rate in the key rental transactions introduced as comparisons range from €386 to €840 psm. We also refer to the 3 NAV Comparisons Units 11, 53 and 15, Athlone Town Centre, which have been valued using a zone A rate of €550 p.s.m., and are adjacent to the subject property.

10.3 In addition we have taken cognisance of the fact that the net effective rent of the subject property at the valuation date was €88,278 pa, in close alignment with the proposed NAV of €89,200

10.4 Accordingly, the Tribunal hereby assess the NAV to be in accordance with the calculation made by the Respondent.

### **DETERMINATION:**

Accordingly, for the above reasons, The Tribunal disallows the appeal and confirms the decision of the Respondent assessing the NAV at €89,200.00, and the Tribunal so determines.

And the Tribunal so determines.