

Appeal No: VA17/5/1262

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BRIAN BYRNE

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2172821, Retail (Shops) at Unit 2, Wallace Court, Eyre Street, Newbridge,
County Kildare.

B E F O R E

Majella Twomey - BL

Deputy Chairperson

Thomas Collins - PC, FIPAV, NAEA, MCEI, CFO

Member

Michael Brennan - BL, MSCSI

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF JUNE, 2016**

1. THE APPEAL

1.1 By Notice of Appeal received on the 8th day of December, 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 €12,120.

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:

“Size of unit over estimated regarding size, unit is office and not retail, potential rent over estimated. Unit is office not retail, size of unit is 78.22 not 85.88”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €8,000.

2. REVALUATION HISTORY

2.1 On the 10th day of March, 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 €12,120.

2.2 A Final Valuation Certificate issued on the 14th day of November, 2017 stating a valuation of €12,120.

2.3 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 10th day of April, 2019. At the hearing the Appellant appeared in person and the Respondent was represented by Patrick Nolan, BSc Honours (Property Valuations and 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. AGREED FACTS

The floor areas were agreed between the parties as follows:

Level	Use	Area (Sq. M.)
Ground	Retail	56.73
Ground	Retail	18.89

5. DISPUTED ISSUES

This appeal raised the sole issue as to whether the net annual value of the Property as determined by the Commissioner is correct.

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 Byrne stated that he purchased the subject property in 2017 and provided evidence that the property was available for sale or lease from 2013 until his purchase in 2017. He also confirmed that he did not market the property to lease since he became owner.

7.2 Mr Byrne outlined his view that 17 out of 24 ground floor retail units on Eyre Street were vacant and unoccupied. He further outlined to the Tribunal that approximately 8 – 10 of these units were advertised to rent.

7.3 Mr Byrne is of the opinion that the rental value of the property is between €8,400 - €9,000 per annum and €8,500 was more realistic from his research of the market with local agents. Mr Byrne included details of a property formerly let to Mochua Print located on Eyre Street approximately 25 metres from the subject property. He was able to confirm that it was currently available to let for €9,600 per annum and had the benefit of two designated car parking spaces. Mr Byrne stated that he spoke with the letting agent and they confirmed that they received no calls from interested parties and was demonstrable of demand for properties on the street. Mr Byrne stated that the subject property had no designated car parking and this would make his property less attractive to rent than the former Mochua Print property.

7.4 Mr Byrne also submitted a valuation report to Tribunal which assessed the market rent to be €4,500 per annum for the subject property. However, when questioned by the tribunal as to why this rental was significantly lower than his own opinion of rental value he confirmed that this value was on the basis that the building was used for storage. This report also referenced two comparable transactions but Mr Byrne was unable to verify the date, term and use of the transactions.

7.5 In summarising his evidence, Mr Byrne stated that the subject property was being marketed to lease from 2013 – 2017 for €9,100 per annum without a successful letting and that this was compelling evidence that the property was not capable of being rented for €12,120 per annum.

8. RESPONDENT'S CASE

8.1 Mr Nolan confirmed that Eyre Street was a secondary retail location in Newbridge and that there were 49 properties on Eyre Street and Eyre Street Lower on the valuation list and were all valued in the main at €170 per sq m Zone A.

8.2 Mr Nolan also confirmed that there was one property valued at €153 per sq m Zone A on the basis that it had reduced frontage. He was also able to confirm that the subject property was the only property under appeal.

8.3 Mr Nolan confirmed that the Eyre Street is subject to pay and display parking and accepted Mr Byrne's evidence that the subject property has no designated car parking.

8.4 Mr Nolan also made reference to the former Mochua Print property which he had included in his evidence as NAV comparable. Mr Nolan accepted that it looked like it was vacant notwithstanding that it was entered on the valuation list as being occupied by Mochua Print. Under cross examination by Mr Byrne, Mr Nolan confirmed that some premium would be payable for the benefit of designated parking but he had no evidence as to what value this would equate to. He further stated that the interior was in superior condition to the subject property.

8.5 In summarising his evidence, Mr Nolan stated that the Commissioner of Valuation acknowledged that Eyre Street has lower rental levels and was of the view that the subject property was valued correctly and fairly and noted that there were no other appeals.

9. SUBMISSIONS

There were no legal submissions by the parties.

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 The Tribunal shares the view of the parties that Eyre Street is a secondary trading street with only limited and peripheral retail potential. The subject property has substantially more Zone A accommodation in comparison to other properties on Eyre Street that were submitted as comparables. Given the secondary and peripheral location of Eyre Street combined with the high proportion of vacant retail properties, units such as the subject property with large Zone A accommodation would suffer from adverse demand and some discount on the Zone A rate should be applied in cases where there is such a large quantum.

10.3 The subject property does not have the benefit of car parking and this will be a consideration for occupiers when assessing the subject property against other available properties on the Street. From the evidence disclosed to the tribunal it is evident that this will deter potential occupiers and a discount to the rent should apply in the circumstances.

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 €10,125 as follows:

Level	Use	Area (Sq. M.)	Rate per Sq. M.	NAV
Ground	Retail	56.73	€153.00	€8,679.69
Ground	Retail	18.89	€76.50	€1,445.09
				€10,124.78
Total NAV				Say €10,125

And the Tribunal so determines.