

**Appeal No: VA17/5/154**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**EDDIE CORKERY T/A TULLOW DISCOUNT STORE**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1207566, Retail (Shops) at 26.27/A Bridge Street, Tullow, County Carlow.

BEFORE:

**Hugh Markey – FSCSI, FRICS**

**Deputy Chairperson**

**Liam G. Daly – MSCSI, MRICS**

**Member**

**Claire Hogan - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 26<sup>TH</sup> DAY OF JUNE, 2019.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 4<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 €12,400.

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

- The Valuation of the subject property is excessive and inequitable. The property’s value is not in line with its potential rental value.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €6,300.

1.4 The Appellant also sought an amalgamation with PN 1207772

## **2. REVALUATION HISTORY**

2.1 On the 11<sup>th</sup> 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 €8,590.

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, there was amalgamation of properties PN 1207566 and PN 1207772, and the valuation of the Property was increased to €12,400.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €12,400.

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 15<sup>th</sup> day of November, 2018. At the hearing the Appellant was represented by Mr David Halpin MSc (Real Estate), BA (Mod) and the Respondent was represented by Mr Terry Devlin BSc, SCSi, RICS 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.

4.2 The subject property is located on Bridge Street, in Tullow, within close proximity of the main town square.

4.3 The subject property is a retail unit with first floor store on Bridge Street in the centre of Tullow Town.

4.4 The accommodation has been agreed between the parties:

Ground Floor : 63.83 sq. m

First Floor: 69.60 sq. m

4.5 We are advised subject property is held on a lease but no copy of the lease was provided.

## **5. ISSUES**

5.1 The matter at issue is Quantum

5.2 The appellant claims the valuation of the subject property is excessive and inequitable. The property's value been applied by the Commissioner is not in line with its actual rental value.

5.2 The appellant is contending for a valuation of €8,770.

5.3 The respondent have relied on three key transactions in arriving at valuation level of €200 per sq. m. to be utilised in determining the NAV. The transactions used are not subject to Valuation Tribunal Appeals. This gives an NAV of €12,400 for the subject property.

## **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 on behalf of the Appellant adopted his precis as his evidence-in-chief. He described the subject property as been in a secondary retail location off the Square in Tullow town.

7.2 Mr. Halpin was of the opinion that the Commissioner has over-assessed parts of the secondary and tertiary retail in the town of Tullow. It was Mr. Halpin’s contention that the over-assessment in the areas of Bridge Street, Mill Street and Course Street was proven by rental levels being achieved in these locations.

7.3 Mr. Halpin explained how the Commissioner was applying the following Zone A rates in Tullow:

Location	Base Rate ( Zone A)
The Square	€200/m <sup>2</sup>
Bridge Street	€200/m <sup>2</sup>
Barrack Street	€170/m <sup>2</sup>
Church Street	€170/m <sup>2</sup>
Abbey Street	€170/m <sup>2</sup>
Mill Street	€170/m <sup>2</sup>
One off Tertiary retail	€100/m <sup>2</sup>

It was Mr. Halpin’s view that there was no logical reason why Bridge Street would appear more valuable than that of other secondary locations based on the rental levels being achieved.

7.4 Mr. Halpin introduced nine rental comparisons (See Appendix 1) within proximity of the subject property to support his case for reduction.

7.5 Mr. Halpin contented that Commissioner should have valued the 1<sup>st</sup> floor of the subject premises at 10% of the Zone A level. Mr. Halpin's analysis was the larger the 1<sup>st</sup> floor, the closer the Zone A rates rise relative to its values shown in the comparisons (Appendix 1). The Zone A rises to €165 per sq. m. (versus €196 per sq. m. assessed by the Commissioner), leaving an average difference of just 16%. Therefore a change in 1<sup>st</sup> floor approach varies the average very significantly and brings them much more in line with the Zone A level being sought by the Commissioner.

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

8.1 Mr. Devlin for the Respondent adopted his precis as his evidence-in-chief.

8.2 Mr. Devlin commenced his evidence by explaining that a valuation level of €200 sq. m (Retail Zone A) was applied to the subject property which arrived at a NAV of €12,400.

8.3 Mr. Devlin stated that 3 key rental transactions were relied upon in arriving at the NAV for this valuation level of €200 sq. m ( Retail Zone A ). Of the 3 key transactions, none were subject to further consideration at representative stage or subject to a Valuation Tribunal appeal (See Appendix 2)

8.4 Mr. Devlin explained that equity and uniformity was utilised in compiling the NAV comparisons on the list (See Appendix 3 ). Mr. Devlin explained there are 60 retail properties valued at €200 sq. m (Retail Zone A) in the Carlow Rural area. At least 30 of these properties are located within the vicinity of the subject property. A total of 3 properties valued at this level made representations at the proposed valuation certificate stage and the subject property is the only one which is under appeal to the Valuation Tribunal.

8.5 Taking all of this into consideration, Mr. Devlin requested the Tribunal affirm the valuation of the subject property appearing on the relevant valuation list as representing its Net Annual Value in accordance with Section 48 of the Valuation Act 2001 and the requirements of section 19(5).

8.6 Under cross examination the Responded reiterated his opinion that the process was fair, this was substantiated by the low number of appeals lodged. Mr. Devlin stated that out of 19 representatives made, only 5 appeals were lodged. The subject property is one of these appeals.

The Appellant dismissed this argument as proof of fairness. Mr. Halpin maintained that the low number appeals reflect the cumbersome nature of the appeals process rather than ratepayer satisfaction. Mr. Halpin was of the opinion that in many circumstances ratepayers were unhappy with the rate applied but there is an imbalance in the amount of work required in what may result in a marginal reduction. Therefore, Mr. Halpin concluded that the lack of appeal should be acknowledged as a lack of engagement rather than ratepayer approval.

## **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 Carlow County Council.

10.2 The Tribunal has examined the particulars of the property and considered the written and oral evidence adduced by Mr. Halpin on behalf of the Appellant, who contended for a revised NAV of €8,770.00 and Mr. Devlin on behalf of the respondent, who sought confirmation of the Valuations Offices determination of NAV €12,400.

10.3 The Appellant had questioned the logic undertaken by the Valuation Office in applying greater value to Bridge Street over other secondary location within Tullow town. It was the Appellant's contention that the rental evidence put forward during this hearing proved this matter. The Tribunal was of the opinion this argument was not substantiated by the evidence presented.

10.4 The Tribunal did however acknowledge that the rate applied to the storage area in the subject property was excessive and should be amended to reflect a fairer apportionment.

## **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 €10,319.50 say €10,320.00

Level	Use	Area	€/per sq. m.	NAV
0	Retail Zone A	29.70	€200	€5,940.00
0	Retail Zone B	25.62	€100	€2,562.00
0	Retail Zone C	8.51	€50	€425.50
1	Store	69.60	€20	€1,392
			<b>Total NAV</b>	<b>€10,319.50</b>

**Say €10,320.00**

And the Tribunal so determines.