

**Appeal No: VA17/5/269**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**BANOFFIES RESTAURANT LTD**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2180364, Retail (Shops) at Unit 3 Roscommon County Council, Golf Links Road, County Roscommon.

**B E F O R E**

**Majella Twomey - BL**

**Deputy Chairperson**

**Liam G. Daly - MSCSI, MRICS**

**Member**

**Frank O'Grady – MA, FSCSI, FRICS, FIABCI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 1<sup>ST</sup> DAY OF JULY, 2019.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 25 day of September, 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 €13,540.

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 is not in line with its actual rental value.*

*2. The property was bought for €65,000 + VAT in 2014. The NAV estimate implies a yeild of 20%. This is completely unsustainable for this type of property.*

*3. The property is little more than a fitted industrial unit and is very similar to PN 2177068 which is valued at a significantly lower level.*

*4. The whole of Roscommon is now hopelessly oversupplied with retail property given the large amounts of space that was added pre recession in 2008. Greater allowance needs to be made for these factors.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined is the sum of €7,600.

## **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 €13,540.

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 7<sup>th</sup> day of September, 2017 stating a valuation unchanged at €13,540.

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 19 day of April, 2018. At the hearing the Appellant was represented by the Mr. David ES Halpin M.Sc. (Real Estate) of

Eamonn Halpin & Co. Ltd. and the Respondent was represented by Mr. Patrick Nolan, B.Sc Hons (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. FACTS**

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

4.2 The subject property is a ground floor lock up shop unit trading as a café situated in a small retail development of 9 units in Roscommon West Business Park.

4.3 Roscommon West Business Park is located at the junction of Circular Road and Golf Links Road on the edge of Roscommon town centre.

4.4 The property is a fully fitted restaurant/cafe with seating area, kitchen and customer and staff toilets. The floor areas have been agreed between the parties at 126.80 sq.m.

4.5 The property is owner-occupied and is held freehold.

#### **5. ISSUES**

5.1 The matter at issue is quantum.

5.2 The Appellant claims the valuation is excessive and inequitable and is seeking a reduction in the NAV to €7,600.

5.3 The Respondent states that the NAV of €13,540 is in line with the tone of the list for Co. Roscommon and requests the Tribunal to affirm same in accordance with the Valuation Acts.

#### **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 for the Appellant adopted his precis as his evidence-in-chief and described the property, location and commented on the depressed state of the retail market in Roscommon due to a serious oversupply of property.

7.2 He stated that the property had been purchased in 2014 for €65,000 plus Vat and this reflected a yield of between 9% and 11% whereas the Commissioner’s valuation implied a yield of 20.8%.

7.3 He commented that Zone A rent in the town centre around Castle Street had been assessed by the Commissioner at €150/sq.m. and that this level had also been extended to the West Business Park, a secondary retail location with several vacant units.

7.4 To support his case 5 market transactions were introduced (Appendix1).

No.1 The Circular Road property, 233.27 sq.m. devalued @ €31.20/sq.m. overall  
and a Zone A level of €67/sq.m.

No.2 Roscommon West Business Park, a unit in the same development, 137.4 sq.m. devalued @ €56.77/sq.m. overall and Zone A €80/sq.m. in 2018.

7.5 In addition Mr. Halpin provided one tone of the list comparison (Appendix 2)

1. Retail warehouse in nearby development with planning for restraint use which had a Zone A level of €60/sq.m.

7.6 Mr. Halpin commented on the oversupply situation and noted that there was little difference between Retail and Retail Warehouse rentals in Roscommon. He further stated that size over 100 sq.m. had a minimum effect on the rent achievable as rents were determined on an overall basis and on a weekly or monthly basis.

7.7 He stated that in his opinion the NAV as at October 2015 was €7,600. devalued as 126.8 sq.m. @ €60/sq.m. = €7,608 say NAV €7,600.

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

8.1 Mr Nolan for the Respondent adopted his precis as his evidence-in-chief after adjusting the floor area and contended for an revised NAV of €13,320.

8.2 He confirmed agreement with the description, location and size.

8.3 To support his case 5 Key Market rental transactions were introduced (Appendix 3).

No.1 Roscommon West Business Park, in the same development, 265.9 sq.m. devalued @ €56.41/ sq.m. overall and NER Zone A €116.89 /sq.m. in 2015.

No.2 Castle Square, Castle Street, Roscommon, 75.70 sq.m, shop devalued @ €127/sq.m. overall and NER Zone A €170/sq.m.

No. 4 Roscommon Retail Park, Circular Road, Roscommon, 211.63 sq.m. devalued @ €56.70 /sq.m. overall and NER Zone A €128.30/ sq.m.

8.4 Mr. Nolan also provided 8 NAV comparisons (Appendix 4), 7 from the subject development, 6 had made no representations to the Commissioner and 2 had made representations and no further appeal was lodged to the Tribunal.

8.5 All eight properties were assessed @ €150 Zone A.

8.6 He concluded by stating the Commissioners decision to apply a flat rate of €150/sq.m. on all Roscommon town and in accordance with SCSI measurement of retail premises guidelines used the zoning method. He asked the Tribunal to affirm the NAV at €13,320.

## **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 Roscommon 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 valuation of €7,600 and Mr. Nolan on behalf of the Respondent who sought confirmation of €13,320 NAV.

10.3 The Tribunal noted the Commissioners decision to use the Zoning method of measurement and accepted same as fair and equitable for unit shopping in Roscommon.

10.4 Both parties gave quality evidence of market rentals and NAV which the Tribunal found to be of great assistance.

10.5 The rental evidence on Circular road and the number of available units within the Business Park, together with the sales information influenced the Tribunal when making its determination.

10.6 The Tribunal finds that the KRTS put forward by the Appellant cannot be ignored, in reaching its final determination. The Tribunal notes that one of the properties put forward by Mr Halpin is situate on The Circular Road property, with a floor area of 233.27 sq.m. and which devalued @ €31.20/sq.m. overall and a Zone A level of €67/sq.m. This is significantly less than the Zone A level contended for by the Respondent.

10.7 A further property was submitted by the Appellant, such property being situate in Roscommon West Business Park, a unit in the same development as the subject property, with a floor area of 137.4 sq.m and which devalued @ €56.77/sq.m. overall and Zone A €80/sq.m. in 2018. Again, this is much less than the proposed Zone A level put forward by The Valuation Office.

10.8 The Tribunal finds that these properties are highly significant in terms of their location and proximity to the subject property, as they are not located in the centre of town. The Circular Road and The Roscommon West Business Park are out of town and appear to attract lesser rents.

10.9 Having assessed all of the properties put forward by the Appellant and the Respondent, the Tribunal finds that the number of retail/ retail warehouse premises available in the immediate area, close by to the subject property coupled with their lesser rental levels when compared with the town centre shop rents indicates a divide between the two locations. Furthermore, this divide between the town centre and the properties around Circular Road and The Roscommon West Business Park leads the Tribunal to find that a discount for out of town centre properties should be applied, as set out below.

**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 €8,880.

Calculation

$$57.95 \text{ sq.m. @ } \text{€}100/\text{sq.m.} = \text{€}5,795$$

$$54.60 \text{ sq.m. @ } \text{€}50/\text{sq.m.} = \text{€}2,730$$

14.25 sq.m. @ €25 /sq.m. = € 356

€8,881.00

**Say NAV €8,880**

And the Tribunal so determines.