

Appeal No: VA17/5/395

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

JULIA HESSION

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2170194, Leisure at Local No/Map Ref: 18/2, Loughil, Tobercurry, County Sligo.

B E F O R E

Eoin McDermott – FSCSI, FRICS, ACI Arb

Deputy Chairperson

Frank O'Grady - MA FSCSI FRICS FIABCI

Member

Patricia O'Connor - Solicitor

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF JULY, 2019**

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th 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 €11,250.

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

- The determination was based on inappropriate rental value.
1. It is not a leisure facility and it is not rentable.

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

2. REVALUATION HISTORY

2.1 On the 16th 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 €15,940.

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 of the Property was reduced to €11,250.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €11,250.

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 8th day of April, 2019. At the hearing the Appellant appeared in person and the Respondent was represented by Mr Liam Hazel MSc BSc Dip Acc & Fin, MSCSI, MRICS, MIPAV (CV), ACI arb 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 property is located in a rural area 14km northwest of Tubbercurry and 32km southwest of Sligo.

4.3 The property comprises an Equestrian Centre situated within the confines of a farm building..

4.4 The arena and stables associated with the Equestrian Centre are relevant property as per Schedule 3 of the Valuation Acts 2001-2015. The property is measured on the Gross External Area (i.e the Arena and Stables) and is agreed at 938 square metres.

4.5 The outdoor riding enclosure is considered relevant property not rateable as per Section 4 of Schedule 4 of the Valuation Acts 2001-2015.4.6 The farm buildings are considered relevant property not rateable as per Section 5 of Schedule 4 of the Valuation Acts 2001-2015.

5. ISSUES

5.1 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. In accordance with the Rules of the Tribunal the parties had exchanged their respective 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 their précis as their evidence-in-chief in addition to giving oral evidence.

7.2 The Appellant stated that the property at Woodlands is a family owned farm building and also their home. She argued that the arena and stables could not be rented separately from the rest of the property. The Appellant described herself as an O.A.P. with a love of horses and ponies and stated that she needed the premises to do that to her satisfaction during the winter months. She confirmed that they were no longer members of the Association of Irish Riding Establishments (AIRE) and that they no longer provide any of the services listed on their website. The Appellant confirmed that she was a registered farmer in receipt of income from the Department of Agriculture. She said that she had 32 horses and ponies and that her daughter has 7. These are kept as competition and breeding stock. The Appellant confirmed that her daughter holds lessons for 3 hours a week on Saturday for 2 to 3 children and a further lesson for 2 other children on Thursday on an ongoing basis. The Appellant stated that her daughter had not taken on any new clients since January of this year. In response to a question from the Tribunal the Appellant confirmed that they were still registered as members of the Connemara Breeders Society.

7.3 Mr. Tony Hession, the husband of the Appellant, then gave evidence. Mr. Hession dealt with the comparisons provided by the Valuation Office (Appendix 2, numbers 1 to 5). He stated firstly that the Appellant had provided two independent valuations, one from Sherry Fitzgerald Draper, and another valuation. Mr. Hession pointed out that the Sherry Fitzgerald Draper valuation made reference to the subject property as not being marketable. Mr. Hession stated that it was difficult to ascertain any level of rent being available for the following reasons:

1. The property was built for a particular purpose.
2. The area is not commercialised.
3. The parties had put in place a structure in 1991 to create an area of flat ground but other than that the area around the subject property was extremely hilly.

7.4 With regard to the Valuation Office comparisons Mr. Hession commented as follows:

1. He described each of the three properties relied upon by the Valuation Office as Key Rental Transactions (Appendix 1, numbers 1 to 3) as “proper commercial properties”.
2. He was very familiar with the property in Comparison 1 (Appendix 2) and noted that this property employed 4 or 5 full time employees.
3. Having regard to Comparison Number 5 (Appendix 2), this property is adjacent to the subject property and Mr. Hession, who is an accountant, is employed as their financial controller. He described this property as a state of the art building which would be capable of being rented.

7.5 Mr. Hession said that the Appellant’s accounts showed a loss and that the Appellant did not draw a salary from the business but instead ran it for the purpose of looking after the animals. In conclusion Mr. Hession contended for a nil valuation and commented by way of an aside that if the Rateable Valuation cannot be resolved, then the Appellant may very well have to make a commercial decision in respect of the subject property.

8. RESPONDENT’S CASE

8.1 Mr. Hazel gave a brief outline of the information contained in his précis. He described the property as an Equestrian Centre, trading as Woodlands Equestrian Centre, and gave examples of the services on offer, as set out on the Centres website. He gave evidence of 3 Key Rental Transactions (Appendix 1), all of which were industrial properties in Colloney, which is located some distance from the subject. The three rental transactions had an NAV/M2 of €30. He also put forward 6 NAV comparisons (Appendix 2), two of which (at Colloney and Grange) were stables or equestrian centres with an NAV/M2 of €12 and two of which (at Corballa and Ballymote) were stables or equestrian centres with an NAV/M2 of €10. He explained that the difference was that riding centres up to 1,000 square metres were rated at a higher rate than those greater than 1,000 square metres so that Comparison Numbers 3 and 4 (Appendix 2) were rated at €10 per square metre while the subject property was rated at €12 per square metre. He also said that this reduction was rigorously enforced. The last two NAV comparisons were industrial units, both close to the property with an NAV of €20/M2.

8.2 Mr. Hazell confirmed his opinion of NAV at €11,250, representing €12/M2.

8.3 Mr. Hession put it to him on cross-examination that they no longer ran riding lessons and had not had a training league for 2 to 3 years. Mr. Hazel replied that he had obtained that information from the Appellant's website and stated that if the property is no longer commercial, then that was a separate issue for application to the Commissioner. Mr. Hession put it to Mr. Hazel that the Appellant had not had a living from the subject property for 2 to 3 years and that the first three comparisons provided by the Valuation Office bore no relevance to the subject property. Mr. Hazel replied that regardless of income it was necessary to have rental evidence for comparisons and confirmed that the turnover of the property is not taken into account when the Valuation Office is looking at a property.

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 Sligo County Council.

10.2 On this appeal the Tribunal must determine the value of the Property by reference to the value of other properties on the valuation list comparable to the appeal property.

10.3 Having regard to the three Key Rental Properties as relied on by the Valuation Office, the Tribunal notes that the NAV per square metre in respect of each of the three properties is €30 per square metre. The Valuation Office has accepted that each of these properties, which are all located in Collooney, Co. Sligo, is in a superior location to the property under appeal. The Tribunal finds that little weight can be given to these transactions as evidence of the rental value of the subject unit.

10.4 The Tribunal further notes that the NAV for the property at Comparison Number 5 is rated at €20 per square metre rather than €30 per square metre as outlined in paragraph 10.3 above. This comparison property is a factory located at Cloonacool, Tubbercurry, Co. Sligo and is situated on the adjoining site to the subject property under appeal. It appears to the Tribunal that the only difference between this factory and the factories in paragraph 10.3 above is the

location of the properties. The Tribunal finds that the reduction of the NAV by the Valuation Office from €30 per square metre to €20 per square metre comprises a one-third (1/3) reduction in valuation based on location.

10.5 Mr. Hession submitted to the Tribunal in his evidence that the location and quality of the land in the subject property were poor. The Tribunal takes the view that if the NAV for a commercial property has been reduced due to its' location as above, then it is only equitable that the NAV for the subject property should also be similarly be reduced by the same percentage. The subject property is presently valued at €12 per square metre. The Tribunal proposes to reduce this figure by 1/3 to take the location of the subject property into account. This will result in a reduction of €4 allowing for an NAV of €8 per square metre.

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 €7,500.

938 square metres x €8 per square metre equals €7,504.

Say €7,500.