

**Appeal No: VA18/2/0027**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015  
VALUATION ACTS, 2001 - 2015**

**CATHAL MOLLOY**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2005170, Licensed Shop at Local No/Map Ref: 16B/1, Main Street, Glenties, Drumnasillagh, Glenties, County Donegal.

**B E F O R E**

**Hugh Markey – FSCSI, FRICS**

**Deputy Chairperson**

**Claire Hogan - BL**

**Member**

**Fergus Keogh – MSCSI, MRICS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 10<sup>TH</sup> DAY OF DECEMBER, 2019.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 15<sup>th</sup> day of June, 2018 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 €16,000 and valued at a Rateable Valuation of RV €80.

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 28(4) of the Act. The Grounds of Appeal are set out in the Notice of Appeal by the Appellant which may be summarised as follows:

- The Appellant states that the other pubs in Glenties, which is a small rural town have lower valuations and references the valuations of these properties.
- The Appellant advised that he purchased the premises in 2017.
- The Appellant stated that he needed to carry out a lot of work to the property before he could commence trading.
- The Appellant advised in the Notice that it was a requirement to comply with Fire Regulations to remove a take-away restaurant and lounge area from the property.
- In addition other rooms were removed in these works to create a very large fire corridor to be installed as part of the Fire Regulations.
- These works and alterations led to the creation of a smaller bar.
- The upper floors were previously licensed and are now converted to domestic use and are unoccupied.
- The Appellant states that the turnover is declining and should be considered in the valuation of the property.

1.3 The Appellant considers that the Rateable Valuation of the Property ought to have been determined in the sum of €30.

## **2. VALUATION HISTORY**

2.1 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.

2.2 A Final Valuation Certificate issued on the 12<sup>th</sup> day of June, 2018 stating a Rateable Valuation of RV €80.

## **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 3<sup>rd</sup> day of October, 2019. At the hearing the Appellant appeared in person and the Respondent was represented by Ms. Orla Lambe 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 / her précis as their 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 village of Glenties is located approximately 30 Kms north of Donegal town centre and approximately 10 Kms north east of the town of Ardara. The subject property is located on the southern side of Main Street.

4.3 The property comprises a two storey over basement terraced building. The ground floor trades as a licensed premises with basement storage and ancillary accommodation overhead. The building is of traditional construction detail with block walls cement rendered and painted and a slate covered pitched roof.

4.4 The property was acquired by the current owner in August 2017 following which it was substantially refurbished. These works included the amalgamation of a take-away restaurant into the property (previously separately valued), into the ground floor bar area and other internal alterations which included the combining of a former lounge area into the current bar. As a result of these works and to comply with Fire Regulations, a fire corridor was constructed in place of the former restaurant area and the upper floors were converted to domestic use and may not be occupied without the approval of the Fire Officer. The basement area is used for keg storage and there is an open-sided smoking area to the rear of the ground floor of timber construction.

4.5 The areas are as follows:

<b>Level</b>	<b>Use</b>	<b>Area Sq. M.</b>
Ground Floor	Bar	70.11
Ground Floor	Smoking Area	18.40
Ground Floor	Stores	25.30

Ground Floor	Toilets	23.69
Basement	Stores	39.47
<b>Total</b>		<b>176.97</b>

## 5. ISSUES

5.1 The issue that arises in this Appeal is one of quantum.

## 6. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

*“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.*

## 7. APPELLANT’S CASE

7.1 Mr. Molloy appeared in person and as a lay appellant and prior to giving his evidence the Deputy Chairperson explained to Mr. Molloy the manner in which the Hearing would be conducted. The Appellant advised the Tribunal of his own business and commercial background. He also advised of his experiences and difficulties encountered since his acquisition of the property which include issues relating to complying with Fire Regulations and Fire Officer’s Requirements prior to commencing to trade from the property.

7.2 Mr. Molloy outlined the trading nature of the property which included explaining the seasonality of trade and the limited opening hours each week, adding that Glenties was a small local rural village without the benefit of attractions including festival events and other attractions such as those experienced in nearby Ardara, which he advised

supported trade. Mr. Molloy contended that the rating assessment did not reflect the value of the limited trade which the property currently experienced and supported.

7.3 Whilst Mr. Molloy did not submit details and analysis of comparative properties in the vicinity in a format that the Tribunal is more familiar with, he did submit the names and valuations of a number of properties, commenting generally in relation to them, comparing them individually to the subject and commenting on them as being bigger, smaller or similar to the subject.

These properties are listed in the attached **Appendix 1**.

In his Representations, Mr. Molloy had listed five comparison, of which one was under revision, while the other four were pre 1998 valuations. None of the comparisons submitted at Representation stage could therefore be considered as reliable comparisons. In his oral evidence to the Hearing, Mr. Molloy again chose to rely on a number of these comparisons.

7.4 Mr. Molloy again emphasised the difference in the trading ability as between Dungloe and Glenties, the former having a much more developed tourism business with a number of guesthouses. He outlined how Dungloe had the benefit of thirteen bar extensions annually as opposed to the single extension in Glenties.

7.5 Mr. Molloy further outlined the physical drawbacks related to the property including the reduced size of the bar and the low headroom in the basement.

7.6 Mr. Molloy contended for a rateable valuation of €40.

7.7 Under cross examination by Ms. Lambe, Mr. Molloy acknowledged that he was not aware that the current valuation was established in 2004 and also acknowledged that he was not aware that the property was re-assessed in 2017, due to Material Change in Circumstance, with no change being made to its valuation assessment.

7.8 Mr. Molloy further acknowledged that in his opinion the refurbishment works had enhanced the property and agreed that the valuation of €80 had not increased since the works had taken place.

7.9 In relation to the comparisons submitted by Mr. Molloy in the Notice of Appeal, he confirmed that he was not aware that the valuations of four of these properties pre-dated 1988, being comparisons numbers 2, 3, 4 and 5, and therefore not relevant as comparisons. Mr. Molloy also acknowledged that he was not aware that the economic downturn is not a factor considered and taken into account in rating valuation assessments, nor was he aware that a re-valuation programme was due to take place for properties in the area and that economic circumstances shall not be taken into account until 2020 in relation to valuation assessments.

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

8.1 Ms. Lambe, referencing her précis outlined the location, description, accommodation and valuation history of the subject, confirming that there was no change in the assessment of the post-enhancement works and that the assessment was based only on the trading area of the subject property.

8.2 Ms. Lambe submitted details and analysis of four comparisons each is outlined in **Appendix 1**, commenting that in her opinion, Comparison number one, being the subject property, was the most relevant as it is an established valuation at €228.21 per square metre of trading space.

8.3 Comparison number two (PN 5009069) which is currently closed, is smaller than the subject, with a trading area of 58.56 Sq. M., and has an assessment of €187.84 per square metre, which Ms. Lambe advised is based on turnover on a 1998 basis.

8.4 Comparison number three, which is located nearby on the opposite side of the street, is a much larger with a trading area of 128.22 Sq. M. and has been devalued by Ms. Lambe at €131 per square metre. It was revised in 2018 and was not subject to Representations or an Appeal.

8.5 Comparison number four is in Dungloe which is approximately 17 Kms north of Glenties. It is larger than the subject in a superior location with a trading area of 104 Sq. M. and is devalued at €170 per square metre.

8.6 There was no cross examination by the Appellant. Under questioning by the Tribunal

Ms. Lambe clarified the size of the trading area as it appeared to be different from that in the notes in the Valuation Office Valuation Report dated 10 May 2018. She explained that the entrance porch area is included in the trading area. Discussion followed regarding the area of the property to be assessed and valued. The Appellant acknowledged that he was not aware that the porch entrance area was valued as a trading area.

8.7 Ms. Lambe acknowledged that the Tone of List can create anomalies in relation the valuation of individual properties.

## **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 Donegal County Council.

10.2 The Tribunal carefully considered the submissions and comments as made by both the Appellant and the Respondent.

10.3 In relation to the Respondent's comparisons the Tribunal finds that comparisons numbers two and three to be the most persuasive.

10.4 In relation to the rate applied in comparison number one, the subject property, this rate is deemed to be correct on the basis that it is in the Valuation List, despite the increase in the size of the property following the integration of the adjacent property. The Tribunal considers that this is an unhelpful comparison.

10.5 In relation to comparison number two (PN. 5009069), the Tribunal finds it to be the most relevant comparison. The rate applied to the trading area of 58.86 Sq. M. is €187.84 per Sq. M. The trading area of this comparison is approximately 16% smaller

than the trading area of the subject property.

- 10.6 In relation to comparison number three (PN. 200157), the Tribunal has noted the rate of €131 per Sq. M. applied to a trading area of 128.22 Sq. M. The trading area of this comparison is approximately 83% larger than the trading area of the subject property.
- 10.7 The Tribunal considers that comparison number four not to be relevant.
- 10.8 The Tribunal accepts the Respondent's approach to adopting the Tone of the List in establishing a value of the property and considers, as was acknowledged by the Respondent, that the Tone of the List can create anomalies in values. In this instance, an appropriate rate to be applied can be derived from a consideration of the two adjacent comparables and making appropriate adjustments for differing trading areas. The Tribunal deems a rate per square metre of €170 to be appropriate in the instant case.

**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:

**RV €59.50**

Property	Sq. M.	€ PER Sq. M.	€ NAV
Trading Area	70.11	170	11,900

NAV €11,900 x 5% = R.V. €59.50.

And the Tribunal so determines.