

Appeal No: VA17/5/1240

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BARBARA JORDAN

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 5009018, Office at Local No/Map Ref: 1AB.4/2, Milltown, Shangarry, Carlow,
County Carlow.

B E F O R E

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Dairine Mac Fadden - Solicitor

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF NOVEMBER, 2019

1. THE APPEAL

1.1 By Notice of Appeal received on the 13th 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 €4,050.

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

- The valuation is incorrect, and the appellant considers that the valuation of the property concerned is not a determination of its value as it accords with that required to be achieved by section 19(5) of the Act as amended
- The property is located in a rural area at the end of a laneway

- Property not commercially viable unless living in adjacent dwelling
- The property is not serviced by water, sanitary facilities, public lighting or public footfall

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €1,000.

2. REVALUATION HISTORY

2.1 On the 11th 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 €4,050.

2.2 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €4,050.

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 11th day of November, 2019. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real Estate), Ba. (Mod) of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Terry Devlin B.Sc., 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:

4.1.1 The property is located in Milltown, Carlow, approximately 19 km. from Carlow Town.

- 4.1.3 The property is situated on the grounds of the Appellant's domestic dwelling.
- 4.1.3 The building is a former agricultural stone outbuilding, converted in 2008 and used by the Appellant as a Solicitor's office.
- 4.1.4 The measurements are agreed at 50.69 sq.m (NIA).
- 4.1.5 There is no internal plumbing or central heating.
- 4.1.6 The property is in a very rural location.

5. ISSUES

5.1 At the opening of the Hearing, the Appellant argued that the very remote location of the property, together with the fact that it is not serviced by public mains and contains no internal plumbing or central heating, and is situated on the Appellant's own farm beside the residential element of the holding, made it virtually impossible to give property or rental comparisons in the Carlow Rating Authority area.

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.”

6.3 Section 19(5) of the Act also requires that the valuation list drawn up and compiled " shall achieve both (insofar as is reasonably practicable)-

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list,"

7. APPELLANT'S CASE

7.1 The Appellant stated that he believed the best way to make his case was primarily through photographic evidence which clearly showed the remote and rural nature of the property.

7.2 This photographic evidence showed a turning off the N80 onto the L2023, continuing for 1.5 km and then taking a turn to the left on an unnamed road at the hanging sign for Barbara Jordan Solicitors.

7.3 The photographic evidence showed a converted outbuilding (the subject property) adjacent to the Appellant's residence and a haybarn. (See Appendix i).

7.4 The Appellant stated that there was no plumbing to the property, no internal toilet, no tea making facility, and no central heating.

7.5 The Appellant argued that a hypothetical Tenant would have a significant number of reservations about renting the property, namely:

the physical location of the property being miles from any amenity;

the lack of internal plumbing;

the unfinished nature of the property.

7.6 The Appellant contended the property can only be occupied in co-operation with the adjoining residential property, and therefore an independent commercial rent would be extremely limited as the hypothetical tenant must also pay a rent for the residence in order to have any sort of functionality.

7.7 The Appellant argued that the discount in the order of 25% given by the Commissioner on the €80 per sq.m applied in the prevailing Tone of the List to office : house accommodation in the Carlow Rating Authority Area was not sufficient as it did not take into account the fact that the property is situate in a domestic farmyard in a very rural location with no mains services.

7.8 The Appellant contended that a level not exceeding €20 per sq.m should be applied giving a Net Annual Value (NAV) of €1,000.

7.9 The Appellant stated that it was virtually impossible to find a comparison property or comparison rent in the Carlow Rating Authority Area. The only (relative) comparison he could find was Property No. 2203431, but this property, whilst also rural, is vastly superior in terms of finish and build quality (see Appendix ii).

8. RESPONDENT'S CASE

8.1 Mr. Devlin, for the Respondent, gave evidence that the property is a very sympathically restored building, capable of office use and currently in use as a Solicitor's office in rural Carlow.

8.2 The property is located on the grounds of the Appellant's domestic dwelling.

8.3 The Ground floor is set out in 2 rooms and there is a mezzanine which is accessed from steps to the side of the building and through a separate door. When questioned, Mr. Devlin said that the mezzanine area was used for domestic storage such as toys etc.

8.4 Mr. Devlin presented 2 Key Rental Transactions in the Carlow Rating Authority area – KRT 1 located in Tullow and KRT 2 located in a business park in Bagenalstown.

8.5 Mr. Devlin in evidence said that there was little or no comparable properties to the subject in terms of rental transactions.

8.6 Seven NAV Comparables were submitted by Mr. Devlin on behalf of the Respondent as follows:

Property No. 2197527 situated at Crowsgrove, Clonegal – a modern purpose built Office located to the side of a domestic property.

Property 1207636 situated on Station Road, Bagenalstown – a modern purpose built property to the side of a domestic dwelling. (NAV €90 sq.m);

Property No. 2207893 situated at Rathellin, Leighlinbridge – rural location.

Property No. 2212702 situated in Cloughna, Ballinacarrig – rural location.

Modern purpose built office building attached to a private residence.

Property No. 2210703 located at Mortarstown, Kilkenny Road, Carlow.

Domestic type property on the outskirts of Carlow Road..

Property No. 2197683 located at Killyshane, Burtonhall, Carlow. Domestic type Building outside Carlow Town rated as offices.

Property No. 2207762 at Ballycarney, Ballinacarrig, Carlow. Located to the side of a Domestic residence in a rural location. In use as a Creche.

With the exception of Property No. 1207636, all of the other comparables are rated at €80 per sq.metre, which Mr. Devlin stated, when questioned, is the emerging Tone of the List for Carlow. (See Appendix iii).

8.7 Mr. Devlin, on behalf of the Respondent, stated that, following representations, the NAV of the subject property was reduced from €80 sq.m to €60 per sq.m. This reduction was given to reflect the nature of the property and in his view, this represents a fair reduction.

9. SUBMISSIONS

9.1 There were no submissions of a legal nature.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must determine the value of the subject property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable relative to the value of other comparable properties on the Valuation List in the Rating Authority area of County Carlow.

10.2 Having heard the oral evidence and examined the written evidence of both parties, the Tribunal finds that the Key Rental Transactions provided by the Respondent were of no benefit in assessing the rental value of the property under Appeal, being located in Urban areas of County Carlow with passing footfall, of which the subject property has none. The lack of rental evidence for rural offices was admitted by both parties.

10.3 The Comparisons submitted by both parties, while of some assistance to the Tribunal, does not take into account the unique factors affecting the property, the subject of this appeal, as follows:

1. The rural and remote location.
2. The lack of mains services to the property.

3. No passing trade and no footfall.
4. The property can only be occupied in co-operation with the adjoining residential property

10.4 In order to fairly assess the NAV of the property, the Tribunal takes into account factors 1 to 4 as listed above in order to reach a figure which a willing Tenant would be prepared to pay as required under 19 (5) and Section 48 of the Acts.

10.5 The Tribunal acknowledges the emerging Tone of the List in Carlow at €80 per sq.m. for offices, but finds that the reduction given by the Commissioner (25%), is not sufficient, and does not factor in the unique nature and location of the property.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate, determining that a reduction of 50% of the emerging Tone of the List (€80 per sq.m) is appropriate for this particular property.

NAV : 50.69 sq.m x €40 = €2027.60.

Say NAV €2028.

And the Tribunal so determines.