

Appeal No: VA17/5/1164

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BELLA MODA LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 5007591, Retail (Shops) at 5, Common, Knocktopher, Thomastown, County Kilkenny.

B E F O R E

Eoin McDermott – FSCSI, FRICS, ACI Arb

Deputy Chairperson

Fergus Keogh – MSCSI, MRICS

Member

Úna Ní Chatháin - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 9TH DAY OF JUNE, 2020.

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 €6,540.
- 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 : *“Rentable value is incorrect, also square footage is incorrect.”*

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in a sum between €350 and €550.

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 €6,450.
- 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 7th day of September 2017 stating a valuation of €6,450.
- 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 18th day of February, 2020. At the hearing the Appellant was represented by Ms. Noeleen Coughlan and the Respondent was represented by Mr. Terry Devlin BSc, 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 their 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 Knocktopher is a small rural village in County Kilkenny and is located approximately 9 kms south from Thomastown and 3 kms east of junction 10 on the M9 motorway and is primarily accessed via the R448 and the R699 roads.

4.3 The subject is located a short distance from the village centre in Knocktopher and comprises an end of terrace ground floor lock-up retail unit. It is of modern block wall construction detail with a rendered and painted front elevation incorporating a traditional style timber shop front. There is a small grassed and planted landscaped area to the front of the property. Overhead of the subject there is a self-contained three bedroom duplex apartment. The property trades as a fashion boutique specialising in bridal wear. The overall terrace forms part of the streetscape to the public road of a residential development constructed to the rear known as White's Castle.

4.4 The Net Internal Area of the Subject is agreed as follows;

Ground Floor: 52.05 Sq. M.

5. ISSUES

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

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 following 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 Ms. Coughlan having taken the Oath, adopted her Précis as her evidence-in-chief in addition to giving oral evidence.
- 7.2 Ms. Coughlan explained to the Tribunal that she occupies the subject premises trading as Ti adora Bridal & Occasion Wear which she acquired along with the overhead residence approximately four years ago.
- 7.3 The Appellant contended that the valuation of the subject property was not in line with market rents being paid for similar properties in the general area and considered that the amount of commercial rates that she pays to be unfair.
- 7.4 In support of her argument Ms. Coughlan advised the Tribunal of her opinion of the economic conditions in Knocktopher and as they generally currently prevail in rural Ireland. Ms. Coughlan commented that commercial trade in Knocktopher is challenging and has declined since the change in the economic conditions in 2008, adding that Knocktopher is a small rural community with a population of approximately 700 persons living within a 15 -20 kms radius. The Appellant advised that in her opinion Knocktopher struggles to compete commercially with other locations with larger populations. Ms. Coughlan added that a similar retail premises adjacent to the subject property had recently been converted to residential use and that this was indicative of the poor trading conditions in Knocktopher and this specific location.
- 7.5 Ms. Coughlan outlined to the Tribunal her opinion of the reduction in the level of locally supplied services in the Knocktopher area by Kilkenny County Council, including street cleaning and general maintenance and advised of her failed attempts to

establish an explanation from the Kilkenny County Council as to the quantum of collected rates that were actually allocated to the Knocktopher area. Ms Coughlan advised that she separately pays a service charge for the maintenance of the landscaped area to the front of the subject property.

7.6 Ms. Coughlan confirmed that her primary dispute was in the quantum of the valuation applied to the subject property and contended for a NAV valuation in the region of €3,000 / €3,500. In additional support of this opinion Ms. Coughlan included in her Précis a letter from a local auctioneer and valuer dated 4th February 2020 where the writer commented that, *“Given its size and location in a small rural village I will value the potential rental income attainable for this property in the sum of €3,000 per annum.”*

7.7 Under cross examination by Mr. Devlin seeking evidence to support her opinion of rental value Ms. Coughlan referred to the letter from the local auctioneer and valuer and confirmed that she had no additional evidence.

7.8 Mr. Devlin advised that in his submission he shall confirm a reduction in floor area of the subject property which results in a reduction in his opinion of rental value to NAV €5,070. Ms. Coughlan confirmed that in her opinion that this revised valuation remained incorrect and was too high.

8. RESPONDENT’S CASE

8.1 Mr. Devlin, having taken the Oath, adopted his Précis as his evidence-in-chief in addition to giving oral evidence.

8.2 Mr. Devlin advised the Tribunal of the Revaluation History of the subject property. On the 11th May 2017 a Proposed Valuation Certificate was issued with a Proposed Valuation of €6,540. Following receipt of Representations on the 22nd June 2017, a Final Valuation Certificate of €6,540 was issued. This Valuation is the subject of this Appeal.

- 8.3 Mr. Devlin described the location of the premises by reference to a map in his Précis and its relevant distances from nearby Thomastown and the Mount Juliet Estate.
- Mr. Devlin described the nature of the subject by reference to a number of pictures in his Précis, its construction detail and internal layout which concurred with the information as provided by the Appellant.
- 8.4 Mr. Devlin submitted three Key Rental Transactions to inform his estimate of the NAV of the property. These are set out in Appendix A.
- 8.5 In addition Mr. Devlin submitted the following five NAV Comparisons in support of his opinion of the NAV of the property:

NAV Comparison No. 1 - PN 218933. A grocery shop in a traditional two storey building in Knocktopher, Co. Kilkenny, with a ground floor Retail Zone A area of 26.84 sq. m., a Retail Zone B area of 2.64 sq. m. and a shop area of 7.32 sq. m. The property has a NAV of €3,960 analysed at €125 psm, €65 psm and €60 psm respectively for each area.

NAV Comparison No. 2 - PN 2200945. A saddlery shop in a traditional two storey building in Tullaherin, Thomastown, Co. Kilkenny, with a ground floor Retail Zone A area of 84.39 sq. m. and a storage area of 102.05 sq. m. The property has a NAV of €13,360 analysed at €110 psm, and €40 psm respectively for each area.

NAV Comparison No. 3 - PN 194078. A shop in a traditional two storey building in Killamery, Callan, Co. Kilkenny, with a ground floor Retail Zone A area of 33.03 sq. m. The property has a NAV of €3,630 analysed at €110 psm.

NAV Comparison No. 4 - PN 5008621. A shop in a traditional single storey building in Glenmore, Co. Kilkenny, with a ground floor Retail Zone A area of 34.25 sq. m. and a storage area of 1.83 sq. m. The property has a NAV of €3,780 analysed at €110 psm and €11 psm respectively for each area.

NAV Comparison No. 5 - PN 2210101. A shop trading as a hair salon in a traditional style single storey building in Piltown, Co. Kilkenny, with a ground floor Retail Zone A area of 22.09 sq. m. and a storage area of 10.83 sq. m. The property has a NAV of €2,880 analysed at €125 psm and €11 psm respectively for each area.

8.6 Mr. Devlin in his valuation of the subject property contended for a NAV valuation of €5,070. This valuation is €1,470 less than the NAV value of €6,540 as issued in the Final Certificate and which is the subject of this Appeal. The Tribunal was advised that the valuation reduction is as a result of correcting the areas of the subject property as follows:

Use	Area Sq. M.	€per Sq. M.	NAV
Retail Zone A	40.26	110	4,428.60
Retail Zone B	11.79	55	648.45
		Total NAV	€5,077.05

Say NAV €5,070

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 subject 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 Kilkenny County Council.

10.2 The relevant question on this appeal concerns the amount a hypothetical tenant would pay in rent for a tenancy of the Property on the terms set out in section 48 of the 2001 Act as amended. The rent for which the Property might, in its actual state, be reasonably

be expected to let is measured by the rental value on a hypothetical tenancy of the property on a year on year basis and not by reference to the actual occupier's business or financial means or the rent the occupier actually pays.

- 10.3 The Appellant, Ms. Coughlan, in support of her opinion of NAV value, primarily relied upon a number of factors including the location of the subject property, its distance from other commercial activity in the general area, the challenging commercial trading conditions in Knocktopher and the general economic conditions as they prevail in rural Ireland as a result of the economic recession in 2008. In presenting her position to the Tribunal Ms Coughlan also placed substantial emphasis and weight in her case as to the value and quantum of local services being obtained by commercial rate payers in Knocktopher relative to the amount of rates being paid. She also drew attention to a letter from a local auctioneer, who stated that the rental value of the property was €3,000 per annum.
- 10.4 In support of his opinion of NAV value Mr. Devlin relied on the analysis of three KRT Comparisons and five NAV Comparisons. With reference to the KRTs each was in a superior trading location in a town or village location and none were located in Knocktopher. KRT No. 3 is substantially larger than the subject property and is a hot-food user.
- 10.5 The NAV Comparisons as submitted by Mr. Devlin represent a selection of commercial properties, both modern and adapted traditional buildings, in retail uses in nearby rural villages and towns and the analysis of these values have assisted the Tribunal in its Determination. Ms. Coughlan did not submit comparable rental evidence that would support her position and the rental value that the Appellant adduced in this Appeal.
- 10.6 It is necessary for the Tribunal to consider all of the evidence placed before it in the round. The rental evidence and general commentary before the Tribunal, on any basis, provides a mixed picture. The Tribunal recognises the relative uniqueness of the subject property in terms of location and use and also acknowledges the lack of directly comparable properties in the Knocktopher area. However, the Tribunal does accept the relevance of the NAV Comparison Rents in Mr. Devlin's précis in arriving at its

Determination. The Tribunal could not attach any weight to the auctioneer's letter put forward by the Appellant as the writer of the letter was not available to be cross-examined and no evidence was put forward to sustain the valuation.

DETERMINATION:

Accordingly, for the above reasons, The Tribunal disallows the Appeal and affirms the decision of the Respondent that the NAV is determined in the sum of NAV €5,070 as follows:

Use	Area Sq. M.	€per Sq. M.	NAV
Retail Zone A	40.26	110	4,428.60
Retail Zone B	11.79	55	648.45
		Total NAV	€5,077.05

Say NAV €5,070

And the Tribunal so determines.