

Appeal No: VA 17/5/1013

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ROMALD MULLARKEY

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2200698, Retail (Warehouse) at Floors 0,1 25/2a Tubbercurry, Tubbercurry,
County Sligo.

B E F O R E

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Fergus Keogh – MSCSI, MRICS

Member

Úna Ní Chatháin - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 30TH DAY OF JUNE, 2020.

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th 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 €32,500.

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

- “The occupier’s belief is that the valuation is not in-line with Section 5 as amended

19 (5) (a) and (b)

- The occupier further attaches 8 properties;
PN 2200701, PN 1994270, PN 1994274, PN 1994285, PN 1994272,
PN 1994273, PN 1994271, PN 1994266. ‘(sic)’.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €18,793.

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 €57,000.

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 €32,500.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €32,500.

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 6th day of February, 2020. At the hearing the Appellant, Mr. Romuald Mullarkey, appeared in person and the Respondent was represented by Mr. Liam Hazel MSCSI, MRICS, MIPAV (CV), ACI Arb, M.Sc., B.Sc., Dip. Acc. & Fin. 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 comprises a modern purpose built retail warehouse currently used for the sale of household furniture and soft furnishings. It is located in a cul-de-sac side street off Teeling Street (Main Street) in Tubbercurry, County Sligo. Tubbercurry is the second largest town in County Sligo and is located approximately 35 kms south west of Sligo town centre and is accessed via the N17 national road.
- 4.3 The subject was purpose built by the Appellant in c. 2006 and opened for trade in c. 2008. It is of modern portal frame construction detail with metal cladding walls to the side elevations, a metal decking roof with roof lights, a concrete floor and a block wall front elevation cement rendered and painted.
- 4.4 There is a decorative feature pitched roof attached to the front elevation and 5no. double glazed aluminium shop fronts for display and access. Internally, a trading mezzanine level has been installed. There is goods delivery access to the side via a roller shutter goods door accessed off a shared route with an adjoining warehouse property to the rear which is also owned by the Appellant and is the subject of a separate appeal, number VA 17/5/1018. There is on-street car parking to the front of the subject property.
- 4.5 The Gross Internal Area of the property is agreed as follows:

Ground Floor Showroom	626.45 Sq. M.
Mezzanine Showroom	<u>572.27</u> Sq. M.
Total	1,198.72 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 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. Mullarkey, having taken the Oath, adopted his Précis as his evidence-in-chief in addition to giving oral evidence.

7.2 Mr. Mullarkey advised the Tribunal as to the background of the subject property which he occupies trading as Mullarkeys Furniture. The property was constructed in c. 2006 on land within his ownership commenting that it was a large property for this type of location. He added that he was encouraged at the time to build to this scale by his design architect as the site could accommodate a property of such scale and on the basis that future road proposals in Tubbercurry would mean that this location would no longer be a cul-de-sac. These road proposals have yet to take place.

7.3 Mr. Mullarkey contended that the valuation of the subject property was not in line with

market rents being paid and further did not reflect the rent to be paid by a hypothetical tenant in accordance with the provisions of Section 48 of the 2001 Valuation Act as amended by Section 19(5) of the 2015 Valuation Act.

- 7.4 In support of his argument Mr. Mullarkey advised the Tribunal of his opinion of the current economic conditions in Tubbercurry and as they currently generally prevail in rural Ireland. He commented that commercial trade in Tubbercurry had declined since the change in economic conditions in 2008 and that in excess of 300 jobs had ceased and had not been replaced due to the closure of large scale employers. Tubbercurry with a population of c. 1,750 struggles to compete commercially with other locations including Sligo Town 35.1 kms to the north with a population of c. 19,000 and Collooney 22.2 kms also to the north.
- 7.5 Mr. Mullarkey informed the Tribunal, providing information in pictorial format, of the current occupancy status of a number of commercial properties of varying sizes in Tubbercurry which have been vacant for a protracted period of time to demonstrate the lack of commercial activity in the area and to support his opinion of the low rental values pertaining in Tubbercurry.
- 7.6 Mr. Mullarkey also included in his Précis extracts from valuation reports on various properties in Tubbercurry which were prepared by the Valuation Office. These properties and a commentary on their current status included the following:
- (i) Property PN 2200699, a property which had been vacant for 7 years which was formerly occupied by three tenants including a fitness studio. The studio traded from June 2018 until March 2019 prior to closing being subsequently replaced by another fitness studio which also ceased trading after 10 months. The property is currently vacant.
 - (ii) Property PN 2200701, an industrial showroom of 996.30 sq. m. with a warehouse area of 729.36 sq. m. valued at €30 per sq. m and €25 per sq. m. respectively commenting that it was in a superior location to the subject.
 - (iii) Property PN 1994272, containing a warehouse of 1,800 sq. m. valued at €25 per sq. m. along with offices of 288 sq. m. valued at €25 per sq. m. commenting that it was similar to the subject.

- (iv) Property PN 1994285, a property containing factory areas of 7,864.84 sq. m. and 1,956 sq. m. valued at €25 per sq. m. and €15 per sq. m. respectively commenting that it was similar to the subject with road frontage.
- (v) Property PN 1994270, a property containing a factory area of 562.5 sq. m., a warehouse of 1,250 sq. m. and offices of 182 sq. m. each valued at €25 per sq. m. commenting that it was in a superior location to the subject with road frontage.
- (vi) Property PN 1994274, a property with a showroom area of 99.86 sq. m., a workshop of 392.50 sq. m., and a store of 74.32 sq. m. with the showroom and workshop each valued at €30 per sq. m. and the store at €6 per sq. m. commenting that it was in a superior location to the subject with road frontage.
- (vii) Property PN 1994271, a property with a workshop area of 835 sq. m., and offices of 35 sq. m. each valued at €17 per sq. m. commenting that it was located on an industrial estate.
- (viii) Property PN 1994273, a property with a factory area of 532.95 sq. m., offices of 108.50 sq. m. and a store of 18 sq. m. each valued at €17 per sq. m. commenting that it was located on an industrial estate and similar to the subject.
- (ix) Property PN 1994266, a property with a factory area of 1,734 sq. m., valued at €25 per sq. m. commenting that it was located on an industrial estate and similar to the subject.

In his Précis Mr. Mullarkey also provided pictures of:

- (i) A property on Teeling Street formerly occupied by a government agency which is currently vacant.
- (ii) A petrol filling station on Teeling Street which is currently for sale.
- (iii) A number of smaller retail units on Teeling Street all currently vacant.
- (iv) A number of industrial type properties located on the N17 National Route that are available to rent.
- (v) Two advertising extracts from the Sligo Champion Newspaper dated Tuesday 17th April 2018 indicating the availability of four commercial properties.

- (vi) A photo copy of an extract from a local auctioneer's property particulars advertising the availability to let of a warehouse space of c. 650 sq. m. adjacent to the subject.
- 7.7 Mr. Mullarkey also provided copies of three short term lease agreements in relation to three commercial lettings each for a period of 12 months, one relating to a ground floor shop unit with two relating to first floor level suites. These lettings are dated 2017 and 2018.
- 7.8 Under cross examination by Mr. Hazel, Mr. Mullarkey acknowledged that the subject of this Appeal is a modern purpose built showroom facility.
- 7.9 Mr. Hazel asked Mr. Mullarkey if he was aware of the relevance of the Valuation Date of 30th October 2015 and asked if he was aware that the rents analysed at that date took into account the then economic conditions. Mr. Hazel commented that properties currently available to let would not be let at the rent which was appropriate at the Valuation Date and that rental evidence from in and around the Valuation Date was required. Mr. Mullarkey did not disagree with this assertion.
- 7.10 Under questioning by the Tribunal Mr. Mullarkey confirmed that he was contending for a NAV valuation of €18,793.

8. RESPONDENT'S CASE

- 8.1 Mr. Hazel, having taken the Oath, adopted his Précis as his evidence-in-chief in addition to giving oral evidence.
- 8.2 Mr. Hazel advised of the Revaluation History of the property. On the 16th March 2017 a Proposed Valuation Certificate was issued with a Proposed Valuation of €57,000. Following receipt of Representations on the 20th April 2017, a Final Valuation Certificate of €32,500 was issued. This Valuation is the subject of this Appeal.
- 8.3 Mr. Hazel described the location of the property by reference to maps in his Précis and its relevant distances from the towns of Sligo, Ballina, Boyle, Charlestown,

and from Knock Airport and also described its location with the town of Tubbercurry.

- 8.4 By reference to a number of pictures in his Précis Mr. Hazel described the nature of the subject, its construction detail and internal layout which concurred with the information as provided by the Appellant.
- 8.5 Mr. Hazel submitted two Key Rental Transactions used to inform his estimate of the NAV of the property. These are set out in Appendix A.
- 8.6 In addition Mr. Hazel submitted the following three NAV comparisons in support of his opinion of the NAV of the property:

NAV Comparison No. 1 - PN 2187658. A modern purpose built retail warehouse unit on a modern business park in Colloney, Co. Sligo with a ground floor area of 1,394.99 sq. m., a mezzanine of 707.71 sq. m. and a storage area of 76.57 sq. m. The property has a NAV of €84,100 analysed at €50 psm, €15 psm and €50 psm respectively for each area @ 30th October 2015.

Mr. Hazel advised that representations were made by a rating consultant but that the property was not subject to an appeal and acknowledged that this was a larger property in a superior location to the subject.

NAV Comparison No. 2 - PN 2203735. A modern purpose built retail warehouse unit on a modern business park in Colloney, Co. Sligo with a total ground floor area of 1,468.09 sq. m. The property has a NAV of €73,400 analysed at €50 psm. @ 30th October 2015.

Mr. Hazel advised that representations were not made nor was the property subject to an appeal and acknowledged that this was a larger property in a superior location to the subject.

NAV Comparison No. 3 - PN 2203744. A modern purpose built retail warehouse unit on a modern business park in Colloney, Co. Sligo with a ground floor area of 790.92 sq. m. The property has a NAV of €39,500 analysed at €50 psm @ 30th October 2015.

Mr. Hazel advised that representations were made by the occupier but that the property was not subject to an appeal and also acknowledged that this was a superior location to that of the subject.

8.7 Under cross examination by Mr. Mullarkey, Mr. Hazel acknowledged that the KRT Transactions and NAV Comparisons contained in his submission were all located in superior locations on purpose built retail / business parks and none were in the Tubbercurry area.

8.8 Mr. Hazel advised that following a review of the areas of the property and their amendment he contended for a valuation of NAV €31,900, reduced from €32,500 as per the Valuation Certificate, analysed as;

• Ground Floor Showroom	626.45 sq. m. @ €50 psm.	€31,322.50
• Mezzanine Showroom	572.27 sq. m. @ €15 psm.	€ 8,584.05
• End allowance for location of 20%		<u>- € 7,981.31</u>
		NAV €31,925.24

Say, NAV €31,900.00

8.9 Under questioning by the Tribunal Mr. Hazel advised that the 20% End Allowance adopted in his valuation was an allowance to be made for what was in his opinion the inferior location of the subject property when compared to the superior locations of the KRT and the NAV Comparisons in his Précis. He confirmed that this deduction was subjective allowance.

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 Sligo 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 In support of his opinion of NAV value, the Appellant, Mr. Mullarkey primarily relied upon a number of factors including the substantial vacancy rate of commercial properties in Tubbercurry, the challenging commercial trading conditions in Tubbercurry and the general economic conditions as they prevail in rural Ireland as a result of the economic recession in 2008.
- 10.4 In his support of his opinion of NAV value Mr. Hazel relied on the analysis of two KRT and three NAV comparisons all of which he acknowledged were in purpose built retail / business parks and in superior locations compared to the subject, making a subsequent 20% End Allowance reduction in his valuation of the subject property.
- 10.5 It is necessary to consider all of the evidence in the round. The rental evidence before the Tribunal, on any basis, provides a very mixed picture. The Tribunal recognises the relative uniqueness of the subject property in terms of size, location and use and also acknowledges the lack of directly comparable properties in the Tubbercurry area.
- 10.6 The Tribunal attached little weight to the evidence of the KRT's as submitted by Mr. Hazel. Both KRT's are in a modern purpose built retail parks in superior locations when compared to the subject. KRT No. 2, which trades on a ground floor area only is in excess of 200% larger than the ground floor area of the subject.
- 10.7 Mr. Hazel acknowledged that the three NAV comparisons adopted by him are each in superior locations on modern purpose built business parks. NAV Comparison No. 1

trades over two levels and is substantially larger than the subject. NAV Comparisons Nos. 2 & 3 each trade at ground floor level only and are both larger than the subject.

10.8 Whilst the Tribunal acknowledges the lack of directly comparable properties in the Tubbercurry area it does accept in principle the methodology of valuation as adopted by Mr. Hazel, however the Tribunal does not consider that the End Allowance deduction of 20% adopted in his valuation is sufficient to reflect the size, location and the dual level trading of the subject property and accordingly prefers an End Allowance deduction of 25%.

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 **€29,930** calculated as follows:

• Ground Floor Showroom	626.45 sq. m. @ €50 psm.	€31,322.50
• Mezzanine Showroom	572.27 sq. m. @ €15 psm.	€8,584.05
• End allowance for location of 25%		<u>- €9, 976.64</u>
		NAV, €29,929.91

Say, NAV €29,930.00

And the Tribunal so determines.

Appendix A

KRT 1 - PN 2187679. A modern purpose built retail warehouse unit on a modern retail park in Sligo Town with a ground floor of 469.43 sq. m. and a mezzanine of 127.17 sq. m. let on a 2 year lease from the 1st April 2014 @ €37,500 pa. which was analysed as having an NER of €31,439.07 pa @ 30th October 2015 and an NER of €62 per sq. m. and €18.60 per sq. m. for the ground and mezzanine levels respectively.

KRT 2 - PN 2187674. A modern purpose built retail warehouse unit on a modern retail park in Sligo Town with a ground floor of 1,952.71 sq. m. let on a 15 year lease from the 1st September 2013 @ €90,000 pa. which was analysed as having an NER of €87,300 pa @ 30th October 2015 and an NER of €44.65 per sq. m.