

Appeal No: VA17/5/649

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

KILKENNY TRUCK CENTRE

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2167708, Industrial Uses at Local No/Map Ref: 2/1, Talbotsinch (Pt of),
Kilkenny, County Kilkenny.

B E F O R E

Hugh Markey – FRICS FSCSI

Deputy Chairperson

Thomas Collins – PC, FIPAV, NAEA, MCEI, CFO

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 28TH DAY OF JULY, 2020.

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th 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 €81,000.

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 :

1. *“The Valuation of the subject property is excessive and inequitable. The property’s value as set by the Commissioner is not in line with its potential rental value.*

2. *The subject property is a collection of poor workshops on the edge of Kilkenny. The Commissioner's estimate at €35/m² is excessive in view of the actual age, type and condition of the buildings and is further illustrated by the local tone of the list.*"

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €46,200.

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 €81,000.

2.2 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €81,000.

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 December 2019 and 7th day of February, 2020. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd. and the Respondent was represented by Mr. Terry Devlin B.Sc., MRICS MSCSI, 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.

The property comprises a number of industrial/workshop units/office units together with a portacabin and yard. The property is situated off the Freshford Road R693, approximately 2km outside Kilkenny City.

The agreed areas are:

Office 304.24 sq. m.

Portacabin 32.40 sq. m.

Workshop 1,749.98 sq. m.

Mezzanine Office 89.00sq. m.

Mezzanine Store 89.27 sq. m.

Yard (concrete/tarmac) 522.50 sq. m.

Yard (Hardcore) 2,828,40

The property is freehold.

5. ISSUES

The sole issue in this Appeal is one of quantum.

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 Halpin outlined how the subject comprised an industrial complex constructed on a piecemeal basis over a period of approximately 40 years. It was in use as a truck testing centre. It is accessed from the R693 by an access road shared with a concrete batching facility and is located closer to the road. The premises of John Dalton and Son are located immediately adjacent and have a separate road entrance. This latter enjoys main road frontage and is used as a retail warehouse/store. He suggested the subject site was 'obscure'.

7.2 He drew the Tribunal's attention to the fact that this latter had been the subject of an appeal which had been determined (VA 17/5/081). He noted that, while the buildings were inferior to those of the subject, the Tribunal had determined that the same level of value should apply as in the rest of the county. He further suggested that the Respondent valued properties in the city of Kilkenny differently to those in the county – that there was a 'magic line'. He said there was little doubt that industrial properties in the city were amongst the most valuable in the country but the market was nuanced and took matters of location, type and size into account.

7.3 He said he was aware of two rental transactions in the city whereby parts of the former Fieldcrest factory complex had been let at rates of €13.45 - €20 per sq. m. He said it was difficult to understand how the subject was valued at €35 per sq. m., whereas other properties in the county were valued at €25 per sq. m. He suggested that the yards of the most relevant comparisons were not valued by the Respondent as was the case in the adjoining John Dalton property.

7.4 Comparisons

Mr Halpin introduced two letting comparisons – both within the former Fieldcrest complex. He suggested these devalued at rents of €13.45 and €20.16 per sq. m., respectively. The source of his information was the Commercial Leases Register and the Respondent.

He further noted that the Tribunal had determined another unit in the same complex at €28 per sq. m for warehousing and €28 per sq. m. for the office block.

7.5 Mr Halpin introduced a number of 'Tone of the List' comparisons including the two adjoining properties:

PN 210231. He said this had recently been determined by another Division of the Tribunal and rents varying from €2.50/7,50/12.50 and €17.50 had been applied. A rate of €25 per sq. m. had

been placed on the office element. He posited the level applied to the offices would be appropriate for the subject on an overall basis; the other levels reflecting quantum and construction.

7.6 He went on to say that the property had extensive yards which were not valued.

PN451333 This property immediately adjoins and shares an entrance road. Visitors have to pass this property to reach the subject. A level of €30 per sq. m. had been applied by the Respondent to the offices and warehouse. He noted that the extensive hardcore yard (approx. 5,500 sq. m.) had not been valued.

7.7 He adduced seven further comparisons from the county:

PN 209622 a workshop prominently situated on the outskirts of Kilkenny City, extending to approx. 2,693 sq. m. and valued at €25 per sq. m. The yard (15, 250 sq. m.) was not valued.

PN 2169391 A purpose-built furniture showroom building in Hebron Business Park, Kilkenny City and valued at a rate of €30 per sq. m. for the warehouse element with €35 per sq. m. applied to the workshop element.

- PN 482753 A motor showroom in Hebron Ind. Est., Kilkenny City. His analysis showed a rate of €35 per sq. m. applied to the workshop.
- PN 2193595 This is an extensive industrial complex close to two national primary routes. The workshop in this instance was valued at € 20 per sq. m.
- PN 224277. This is a workshop in a Kilkenny town valued at €17 per sq. m. There was a large yard which had not been valued.
- PN 5008729 This is a newly constructed test centre on the N24. He suggested it was a superior building but lacked the proximity to a large population centre. It was valued at a rate of €22 per sq. m for the warehouse element.

7.8 He contended for a NAV of €53,000 which, he suggested, reflected letting values and was in line with the emerging tone of the list. This analysed at a rate of €25 per sq. m for the office & warehouse elements with levels of €10 per sq. m. applied to the mezzanine offices and portacabin and €5 per sq. m. to the mezzanine stores. He said the rates applied to the offices/workshop reflected the value of the yard, to which he attributed nil value.

7.9 Cross examination of Mr Halpin,

Under questioning from Mr Devlin, the valuer for the Appellant accepted that some of the buildings on the site were better than some of those in the comparables but defended his valuation and suggested that as far as the emerging tone in Kilkenny City was concerned, he found the decisions of the Tribunal to be more reliable.

8. RESPONDENT'S CASE

8.1 At the resumed hearing on February 7 2020, Mr Devlin expanded on his written evidence by saying the workshop was actually 2 buildings and drew the Tribunal's attention to the photographs he had introduced at pps. 7-10 of his précis. These internal and external photographs demonstrated the quality of the buildings under appeal.

8.2 He drew the Tribunal's attention to the process whereby the Respondent sourced a number of rental transactions and this was the 'first port of call'. From the 4 pieces of rental evidence available, the Respondent had determined a level of €35 per sq. m. as being appropriate. His Key Rental Transactions (KRT'S) devalued at rates between €30 and €42 per sq. m. None of the 4 KRT's adopted had been subject to an appeal.

8.3 Turning to his Comparables based on their NAV, Mr Devlin opined that the first (PN 210274), valued at €35 per sq. m. was similar to the subject; NAV Comparison No. 2 (PN 2167707), also valued at €35 per sq. m, was modern and not been appealed; Comparisons No. 3 (PN 209625) and No. 4 (PN 2201710 were also valued at the rate of €35 per sq. m; his NAV Comparisons 5 7 6 (PN 2167704 & PN 2175503) were both valued at €40 per sq. m; his comparison No 7 (PN 209272) was also valued at €40 per sq. m and was similar to the subject. There had been no representations or appeal; his Comparison No 8 (PN 2107824) equally had been valued at €50 per sq. m. and had not been the subject of representations or an appeal.

8.4 Mr Devlin contended for a valuation of €81,000, which he arrived at by applying the following rates per sq. m.:

Office and workshop - €35

Portacabin and Mezzanine office - €14

Store - €7

Yard (concrete/tarmac- €3.50

Yard (hardcore) - €1.75.

8.5 Cross examination of Mr Devlin

In relation to his KRT 1, he confirmed that the yard (approximately $\frac{3}{4}$ acre) was not valued and was included in the rent. He suggested a rent of €3 per sq. m. should be added for the yard.

8.6 Mr Halpin confirmed he was aware of the evidence of the rental at the rate of €20.16 in Purcellsinch but contended that like the evidence at evidence at €60 per sq. m., it was an 'outlier'.

8.7 He responded that he considered evidence close to the city when questioned about a comparison in Mooncoin.

8.8 Mr Devlin defended the comparisons he relied upon and contended that Mr Halpin's comparables were not such.

8.9. Mr Halpin asked whether the witness was familiar with the decision in the matter of John Dalton & Sons Ltd (VA17/5/081) and whether it had a bearing on the subject appeal, the witness for the Respondent acknowledged that he was aware of the judgment but that it was a 'stand alone decision' and the subject under appeal was modern; he had introduced supporting comparisons.

8.10 When asked as to whether the yard should attract a value, Mr Devlin suggested it should have been valued at €3 per sq. m. and accepted, in response to a query from the Tribunal, that it is standard practice to allow a figure of 20% of yard space to allow for circulation. If the property were to be assessed for revision, the yard would be valued at a rate of 10% of the workshop rate.

9. SUMMING UP

9.1 Mr Halpin said that as this was a Revision case, it was incumbent on the Respondent to treat people fairly; he submitted the yard was of value, but this was reflected (in the rate) applied to the building. He referred to the fact that one of the buildings was relatively new and the other older and referenced the judgment in the John Dalton and Sons case.

9.2. He suggested there was no logic in having two levels – for the city and the county; that based on the evidence, the rate of €35 per sq. m. was excessive.

9.3 He asked the Tribunal to confirm his opinion of value of €53,000.

9.4 Mr Devlin confirmed his opinion that these were good quality workshops and were capable of use. He said there a number of properties in the list at the rate of €35per sq. m., all in the city environs and there was no need to look any further. He said that The premises of John Dalton and Sons was completely different and there were many more relevant properties.

9.5 He asked the Tribunal to confirm his opinion of value of €81,000.

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 Kilkenny County Council.

10.2 The Tribunal finds that the property under appeal has a number of disadvantages that have not been taken into account by the Respondent; it is located behind and accessed via the same roadway as a concrete batching plant and completely lack any visibility from the R 693. A rate of €35 per sq. m. is not supported by the evidence put forward. Some of the factors influencing the Tribunal's decision include:

- a. The rate of €30 per sq. m. applied to the adjacent property which included an extensive yard, the latter not having been valued.
- b. The Respondent's KRT 1 which, while the letting analysed at €65.26 per sq. m., was valued by the Respondent at €30 per sq. m. This is a better location in Kilkenny City.
- c. The Appellant's Comparison No. 8 (PN 5008729). This is a similar facility of recent construction located in Mooncoin, Co. Kilkenny and having profile to the N 24. It is valued by the Respondent at a rate of €22 per sq. m. The yard space attaching thereto has not been valued separately.

10.3 The Tribunal, having considered the evidence placed before it is of the opinion that the appropriate rate to apply to the workshop is €28 per sq. m. Further the appropriate rate to apply to the yards is 10% of the overall rate, having allowed a deduction of 20% for circulation.

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 €68,250

Office 304.24 sq. m.	@ €28 per sq. m. =	€8,518.72
Portacabin 32.40 sq. m.	@ €14 per sq. m. =	€4,536.00
Workshop 1,749.98 sq. m.	@ €28 per sq. m. =	€48,999.44
Mezzanine Office 89.00sq. m.	@ €14 per sq. m. =	€1,246.00
Mezzanine Store 89.27 sq. m.	@ €7 per sq. m. =	€ 624.89
Yard (concrete/tarmac) 418.00 sq. m.	@ €2.80 per sq. m. =	€1,170.40
Yard (Hardcore) 2,262.72 sq. m.	@ €1.40 per sq. m. =	€3,167.81
Total €68,263,26	say <u>NAV €68,250</u>	

And the Tribunal so determines