

Appeal No: VA19/5/0887

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2020**

Croftgrove Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 2173985, Retail (Shops) at 6B/1 Redmond Road, Wexford, County Wexford.**

B E F O R E

Majella Twomey - BL

Deputy Chairperson

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

Member

Martin Connolly – M.Agr.Sc, M.Sc., MSCSI, FCIInstArb

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26th DAY OF JANUARY, 2022**

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th day of October 2019 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 €33,200.

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 subject property is currently occupied at a passing rent of €18,000.

2. The subject property is a showroom in use as a gym, it is not a shop and completely unsuitable for zoning. The property should be valued at a maximum of €44/m² overall – in line with PN 2104479.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €14,850, amended in oral evidence from €14,710 submitted in the précis of evidence.

2. VALUATION HISTORY

2.1 Valuation

In 2004 the premises were entered in the Valuation List and classified as retail. Evidence of this was provided by Mr Halpin for the Appellant.

2.2 Revision of Valuation

On the 21st day of September 2013 an application was submitted to the Commissioner for a revision of Valuation on the basis that there had been a change in the rateable status of the property. The application was refused.

2.3. Revaluation History

2.3.1 On the 15th day of March 2019 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 €33,200.

2.3.2 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €33,200.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September 2017.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 14th day of January 2022. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Company Limited and the Respondent was represented by Mr. Liam Diskin B.Sc. (Property Management & Investment) 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 The subject property forms part of a mixed-use development, comprising the subject, a store/showroom to the rear with apartments at first floor level, located in Eden House, Redmond Road, Wexford, approximately 600 metres from the town centre. Redmond Road is largely a residential area.

4.2 Redmond Road is a secondary commercial area.

4.3 In 2004 the property was occupied as a carpet/flooring showroom. In 2009, it was shown on Google Maps as being occupied by Hunters Convenience Stores. No evidence was provided as to the nature of that business.

4.4 Following a period of vacancy the property was let on a three -year lease from 22nd day of September 2014 between Croftsgrove Ltd and TRX Wexford Suspension Training Limited, for use as a gym, on an initial rent of €9,000 per annum to increase to €12,000 per annum in respect of years two and three. The agreed rent increases did not take place. The lease has been renewed at the initial rent and the tenant is still in occupation.

4.5 Floor areas were agreed on a net internal basis between the parties at 339.44 square metres, including 3.64 square metres of kitchen. On the evidence of Mr Halpin, which was not contested, the Frontage to Depth ratio is 1:0.45.

5. ISSUES

The primary issue is quantum. The applicant seeks to have the NAV reduced in line with the actual potential rental value and emerging tone of the list. A secondary issue, which has a major bearing on quantum; is the classification of the property retail or showroom?

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 The subject is located on Redmond Road, a tertiary retail location.

7.2 The Appellant contends that the Commissioner has erroneously categorised the subject as a shop, whereas it is a showroom in gym use, which is established by the following:

7.2.1 PN2104479, part of the same structure is categorised as showroom.

7.2.2 The Commissioner’s zoning model places a value of €33,200 on the property, nearly quadruple of the passing rent.

7.3 The Society of Chartered Surveyors Ireland guidance paper on retail zoning proposes an optimum Frontage: Depth ratio of 1:3. The ratio for the subject is 1:0.45, which renders zoning meaningless, and it should not be used.

7.4 The Appellant seeks to have the NAV determined in line with the comparable evidence furnished and its actual rental potential. A NAV of €44 per square metre overall was proposed.

7.5 The correct NAV of the property is €14,850. This estimate was provided in oral evidence, based on the agreed areas.

8. RESPONDENT’S CASE

8.1 The subject is an open plan ground floor retail unit located on Redmond Road, Wexford, 300 metres north of O’Hanrahan Station which is regarded as the beginning of the main retail area in the town centre. This is a secondary location, not tertiary as posited by the Appellant.

8.2 Frontage is 273 meters. There is an industrial unit to the rear and five apartments at first floor level. In oral evidence the Respondent contended that the presence of the residential units at first floor level was inconsistent with showroom user.

8.3 Using market information available, 86 transactions, a scheme of valuation was devised to estimate the NAV of retail property in Wexford Town. Based on that scheme the correct level for the subject was €150 per square metre, Zone A.

8.4 On cross examination by the Tribunal the Respondent declined to give any weight to actual rental transactions in the property.

8.4.1 The lease date September 2014 was too remote from the Valuation Date. July 2015 was the cut-off date chosen by the Commissioner for rental information.

8.4.2 The lease renewal at the passing rent was of limited assistance. In the hierarchy of evidence lease renewals are given less weight than new leases.

8.5 Before issuing the Valuation Certificate the NAV figure was adjusted downwards by 10% to reflect the configuration of the property. At Tribunal stage an increased adjustment of 15% was applied.

8.6 The correct NAV of the property is €31,800.

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 County Wexford.

10.2 The Tribunal finds the property is located in a secondary commercial area and should properly be classified as a showroom in gym use, not retail. This finding is supported by the passing rent, c €26.50 per square metre, c 30% of the rental value of the lowest KRT, KRT No. 1, taken on an overall basis. In addition, the configuration of the property with a very unfavourable Frontage to Depth ratio is poorly suited to retail use. The Tribunal does not accept the proposition put forward by the Respondent in oral evidence that the presence of residential units at first floor level precludes showroom use. No clear or compelling evidence was put forward by the Respondent to suggest that the presence of residential units above the property would prevent it from being listed as a showroom.

10.2 A total of 21 items of information, seven NAV comparables by the Appellant, seven KRTs and seven NAV comparables by the respondent were furnished to the Tribunal.. Unfortunately, the Tribunal found many of these to be of limited assistance as they differed from the subject in size, configuration, potential user, and location.

Minimal weight was given to the KRTs for the following reasons. Only two out of the seven supported a NAV of €150, Zone A. One of these, KRT No 1 showed a NER Zone A of €90 per square metre. The other, KRT No 2 had a Zone A NER of €234 per square metre, a difference of 260%.

10.3 The Tribunal, however, found two NAV comparables put forward to be persuasive and relies on this to support its conclusions.

The first of these is PN 2104551, Curtain Creations and Interiors. The Tribunal finds that although this is smaller than the subject, it is similar. This is the only NAV comparison that is wholly in showroom use, and it is also the nearest to the subject, located 270 metres distant. The NAV is €50.40 per square metre. The second is PN 5014119, Wexford Bridge Centre is of similar size, 423.74 square metres. It could be converted to gym use, as has happened in the subject. The NAV is €50 per square metre.

10.4 Based on the evidence before it the Tribunal finds that the correct NAV of the subject is €50 per square metre for gym space and €20 per square metre, agreed by the parties, for the kitchen.

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 €18,500 calculated as follows.

Gym area	335.18 square metres @ €50 per square metre	€16,759.00
Kitchen	3.64 square metres @ €20 per square metre	<u>€72.80</u>
		€16,831.80
Add 10% to adjust for NIA to GEA		<u>€1,683.18</u>
		€18,514.98
		Say €18,500