

Appeal No: VA17/5/472

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ROBIN MAHARAJ & MAIREAD MAHARAJ

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 2176495, Industrial Uses at 1A/1, Bleachgreen, Kilkenny, County Kilkenny.

BEFORE

Eoin McDermott – FSCSI, FRICS, ACI Arb

Deputy Chairperson

**JUDGMENT OF THE VALUATION TRIBUNAL ISSUED ON THE 12TH DAY OF
APRIL, 2022**

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 €12,700.

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

- *I am unable to see the logic in a NAV per M2 of €10.00 being set for 1 store when the whole location is subject to flooding and the addition reason set out in my representations to the valuation manager*
- *I believe a fair basis of assessment would be a NAV of €10.00 per M2 on all stores, offices, and warehouse with the yard (hardcore) left as is.*
- *The valuation ought to have been determined at €9,128*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,128.

2. RE-VALUATION HISTORY

2.1 On the 11th 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 €18,080.

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 €12,700.

2.3 A Final Valuation Certificate issued on the 7th September 2017 stating a valuation of €12,700.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined 30th October 2015.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal. The Appellants summary was self-prepared, and the Respondents summary was prepared by Mr. Terry Devlin BSc. MSCSI, MRICS.

4. FACTS

4.1 The following facts are not contested.

4.2 The property is located on the western side of Bleach Road, approximately 2km north of Kilkenny. The River Nore lies to the west of the property. The surrounding area is a mixture of residential property to the east of Bleach Road and rural lands to the north, south and west.

4.3 The subject property forms part of a former woollen mill and comprises warehouse/stores, open stores and a yard used as a display area. The buildings are dated and appear to be in poor condition, based on photographs contained in the Respondents submission.

4.4 The NAY applicable to the yard is €1.50 per Sq. M.

4.5 The floor areas of the subject property are as follows:-

Use	Area (Sq. M.)
Warehouse	289.85
Office	35.35
Store	32.00
Open store	90.78
Yard	3,100.00

5. ISSUES

The issue 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 The Appellants challenged the proposed valuation on a number of grounds, the principle ones being that the property is located on a flood plain (2 photographs showing flooding on the site were provided), that the lands are zoned recreational/green space only and as a result could not be used by anyone but the Appellant, that the buildings should all be valued at €10/M2 and the yard should be valued at €1.50 per Sq. M.

7.2 No comparable evidence was put forward by the Appellant.

7.3 The Appellant sought a revised NAV of €9,128, which can be broken down as follows: -

Use	Area (Sq. M.)	NAV per Sq. M.	NAV
Warehouse	289.85	€10.00	€2,898.50
Office	35.35	€10.00	€353.50
Store	32.00	€10.00	€320.00
Open store	90.78	€10.00	€907.80
Yard	3,100.00	€1.50	€4,650.00
Total			€9,129.80

8. RESPONDENT’S CASE

8.1 Mr. Devlin, on behalf of the Respondent, described the property and its location using photographs contained in his submission.

8.2 Mr. Devlin noted that, inter alia, the age, condition and location of the buildings on the site had been reflected in the valuation; the open stores valued at €10 per Sq. M. were of a poorer construction than the other buildings valued; the property had for some time been, and continued to be, used as a showroom; the valuation of the subject property had been carried out

with reference to S48 of the Valuation Act, 2001 as amended and that, notwithstanding the assertion that the property was prone to flooding, it remained occupied and fully operational.

8.3 Mr. Devlin noted that the Appellants had no put forward any comparisons. The Respondents put forward three rental transactions as comparisons, all located to the south of Kilkenny, with NAVs ranging from €35 per Sq. M. to €42 per Sq. M. They also put forward five NAV comparisons as follows: -

No.	Property No.	Use	Area (Sq. M.)	NAV per Sq. M.	Comments
1	2187330	Warehouse Yard	376.62 2,228.00	€20.00 €1.50	In same yard and facing subject. Similar building type as subject.
2	77390	Warehouse	337.31	€30.00	Old industrial building used as warehouse. Located closer to Kilkenny.
3	78820	Warehouse	29.63	€30.00	Old industrial building in poor location. Located closer to Kilkenny.
4	77514	Warehouse	663.55	€30.00	Very basic industrial building in residential location. Located closer to Kilkenny.
5	79208	Office Workshop	15.84 917.60	€30.00 €30.00	Old warehouse buildings.

8.4 Mr. Devlin sought a NAV of €12,700, made up as follows: -

Use	Area (M2)	NAV/M2	NAV
Warehouse	289.85	€20.00	€5,797.00
Office	35.35	€20.00	€707.00
Store	32.00	€20.00	€640.00
Open store	90.78	€10.00	€907.80
Yard	3,100.00	€1.50	€4,650.00
Total			€12,701.80
		say	€12,700.00

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 in this case, and in all cases before the Tribunal, the onus of proof in appeals rests with the Appellant. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal's determination. In the present case the Appellant has put forward no comparisons but has advanced various arguments for a reduction in the valuation.

10.3 The issue to be decided is whether the warehouse, office and store should be valued at €10 per Sq. M. as suggested by the Appellant, or €20 per Sq. M. as put forward by the Respondent. The valuations of the open stores and yard space are agreed.

10.4 The Appellant has suggested that the valuation should be reduced as the property lies on a flood plain. The Respondent points out that the property is occupied and fully operational. The Respondent also provides evidence of a similar property with warehouse and yard in the same yard as the subject property. The Tribunal attaches significant weight to this evidence. The Respondent also provides detailed evidence of similar properties, located closer to the centre of Kilkenny, attracting valuation levels of €30 per Sq. M. and again the Tribunal finds this evidence to be persuasive.

10.5 The Appellant has suggested that, as the lands are zoned recreational/green space only, they cannot be used by anyone but the Appellant. The Respondent has correctly pointed out that the lands have been valued in accordance with S48 of the Valuation Act, 2001 as amended (shown in 6.2 above) and the Tribunal has attached no weight to the Appellants argument on this point.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

Use	Area (M2)	NAV/M2	NAV
Warehouse	289.85	€20.00	€5,797.00
Office	35.35	€20.00	€707.00
Store	32.00	€20.00	€640.00
Open store	90.78	€10.00	€907.80
Yard	3,100.00	€1.50	€4,650.00
Total			€12,701.80
		say	€12,700.00