

Appeal No: VA19/5/1015

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Deirdre O'Leary

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 2209390, Retail (Shops) at 24/1 Selskar Street, Wexford, County Wexford.

B E F O R E

Majella Twomey - BL

Deputy Chairperson

Raymond J. Finlay – FIPAV, MMII, ACI Arb, TRV, PC

Member

Gerard O'Callaghan – MRICS, MSCSI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11 TH DAY OF MARCH 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 €13,500.

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 let at €750/month from October 2017 on month to month tenancy. Landlord pays everything apart from rates i.e. building insurance, internal and external repairs. FRI NER €8,100/annum.

2. Rents have been declining in this area over the past 3-5 years and continue to do so, as shown by further rents in the street on PN 2104505, 5014036 and 5012928. All of which point to a zone A level for the street of €250-300/m².

3. The upper floors are very basic and unmodernised, not comparable with the best in the street.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €8,100.

2. REVALUATION HISTORY

2.1 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 €13,550.

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 not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 17th day of September, 2019 stating a valuation of €13,550.

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 15th day of December, 2021. 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. 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 From the evidence adduced by the parties, the Tribunal finds the following facts. The subject property is a mid-terrace three storey property situated at 24 Selskar Street in Wexford town centre.

The Floor are agreed between the Appellant and Respondent as follows;

Retail Zone A 25.53 square meters.

Retail Zone B 6.2 square meters.

First Floor Office 25.44 square meters.

Second Floor Office 29.72 square meters.

5. ISSUES

In determining this Appeal, the Tribunal is required to decide whether the Rateable Valuation of €13,550 as determined by the Commissioner of Valuation has been shown to be excessive and if so by how much.

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 It is the Appellant’s case, as represented by Mr. Eamonn Halpin, that the property is currently leased for €9000 per annum from October, 2017 with the Landlord discharging ancillary costs including building insurance, internal and external repairs. The Tenant is liable for Rates. Mr Halpin states that allowing for the costs incurred by the Landlord, the Net Effective Rent is €8,100 on a Full Repairing and Insurance basis.

7.1 The Appellant states that Rents have been declining over the past 3 to 5 years and that rents are continuing to decline. The Appellant also states that the upper floor accommodation is basic and unmodernised and would be of an inferior standard to other properties on the street.

7.2 Mr. Halpin stated the Commissioner in determining that the appropriate Zone A rent at €400 per square meter failed to make sufficient allowance for the secondary retail nature of the street and for the rental levels established on Selskar Street.

7.3 Mr. Halpin further stated that the Commissioner has assessed properties on North Main Street at the same level as Selskar Street i.e. €400 per square meter which he believed was inappropriate given that North Main Street was a superior trading location with higher footfall, superior retail outlets and higher established rental levels than Selskar Street.

7.4 Mr. Halpin proposed that the appropriate Zone A rental level for Selskar Street was €300 per square meter and in support of his position provided details of leases for four properties on Selskar Street which rental levels in range of €205-€298 per square meter gross Zone A.

7.5 Mr. Halpin also provided a “tone of list” analysis and stated that the Commissioner of Valuation had set 2 prime levels for Wexford town;

Prime at €500 per square meter Zone A.

Tertiary at €200 per square meter Zone A.

7.6 In addition, Mr. Halpin stated that the Commissioner had applied a Zone A of €400 to the area of North Main Street adjoining Selskar Street and €300 Zone A to what Mr. Halpin described as the “secondary section of South Main Street”. Mr. Halpin proposed a Valuation of €300 Zone A was appropriate for Selskar Street as well and proposed the following calculation for the NAV as of September 15th, 2017.

Retail Zone A 23.53m² @ €300/m² = €7,059

Retail Zone B 6.20m² @ €150/m² = €930

First Floor Office 25.44m² @ €48.75/m² = €1,240

Second Floor Office 29.72m² @ €31.50/m² = €936

Total NAV €10,165 say €10,160

8. RESPONDENT’S CASE

8.1 Mr. Liam Diskin of the Valuation Office set out the case for the Commissioner that the Rateable Valuation of €14,220 was appropriate for the property. Mr. Diskin stated that the subject property’s Net Annual Value had been derived from similarly circumstanced retail properties in Wexford and that the Zone A level of €400 per square meter is appropriate for the subject property.

8.2 Mr. Diskin stated that the “*Selskar Street is categorised as a prime retail street for the purposes of the Revaluation 2019 and is located at the northern most end of what can be considered Wexford Towns main retail thoroughfare running from Redmond Square along Main Street (North and South) via the Bullring. Retail units located along Main Street from the bullring/ Cornmarket to the junction with to Peter Street / Harpers Lane can be considered the prime location in Wexford Town and have been valued at €500/sq.m ZA. Following analysis of available market information in the locality a level of €400/sq.m ZA has been applied reflecting both the market evidence and the streets superiority relative to other locations off the Prime area which is valued at €500/sq.m ZA. The proximity of Selskar Street to Dunnes Stores, Redmond Square Car Park and the train station further support the level of €400/sq.m ZA being applied to the northern end of the main retail thoroughfare over South Main Street where €300/sq.m ZA has been applied.*”

8.3 Mr. Diskin further stated that the NAV of €400 per square meter had been generally accepted amongst retailers on Selkar Street, North Main Street, The Bull Ring, Common Quay Street and Redmond Square.

8.4 Mr. Diskin stated that consideration was given to the passing rent of €9000 per annum and that the passage of time between the commencement date of the lease i.e November, 2015 and the Valuation Date, September 15th, 2017 was factored into any analysis and the weighting given to the passing rent.

8.5 Mr. Diskin disagreed with Mr. Halpin's assertion that the Commissioner has two primary levels in Wexford Town i.e €500 per square meter Prime Zone A and €200 per square meter tertiary Zone A. Mr. Diskin stated that these do, however, represent the maximum and minimum Zone A levels applied to retail units in the main retail areas of Wexford Town. Mr. Diskin €14,224.79 which included an amount for the Attic which was not outlined in the original proposed Valuation Certificate.

The valuation is arrived at on the following basis:

Floor	Use	Area (m2)	NAV € (m2)	Total NAV € (m2)
0	RETAIL ZONE A	23.53	€400	€ 9,412
0	RETAIL ZONE B	6.2	€200	€1240
1	Offices	25.44	€ 65	€ 1658.60
2	Offices	29.72	€ 42	€ 1,248.24
3	Store	24.85	€27	€670.95
Total				€14,224.79

9. SUBMISSIONS

No Legal submissions were made.

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 Wexford.

10.2 Having weighed and evaluated all the evidence before it, the Tribunal makes the findings set out below. The Tribunal finds that the Commissioner failed to place sufficient weight on the passing rent of €9000 per annum and in proposing the valuation of €400 Zone A offered Key Rental Transactions comparisons that were either in superior positions or were of a different nature or location to the subject property. These are set out below:

- KRT no. 1- This was situated in a corner position that the Tribunal found was superior to the subject property.
- KRT no.2 – This is a restaurant/ takeaway which was leased at a significantly higher rent per square meter than the subject property and was of a different nature and use to the subject property and was therefore disregarded by the Tribunal.
- KRT No. 3 – This is deemed to have a Zone A rent of €172.50 per square meter as set out in the Respondents precis and, therefore, supports the Appellants position.
- KRT no.4, - This property was in a different location in Wexford town and was not deemed to be a valid comparison by the Tribunal.

10.3 The Tribunal was persuaded by the details of the four leases at Selskar Street, provided by the Appellant which demonstrated rental levels in range of €205-€298 per square meter gross Zone A.

10.4 In Conclusion, the Tribunal found that the appropriate Zone A rent for the ground floor retail of subject property is €300 per square meter. For the upper floors the Tribunal found that a 20% reduction from the Commissioners scheme was appropriate given the basic standard of the upper floor accommodation as evidenced in the photos provided. As the third floor was not assessed in the original Proposed Valuation Certificate, the Tribunal adduced that it could not be subsequently assessed by the Respondent under Appeal to the Tribunal.

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 **RV € 10320 Decrease.**

This is calculated as follows:

Area	Size	NAV per Sq.m	Amount
Retail Zone A	23.53 sq.m	€300	€7059
Ground Zone B	6.2 sq.m	€150	€930
First Floor Office	25.44 sq.m	€52	€1322.88
Second Floor Office	29.72 sq.m	€34	€1010.48
TOTAL			€10,322.36

SAY €10,320

The Tribunal so concludes.

