

**Appeal No: VA20/4/0100**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Brendan Mullaney Veterinary  
Services**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**

Property No. 5017191, Clinic, Surgery at Swinford, Kilbride, County Mayo.

**B E F O R E**

**Dolores Power - MSCSI, MRICS**

**Claire Hogan - BL**

**Gerard O'Callaghan -MRICS, MSCSI**

**Deputy Chairperson**

**Member**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 1ST DAY OF JULY 2022**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 11<sup>th</sup> day of December, 2020 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 €14.

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

- 1.The valuation is incorrect.
- 2.The subject property is located outside the town boundary.
- 3.The appellant pays for and provides all services himself.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €6.

## **2. VALUATION HISTORY**

2.1 On the 11<sup>th</sup> day of March, 2020 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 €14.

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 16<sup>th</sup> day of November, 2020 stating a valuation of €14.

2.4 In consideration of the Appeal, the Commissioner of Valuation proposed a Rateable Valuation of €10 in its submission to The Tribunal.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 16<sup>th</sup> day of March, 2022. The Appellant, Mr Brendan Mullaney, appeared at this hearing and the Respondent was represented by Mr. Andrew Cremin 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**

From the evidence adduced by the parties, the Tribunal finds the following facts.

4.1. The premises is a detached single storey building with a first floor loft storage area. The premises is in use as an office for a Veterinary Practice by the Appellant, Mr. Brendan Mullaney. The property is situated on the grounds of the Appellant's private residence and is located close to the N5 road in Kilbride, circa 1.5 km east of Swinford town.

4.2 The property is a Rateable Property under the Act.

4.3 The Floor areas have been agreed as follows;

Ground Floor Veterinary Surgery Office	34.61 square metres
First Floor Loft Store	36.54 square metres

## **5. ISSUES**

5.1 In determining this Appeal the Tribunal is required to decide whether the Rateable Valuation of €10 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 value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

*“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.”*

## 7. APPELLANT'S CASE

7.1 Mr. Brendan Mullaney, stated that the property in question is a small converted garage structure set within the grounds of his private residence and that it would not constitute a lettable property in his opinion.

7.2 Mr. Mullaney stated the property does not benefit from Council services as it is situated on a private property with no access to mains services such as mains water, sewerage and public lighting. The premises can only be accessed by Mr. Mullaney's private driveway and does not have the benefit of public footpaths that similar premises in urban areas enjoy.

7.3 Mr. Mullaney stated that the office is only used intermittently as the vast majority of his working hours are spent tending to animals on farms. Typically, the premises is only used as a clinic for approximately 30 minutes on two evenings per week.

7.4 In the Valuation Certificate, the Commissioner had initially applied a Net Annual Value of €41 per square metre for the loft storage area. Mr. Mullaney believed that this area should not be Rateable as it was not accessible to the public and was used to store equipment and materials that were not used on a regular basis. It was also stated that the access stairs were not compliant with Building Regulations and precluded the space from being used as an office accessible to the public.

7.5 Mr. Mullaney set out 4 comparison properties namely;

- I. Brendan McCormack's premises, Station Road, Castlebar, Co. Mayo.
- II. Castle Vets, Knockrawer, Castlebar, Co. Mayo.
- III. Castle Vets, America Street, Belmullet, Co. Mayo.
- IV. Jilly Ferguson, Small Creatures Hospital, Breaffy, Ballina, Co. Mayo.

7.6 Mr. Mullaney attempted to analyse the comparisons by calculating the annual cost of Local Authority Rates payable by the subject properties per square metre and deduced that the properties were paying between €6 and €15.61 per square metre per annum in Local Authority Rates. In sourcing the relevant comparison data, Mr. Mullaney relied on third party information and did not have access to the Commissioner of Valuation Valuer's Reports for the comparison properties.

## 8. RESPONDENT'S CASE

8.1 The Commissioner of Valuation was represented by Mr. Andrew Cremin of the Valuation Office who stated that the Rateable Valuation should be amended from €14 to €10 to reflect a lower value attributable to the first floor loft area of the subject property. The NAV per square metre was reduced by 50% to €20.50 per square metre.

8.2 The Commissioner calculated the Rateable Valuation as follows;

Floor	Use	Floor Area M <sup>2</sup>	NAV M <sup>2</sup>	NAV
0	Veterinary Office	34.61	€41.01	€1419.36
1	Store	36.54	€20.50	€749.07

**Total €2168.43**

**Multiplier 0.005 = €10.82**

**Rounded down say €10**

8.3 Mr. Cremin believed the Appellant could not seek to exclude the first floor loft area from the Valuation List as this was not set out as in the Grounds of Appeal in the application to the Tribunal and secondly the first-floor area was used as storage for the Appellant's Veterinary Surgery business. Mr. Cremin stated that the subject property is Relevant Property as per Schedule 3 (1) (a) and falls to be valued as a result.

8.4 Mr. Cremin relied on five comparable "tone of the list" properties, which he asserted shared similar characteristics and were located in the same Local Authority area, to support the valuation on the subject property.

They are as follows:

### **Comparison No. 1, PN 2213330 Small Creatures Hospital**

Address: Breaffy, Ballina, Co. Mayo.

Office 68.62 sq.m @ €41.01 /sq.m

Store 11.64 @ €41.01 /sq.m.

**Comparison No. 2, PN 1341000 John McHugh D.S.**

Address: Station Road, Castlebar, Co. Mayo.

Surgery Ground 109.53 sq.m @ €68.34 /sq.m

Surgery First Floor 18 sq.m @ €41.00 /sq.m.

**Comparison No. 3, PN 2182220 Dr. Eleanor FitzGerald**

Address: Main Street, Crossmolina, Co. Mayo.

Surgery Ground 136.08 sq.m @ €61.50 /sq.m

Remaining Ground and First Floor 83.76 sq.m @ €41.00 /sq.m.

**Comparison No. 4, PN 2167602 Mary Trimble Cookery School**

Address: The Quern, Rathnaconeen, Ballina, Co. Mayo.

Offices 39.71 sq.m @ €54.66 /sq.m

**Comparison No. 5, PN 2119754 Dr. Ronan Waldrew**

Address: Blackfort House, Newport Road, Castlebar, Co. Mayo.

Surgery Ground 23.1 sq.m @ €68.32 /sq.m

8.5 Mr.Cremin stated that he assessed the ground floor area at €41.01 per square metre which was the lowest level he could find for similar properties in County Mayo.

**9. SUBMISSIONS**

9.1 There were no Legal submissions by either party.

**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 Mayo County Council.

10.2 The Tribunal agrees with the Appellant that the NAV of €41.01per square metre placed on the First Floor Loft by the Commissioner when the Valuation Certificate issued was not

appropriate, given the use, access and nature of the space. Mr. Andrew Cremin, acting for the Commissioner of Valuation, subsequently reduced the NAV for the Loft space to €20.50 per square metre. The Tribunal believes that this is an appropriate NAV for the first floor.

10.3 The Respondent offered evidence that none of the comparison properties cited by the Appellant had a lower NAV per square meter than the subject property.

10.4 The Appellant failed to offer evidence that the Rateable Valuation placed on the subject property by the Respondent was excessive, and it is well-established law that the onus is on the Appellant in this regard (see for example VA 00/2/32 *Proudlane Ltd. t/a Plaza Hotel*).

10.5 The Appellant stated that he found it difficult to provide comparable information to make his case due to the lack of available data. The Appellant sought to compare the subject property to other properties by comparing the annual rates bill and sizes of other similar properties. It was pointed out by the Tribunal that the only acceptable method of comparing subject properties is by reference to the NAV. This was acknowledged by the Appellant, however he stated that it was impossible for him to access this information, as it was not made available to him following requests to Mayo County Council.

10.6. The Tribunal believes that the most relevant comparison property was the Small Creatures Hospital in Breaffy, Ballina, Co. Mayo (PN 2213330), which was valued with an NAV of €41.01 per square metre. This was cited as a comparison by both the Appellant and the Respondent and had a similar nature and use to the subject property. This valuation supports the assessment of the ground floor area at €41.01 per square metre.

#### **DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent in determining that the Rateable Valuation for subject property is €10.

And the Tribunal so determines.