

Appeal No: VA19/5/1880

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Angela Byrne

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 1280831, Retail (Shops) at Castletown Road, Dundalk, County Louth.**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF AUGUST 2022**

BEFORE

Liam Daly - FSCSI, FRICS

Member

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 €4,210.

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 : *“Incorrect valuation, Disparity in valuation with similar properties. Property is in disrepair condition.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €10.

2. RE-VALUATION 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 €4,210.

2.2 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €4,210.

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

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.

4. FACTS

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

4.2 The property is situated on Castletown Road on the outskirts of Dundalk Town, Co. Louth. The property is located approx. 500 m east from the motorway M1, and approx. 3 km west/north from Dundalk Town Centre.

4.3 The subject property is a single-story unit with concrete walls, slate flat roof and metal shutter to the front. This retail unit has a shop window and door to the front. The unit was previously used as a shop. The unit is in poor condition.

4.4 The accommodation has been agreed between the parties;

Shop : 20.07 sq. m

4.5 We are advised that the subject property is held freehold.

5. ISSUES

5.1 The matter at issue is 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 It was the Appellant’s opinion that the subject property was in such poor condition that it was incapable of beneficial occupation. The Appellant also stated the entire property

has two property numbers PN1280832 VA19/5/0957 and PN1280831 VA19/5/1880. It was the Appellant's opinion that the entire property should be considered as one property.

7.2 The Appellant described the property as been located on the Castletown Road outside the town of Dundalk, Co. Louth. It was the Appellant's opinion that the property is a vacant site and is in a very poor state of repair. The Appellant detailed how the fuel tanks on site were beyond use due potential leakages, and fuel pumps were inoperable. The workshop was described as structurally unsound and in a complete state of disrepair.

7.3 The Appellant stated that there were more modern filling stations within the vicinity of the subject property. It was the Appellant's opinion that the subject property would require a significant investment to satisfy current health and safety standards. This, the Appellant believed would require demolishing the existing structure and building a new premises.

7.4 It was therefore the Appellant's opinion of value should be as follows :

Floor	Floor Use	Area (Sq. M.)	NAV (Sq. M.)	NAV
0	Retail Zone A	21.07	.50	10

Opinion of Value €10.00

8. RESPONDENT'S CASE

8.1 The Respondent stated that is was the Appellant's agent's opinion that the value of the subject property was €10, based on applying a rate of €0.50 per sq. m.. The Respondent rejected the Appellant's valuation on the grounds that there was no rental transaction evidence or NAV comparisons. submitted in the agent's precis to support the proposed valuation.

8.2 The Respondent stated that the photographs submitted as part of the Appellant's preces were not of the subject property. The photographs related to the adjoining unit which has a

separate property number. It was also noted by the Respondent, the Appellants referenced the “pumps” in their precis, the Respondents stated these “pumps” were not part of the subject property. The “pumps” are included in a separate valuation for the adjoining property.

8.3 The Respondent stated the 4 key rental transactions were relied upon in arriving at the valuation scheme from which the NAV of the Property (Appendix 1) was derived. The Respondent also described how equity and uniformity was achieved by the consideration of ‘similarly circumstanced’ comparables. The Respondent consider three NAV comparisons (Appendix 2). The Respondent noted this produced a level of €200 per sq. m. for Zone A. When applied to the subject property, this arrived at a NAV of €4,210.00

8.4 Having received the appeal, the Respondent outlined how the matter was given further consideration. This resulted in a reduction in the rate per. sq. m.. The Zone A rate was reduced to €120 per sq. m. This arrives at a new proposed valuation of the subject property at a NAV of €2,520.

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 Louth County Council.

10.2 The relevant question on this appeal concerns the amount a hypothetical tenant would pay in rent for a tenancy of the Property on the terms set out in section 48 of the 2001 Act, as amended. The rent for which the Property might, in its actual state, be reasonably be expected to let is measured by the rental value on a hypothetical tenancy of the Property on a year on year basis and not by reference to the actual occupier’s business or financial means or the rent the occupier actually pays.

10.3 The Appellant has contended for a value for the subject property at €10, based on applying a rate of €0.50 per. sq. m. As was highlighted by the Respondent in their precis, the Appellant has not submitted any rental evidence or NAV comparisons. It is therefore the Tribunal's opinions, that without such evidence, there is nothing to substantiate such a reduction.

10.4 The Appellant outlined the poor condition of the property, together with the potential challenges associated with the old fuel tanks and outdated fuel pumps. Included in the Appellant's precis were images of the workshop. As was noted in the Respondent's precis neither the pumps or the workshop form part of the subject property, they are listed under a separate property number. The Respondent's included images of the property in their precis. The Tribunal's found the images helpful in illustrating the poor condition of the subject property, a matter which was not disputed by the Respondent. It was the Tribunal's opinion that the Respondent has now acknowledged this in the revised NAV.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent, the valuation of the Property to €2,520.00