

Appeal No: VA19/2/0002

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Brian Smith

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 5014129, Stable at Local No/Map Ref 1E Piperstown, Mullary, County Louth

B E F O R E

Dolores Power - MSCSI, MRICS

Martin Connolly - MAgrSC, M.Sc., MSCSI, FCInstArb

Michael Brennan - BL, MRICS

Deputy Chairperson

Member

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF JUNE 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 16th day of April 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 €190.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: “The appellant believes that his property is exempt from rates on the grounds of it being agricultural.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

2. VALUATION HISTORY

2.1 On the 28th day of March 2018 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 €190.

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 it not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 20th day of March 2019 stating a valuation of €190.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 3rd day of May 2022. At the hearing the Appellant Mr Brian Smith appeared in person and the Respondent was represented by Ms Olwen Jones B Sc (Hons) Estate Management 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 subject property is situated on lands extending to approximately 215 acres at Piperstown, Mullary, Co Louth used as follows:

| | |
|----------------------|----------|
| Forestry | 80 acres |
| Lands let | 65 acres |
| Haylage | 20 acres |
| Grazing | 40 acres |
| Tracks (to forestry) | 10 acres |

4.2 The area of buildings at the Valuation Date were agreed. They are set out in the table below, which is taken from the Respondent's précis. Areas are expressed on a Gross External basis

| Block | Use | Area (Square metres) |
|--------------|--------------------|----------------------|
| 1 | Indoor arena | 1448.28 |
| 2 | Holding pen | 493.29 |
| 3 | Holding pen | 117 |
| 4 | Stables | 220.8 |
| 5 | Store | 226 |
| 6 | Holding pen | 223.2 |
| 7 | Stables | 287.12 |
| | Less 3 private use | (60.75) |
| 8 | Office | 18.45 |
| 9 | Stables | 180 |
| 9 | Stables | 90 |
| 10 | Tack room | 84.15 |
| 11 | Walker | 95 |
| Total | | 3422.54 |

4.3 The facilities were developed in a piecemeal fashion since the early 2000s and on the Appellant's evidence now comprise 38 stables.

4.4 The facilities are used for a combination of riding school, livery and to accommodate the Appellant's own stock. At present there are 20 horses used for the riding school and eight of the Appellant's and the Appellant's family's horses. The number of livery horses varies, with some present for only a short term and others for longer.

5. ISSUES

5.1 The question at issue is the rateability of the buildings. The Appellant contends that they are agricultural buildings as defined in s 3 of the Valuation Act 2001 and thus exempt under Schedule 4, Par 5 to the Act. The Respondent contends that the subject is a relevant property under Schedule 3 of the Act and is rateable.

6. RELEVANT STATUTORY PROVISIONS:

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 By way of introduction, the Appellant contended that the valuation should be zero as he considered himself to be engaged in full-time farming and that the subject property was always classed as a farmyard. He stated that he is in receipt of the 'Basic Payment Scheme' from the Department of Agriculture Food and the Marine and he has always categorised himself as a farmer. He stated that he visited the comparisons relied upon by the Respondent and that they were not comparable to the subject property.

7.2 Mr Smith exhibited a photo of what was described as the main indoor arena which he said was constructed with a clay floor and covered burrow sand and crumb rubber. He stated that the sides of the arena were fitted with MDF panels, and the building was enclosed with a combination of drip sheeting and non-drip sheeting and internal lights. He stated that it was of basic construction and did not have a public announcement system, offices or a canteen. He stated that this arena had the equivalent of a one star rating in comparison to the Respondent's NAV Comparison 1, which he opined was a four star property. He stated that the indoor arena was originally constructed without planning permission but that retention planning permission was obtained subsequent to this for use as an indoor arena. Mr Smith exhibited a photo showing various letter markings on the walls of the indoor arena which he said were used for dressage purposes.

7.3 Mr Smith stated that the livery yard and riding school enterprises were established in the year 2000 as a means of farm diversification. He stated that he constructed 10 stables initially and that the livery stables occupancy varied but confirmed that it was near full occupancy at present with 52 horses which requires two part time staff and that there was only one stable available. Mr Smith also exhibited photos of the various stables which he confirmed mostly conformed to 144 sq ft. He also confirmed that there were three stables used for foaling which

were larger and that there was a smaller 100 sq ft stable which would be suitable for a miniature pony.

7.4 In relation to the livery stables, Mr Smith confirmed that some horses have been in livery with them for 12 – 15 years whereas some are only placed with them whilst the owners are on holidays. He stated that on average, a horse is in their livery for two – three years. In relation to the 52 horses that were currently on the subject property, Mr Smith confirmed that eight horses were for personal family use. He also stated that 20 horses used for the riding school were owned by him.

7.5 In relation to the riding school, he stated that three to four competitions per year were held at the subject property. He said that the riding school was used as an advertising mechanism and that they hold one-day riding camps which lasts for four hours and that weekly riding classes take place for four hours on Wednesdays and for 6 to 7 hours on Saturdays. He stated that the riding school was run by the family together with a health and safety officer and a riding instructor who were both part-time employees.

7.6 Mr Smith confirmed that approximately 40 acres of land was used for grazing purposes for the horses and that 20 acres was used for haylage production as a feed product for the horses during the non-grazing season. He stated that the buildings were not used for his other lands which comprised of forestry, wet land and tracks. He stated the coffee shop does not sell anything and that it is primarily used for the notice board to record farrier appointments and it has a radiator to keep this board dry. He also confirmed that his enterprise is driven by liveries and horse riding lessons are secondary. He stated that the most similar comparison relied upon by the Respondent is NAV Comparison 2 but that the business of this comparison is driven by riding lessons followed by liveries.

7.7 When questioned by the Tribunal whether the livery, riding school and arena was a commercial activity, he stated that it was not and that it was the equivalent of rearing livestock and as the horses were kept in stables for five months and were kept on grass for the remainder. He said that keeping horses is the same as farming as a horse gets individual care. He also confirmed that when a horse is placed by a third party into his livery, that the horse is registered to the yard owner's equine number.

7.8 Under cross examination, it was put to Mr Smith that it was standard that indoor arenas do not have concrete floors and he disagreed with this and stated that only the good arenas have concrete floors. He confirmed that he could accommodate riding lessons seven days per week in notwithstanding that it only takes place on Wednesdays and Saturdays. It was put to him that the property is advertised as "Piperstown Equestrian Centre" to which he confirmed that it was known as that and was this was used for advertising purposes. It was put to him that the indoor and arena and livery stables did not impact his farming operation, but he disagreed with this.

8. RESPONDENT'S CASE

8.1 Ms Jones for the Respondent contended that the subject property, comprising an indoor arena, stables, office and stores is a relevant property under Schedule 3 of the Valuation Act 2001-15.

8.2 At the date of inspection, February 2018 the property was being used as a riding school and for livery purposes. Three stables that were being used exclusively for the Appellant's own horses were excluded.

8.3 The valuation of the subject property is being determined under s 28 (4) of the Valuation Act 2001. This determination is to be made by reference to the values of similar circumstanced properties on the List, 49(1), Valuation Act 2001, commonly referred to as the "Tone of the List".

8.4 Ms Jones put forward nine comparable properties. Six were equestrian centres in County Louth, two equestrian centres in County Monaghan and one industrial property in County Louth. These are listed in Appendix I (N/A to public)

8.5. The equestrian properties showed a consistent NAV of €13.67 per square metre for indoor arenas and €10.25 per square metre for stables and ancillary buildings. Two comparisons had office accommodation, Comparison 1, Anaverna, Ravensdale with an NAV of €17.08 per square metre and Comparison 8 with an NAV of €20.50

8.6 Ms Jones determined the NAV of the subject property at €190, calculated as follows.

| | | Area Sq. m | € per sq. m | RV |
|-------------|--------------------------------|------------|-------------------|-------------|
| Block 1 | Arena | 1448.28 | €13.67 | €19,797.99 |
| Blocks 2-11 | Office, stables, store, walker | 1973.62 | €9.22 | €18,196.78 |
| | | | | €37994.76 |
| | | | Reducing factor | 0.05 |
| | | | RV | €189.97 |
| | | | RV Rounded | €190 |

The stables were valued at €10.25 per sq. metre less 10% for quantum, i.e. €9.22 per sq. metre.

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 Louth.

On the evidence before it the Tribunal finds the subject property, with the exception of the three stables being used exclusively by the Appellant for his own bloodstock, are not farm buildings as defined in s 3 of the Valuation Act 2001. They are not:

- (a) *buildings, parts of buildings or other structures occupied together with agricultural land and used solely with the carrying out of agricultural activities on that land,*
- (b) *buildings or parts of buildings or other structures used solely for the production of livestock, poultry or eggs or for the breeding of bloodstock or other animals,*

(c) buildings or parts of buildings, or other structures, occupied together with land developed for horticulture or forestry and used solely in connection with the carrying on of horticultural or forestry activities as the case may be on that land.

10.2 The evidence of the Appellant and of Ms Jones on behalf of the Respondent was that the buildings, with the exception of those being used by the Appellant for his own bloodstock, were unequivocally used as a riding school and for the provision of livery services to third parties at a commercial rate. Thus the Tribunal finds that the subject buildings are Relevant Property as defined in Schedule 3 to the Act and are not exempt as Agricultural buildings in accordance with Schedule 4, Par 5.

10.3 The Tribunal finds that the NAV of the subject property is to be determined under s 28(4) and in accordance with s 49 (1) of the Valuation Act 2001-15, i.e. the Tone of the List. In this regard the Appellant adduced no evidence while Ms Jones for the Respondent put forward nine comparable properties shown in Appendix I (N/A to public). Of these, the Tribunal found Comparison 9, an industrial property, to be of little assistance. Similarly, it was agreed by both parties that Comparison 5, which is no longer listed as a commercial property, was not a good comparator.

10.4 The Appellant challenged the accuracy of the description of Comparison 6, which he said of his own knowledge did not contain an indoor arena. This property had not been inspected by the Respondent. The Appellant also asserted that Comparison 1, particularly the indoor arena, was of a higher standard than the subject. Ms Jones also corrected an error in her precis. This property was subject of a Tribunal judgement, VA14/4/026. However, the Appellant did accept that Comparison 2, including the indoor arena, was similar to the subject.

10.5 The Tribunal has had regard to the evidence from the List, both in Co Louth and neighbouring County Monaghan. The Tone is consistent with an NAV of €13.66 to €13.67 per sq. metre for indoor arenas and €10.25 for stables, walkers, and stores. The NAV for office ranges from €17.08 to €20.00 per sq. metre.

10.6 Accordingly the Tribunal finds that the correct NAV for the subject property is €190 calculated as follows.

| | Area Sq. m | € per sq. m | RV |
|---|-----------------------|--------------------|-------------|
| Arena | 1448.28 | €13.67 | €19,797.99 |
| Office, stables, store, walker ¹ | 1973.62 | €9.22 | €18,196.78 |
| | | | €37994.76 |
| | | Reducing factor | 0.05 |
| | | RV | €189.97 |
| | | RV Rounded | €190 |

¹ Valued at €10.25 per sq. metre with a 10% discount for quantum.

DETERMINATION:

The Tribunal disallows the appeal and confirms the decision of the Respondent.