

**Appeal No: VA17/5/240**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015  
VALUATION ACTS, 2001 - 2015**

**LEADFORD LTD**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 5010176, Retail Warehouse at Unit 1 (A & B), West Link Business Park,  
Athlone Road, Longford, N39 N8W3.

**B E F O R E**

**Dolores Power – MSCSI, MRICS**

**Deputy Chairperson**

**Claire Hogan - BL**

**Member**

**Donal Madigan – MRICS, MSCSI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 21<sup>ST</sup> DAY OF JANUARY, 2019.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 9<sup>th</sup> 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 (“the Subject Property”) was fixed in the sum of €39,500.

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

- The Subject Property is valued as a retail warehouse with a level of valuation twice the industrial rate in the same location
- While the Subject Property has a glass front and fronts the road, it cannot achieve in rent any more than the standard industrial level, as is evidenced by the passing rent of €20,000 per annum.

- 1.3 The Appellant considers that the valuation of the Subject Property ought to have been determined in the sum of €19,750.

## **2. REVALUATION HISTORY**

2.1 On the 25<sup>th</sup> day of 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 €49,300.

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 €39,500.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €39,500.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> day of October, 2015.

## **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 4<sup>th</sup> day of December, 2018. At the hearing the Appellant was represented by Mr Eamonn Halpin BSc (Surveying), MSCSI, MRICS of Eamonn Halpin & Co Ltd and the Respondent was represented by Mr Seamus Costello BSc, SCSi, RICS 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. ISSUES**

4.1 The main issue is whether the subject property was correctly valued at the level of 40/m<sup>2</sup> or whether the level of 20/m<sup>2</sup> as contended for was more appropriate in light of the evidence.

## 5. RELEVANT STATUTORY PROVISIONS:

5.1 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.”*

5.2 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.”*

## 6. APPELLANT’S CASE

6.1 The Appellant argued that Longford town has really suffered in terms of vacancy rates since the recession and that it had the 3<sup>rd</sup> highest commercial vacancy rate in Leinster.

6.2 Mr Halpin laid considerable emphasis on the rental evidence. He said that prior to the property being let to its current owners, it was vacant for ten years. He argued that the rent devalues at €20/m<sup>2</sup>, which is the same rate as other industrial properties in the area.

6.3 Mr Halpin argued that the Commissioner’s classification of the Subject Property as a retail warehouse had negatively impacted the analysis, and would not allow him to accept the passing rent as the best evidence. He said the unit was constructed as an industrial showroom, but completely unfitted and never occupied until now, and it is presently used for storage.

6.4 The Appellant had 5 Comparisons:

Rental Comparisons:

- (i) **JD Lawnmowers**, Connaught Road: rent devalues at €13/m<sup>2</sup>

- (ii) **Longford MegaBowl**, Athlone Road: rent devalues at €11.50/m<sup>2</sup> - €18.50/m<sup>2</sup>

The valuation placed on both properties is currently under appeal

NAV Comparisons:

- (iii) **3 Units in Westlink Business Park**, Athlone Road: NAV at €20/m<sup>2</sup> for one and €25/m<sup>2</sup> for two others
- (iv) **Michael Shaw Car Sales**, Athlone Road: NAV at 30/m<sup>2</sup> for the showroom, €25/m<sup>2</sup> for the warehouse
- (v) **Longford Fireplaces**, Athlone Road: NAV at 31.25/m<sup>2</sup> for the showroom, €25/m<sup>2</sup> for the warehouse and workshop

6.5 The Appellant also argued that the lack of office space resulted in the property being less desirable, and that the property had to be valued in its actual state.

## 7. RESPONDENT'S CASE

7.1 Mr Costello for the Respondent argued that:

- (i) **KRT (key rental transaction) 1: Unit 2A Royal Canal Business Park:** rent devalues at €26/m<sup>2</sup>, NAV is €25/m<sup>2</sup>
- (ii) **KRT 2: Catronageeragh Ind Est:** rent devalues at €33.50/m<sup>2</sup>, NAV is €25/m<sup>2</sup>
- (iii) **KRT 3: Longford Business and Technology Park:** rent devalues at €25/m<sup>2</sup>, NAV is €25/m<sup>2</sup>

7.2 The Respondent also had 4 Tone of the List Comparison properties. Three of them were valued at €40/m<sup>2</sup>, including notably, the property immediately adjacent to the Subject Property. The final property, Comparison 4 is in a much superior location, and is valued at €70/m<sup>2</sup>.

7.3 Mr Costello argued that fairness and equity required the Subject Property to also be at the level of €40/m<sup>2</sup>.

## 8. SUBMISSIONS

8.1 There were no legal submissions.

## 9. FACTS

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

9.2 The Subject Property is located in the Westlink Business Park on the Athlone Road and is currently used in the storage of mattress making products.

9.3 It is occupied on a three year lease from 1<sup>st</sup> January 2017 at €20,000 per annum.

9.4 The Subject Property is capable of use as a retail warehouse, having that planning, and having large glazing and eave height and a roller shutter door to the rear. The accommodation is agreed at 987.92m<sup>2</sup>.

## **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 Longford County Council.

10.2 Mr Halpin's case was built around the passing rent of the Property. The value of the Property has to be ascertained by reference to section 48 of the 2001 Act. The value of a relevant property is not automatically the actual rent paid by a tenant, as that rent may not accord with the statutory test in section 48. Section 48 requires an estimate of the rent the Property would achieve if it were let at 31 October 2015. The Tribunal is not satisfied that the actual rent passing on the Property must be taken as the only point in determining its value. That rent was agreed one and a half years after the valuation date. That it is not to say that the actual rent is irrelevant but other evidence needs to be adduced to show the likely rent a hypothetical tenant would reasonably be expected to pay.

10.3 Furthermore, simply because the Subject Property has never been used as a retail warehouse is not to say it is not capable of use as such.

10.4 The Tribunal was quite dissatisfied with the rental evidence in this case, given by both the Appellant and the Respondent. The Tribunal felt that Mr Halpin did not produce properties which were of the same standard as the Subject Property. He showed quite low rental levels for JD Lawnmowers, and Longford MegaBowl. However, neither property is capable of use as a retail warehouse, in contrast to the Subject Property. The three units in Westlink Business

Park are also not comparable at all. Both Michael Shaw Car Sales and Longford Fireplaces are immediately across the road from the Subject Property, and were the best comparators. However, they are inferior as they are older, do not have as much vertical glazing for display purposes and have lower eave heights.

10.5 The Tribunal believes that the Appellant overly focussed on the actual passing rent, which while compelling, is not reflective of all the factors necessary to arrive at an accurate and uniform NAV.

10.6 The Appellant bears the burden of proof in challenging the determination of the Commissioner, and has failed to discharge that. He has not produced a single truly comparable retail warehouse property which is valued at less than €40/m<sup>2</sup>. The properties he has introduced into evidence are all inferior and industrial, including the most comparable two across the road from the Subject Property. The Tribunal is not satisfied that the hypothetical tenant would not pay more in rent to use the Property as a retail warehouse, and agrees with the Respondent that a retailer could have made the decision to take the Subject Property in that capacity at the valuation date.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal, and affirms the NAV.

And the Tribunal so determines.