

**Appeal No: VA18/3/0003**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Terrence McDaid**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2004618, Unit 2, Main Street, Burnfoot, County Donegal.

**B E F O R E**

**Dairine Mac Fadden Solicitor  
Annamaria Gallivan, FRICS, FSCSI, MPhil SEE  
Gerard O'Callaghan, MRICS, MSCSI**

**Deputy Chairperson  
Member  
Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 27<sup>TH</sup> DAY OF FEBRUARY, 2023.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 3rd day of July, 2018, 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 €24.

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 28(4) of the Act. The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

*Small Unit*

*Floods Often*

*Disadvantaged area*

1.3 In the Notice of Appeal, the Appellant did not state the amount which he considered the Property ought to be valued at.

## **2. VALUATION HISTORY**

2.1 On the 17<sup>th</sup> day of April, 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 €24

2.3 A Final Valuation Certificate issued on the 5<sup>th</sup> day of June, 2018 stating a valuation of €24.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing, on the 20<sup>th</sup> day of January, 2023. At the hearing the Appellant did not appear and there was no representative present on his behalf. The Respondent was represented by Mr Karl Gibbons of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the Respondent had submitted his précis of evidence prior to the commencement of the hearing and submitted same to the Tribunal. No précis of evidence or any documentation other than the Notice of Appeal was received from the Appellant.

## **6. RELEVANT STATUTORY PROVISIONS**

The relevant rules applicable to this appeal are the Valuation Act 2001 (Appeals) Rules 2008 (“the Rules”). Rule 24 states that:

*‘Where either party fails to appear at a hearing of the Tribunal having been informed in writing of the date of hearing, in accordance with Rule 21, the appeal will be struck out and the valuation as set down in the valuation list, in accordance with section 63 of the Act, shall be affirmed. The party failing to appear will have six days from the date of hearing to apply to the Registrar, in writing, to have the appeal re-instated setting out the reasons for his or her non-appearance. The Tribunal shall make a decision on such an application on such terms (including costs) as it thinks fit.’*

## **7. FINDINGS AND CONCLUSIONS**

Pursuant to Rule 24 of the Rules, the Tribunal strikes out this appeal and affirms the valuation for the above property, as set down in the valuation list.

## **8. REASONS**

This appeal was fixed for a hearing on the 20<sup>th</sup> January 2023. A Notice of Hearing, informing the Appellant of the hearing date was sent to him on the 14<sup>th</sup> November 2022. A zoom link was sent on the 18<sup>th</sup> January 2023.

The office of the Tribunal wrote to the Appellant on the 13<sup>th</sup> January 2023 advising him that the Tribunal had not received his précis which was due on the 6<sup>th</sup> January 2023. The Appellant was also put on notice in the said letter that *‘Failure to comply with the Tribunal’s Directions shall lead to the appeal being struck out for want of prosecution unless you can satisfy the Tribunal that non-compliance was due to an exceptional reason or exceptional circumstance.’*

The Tribunal sat to hear this appeal on the 20<sup>th</sup> January 2023 via the zoom link provided. Mr Karl Gibbons, appeared on behalf of the Respondent. Mr Gibbons stated that he also had tried to make contact with the Appellant in advance of the hearing, but was unsuccessful.

The Tribunal is satisfied that the Appellant was informed of the date of the hearing and the Tribunal is satisfied that no explanation was given by the Appellant for his non-appearance.

In these circumstances and pursuant to Rule 24 of the Rules, the Tribunal was satisfied that the appeal should be struck out in accordance with the said Rules and that the valuation for the above property should be affirmed.

Following the hearing, the office of the Tribunal wrote again on the 20<sup>th</sup> January 2023 (the hearing date) to the Appellant advising him that the appeal had been struck out and that the valuation for the Property as set down in the valuation list had been affirmed. The Appellant was advised further that pursuant to Rule 24 of the Rules, he had six days, from the date of the said letter, to apply to the Registrar, in writing, to have the appeal re-instated, setting out the reasons for his non-appearance. No response was received, and no Notice of Appeal was lodged.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

**RIGHT OF APPEAL:**

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal's determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.