

Appeal No: VA19/5/0482

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Wellmaster Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 2069232, Retail (Shops) at 67 68 Camolin, Camolin, County Wexford

B E F O R E

BARRY SMYTH, FRICS, FSCSI, MCI Arb

MEMA BYRNE, BL

EAMON MAGUIRE, FRICS, FSCSI, VRS, Arb

Deputy Chairperson

Member

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27th DAY OF APRIL, 2023

1 THE APPEAL

1.1 By Notice of Appeal received on the 14th 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 €7,090.

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

"This shop is very old, no heating, bare cement floor, no insulation and would cost too much to bring up to standard. Unable to rent out."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,000.

2 REVALUATION HISTORY

2.1 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.

2.2 A Final Valuation Certificate issued on the 17th day of September, 2019 stating a valuation of €7,090.

2.3 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September, 2019.

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 08th day of February 2023. At the hearing the Appellant, Mr. Patrick Conroy appeared in person and the Respondent was represented by Kathy Farrelly 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 Property is located on a corner site on Main Street, in the village of Camolin, on the N11 route.

4.2 The Property comprises a single storey detached premises with three fuel pumps to the front of the building.

4.3 The floor areas agreed between the parties on the 26th April 2021 are:

Description	Floor Level	Sq. M.
Premises	0	63.60
Total		63.60

4.4 The title is Freehold.

5 ISSUES

The principal issue in this appeal is the quantum of the valuation. The Appellant contended for an NAV of €3,000 whereas the Respondent contended for an NAV of €6,724 to be entered in the Valuation List.

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 Mr. Conroy having been sworn in, adopted his précis as his evidence in chief.

7.2 Mr. Conroy stated that whilst he was in agreement on the petrol pumps throughput valuation, he was not in agreement on the valuation of the building.

7.3 The Property in his father’s time, from 1960 to 1990, was devoted to retail use, selling cycles, radio, televisions, washing machines and needed window frontage, but that he now did not require window frontage.

7.4 The Property in his opinion was now an industrial showroom, not a retail outlet.

7.5 The Property was in poor condition and would require major financial investment to rent it out, and as there were five vacant premises in the village for some time now, he felt this investment was not a viable option.

7.6 He derived his opinion of the NAV from acquaintances who had industrial showrooms.

7.7 Mr. Conroy stated that his opinion of the NAV was €3,000, which included the agreed valuation of the petrol pump throughput of €1,000.

7.8 In cross examination Mr. Conroy confirmed that the Property was located on Main Street and that it had three large display windows. He confirmed that there had been no structural changes to the Property since it had been used by his father for his retail business.

- 7.9 In summing up, the Appellant stated that the property was by-passed three years ago in 2019, that the fuel throughput to the attached petrol pumps was nominal and hence he had to start his niche business, which supplied water booster pumps and water filtration to the trade and that his business could be carried out from a container up a country road.

8 RESPONDENT'S CASE

- 8.1 Ms. Farrelly for the Respondent, having been sworn in, adopted her précis as her evidence in chief.
- 8.2 Ms Farrelly stated that the Property has window frontage and two access points from Main Street, with a main street frontage of 16 metres.
- 8.3 The Property was well maintained with panel ceiling, plastered and painted walls and florescent lighting.
- 8.4 The floor area was agreed with the Appellant, reducing it to 63.6 sq.m. from 67.68 sq.m., as stated in the Valuation List.
- 8.5 Ms. Farrelly stated that the Property was clearly a retail unit with no physical changes evident from when it was last valued as a small shop. She stated that on inspection the Appellant confirmed that she could purchase a measurement tape, which was on display and that she concluded that the Property was clearly a retail unit and open to the general public to purchase fuel and other items in the shop.
- 8.6 Ms. Farrelly summarised the Valuation Scheme as adopted by the Commissioner, which was a starting point, and that subsequent adjustments to the scheme values were made where it was appropriate to do so in relation to the subject property.
- 8.7 Ms. Farrelly introduced the following Key Rental Transactions (KRT) that were used to inform the Commissioners scheme of valuation, the full details of which are all contained in the appendices (n/a to public)
- 1) Bridgetown, Co. Wexford. Property measures 99.68 m². Let on a yearly tenancy for €20,800 per annum. The accommodation comprised Retail Zone A of 44.65 m², Retail Zone B measuring 24.37 m² and store measuring 30.66 m². The Commissioner has valued the property NAV at €6,290, analysed as follows; Retail Zone A at €100 psm, Retail Zone B at €50 psm and the store at €35 psm. The ground floor retail property is located in a village, was let on a casual yearly tenancy with no formal lease in place and the details were confirmed by the occupier.

- 2) Ardcolm, Wexford, Co. Wexford. Property measures 45.61 m². Let on a yearly tenancy for €7,800 per annum. The accommodation comprises Retail Zone A of 44.61 m². The Commissioner has valued the property NAV at €6,380, analysed as follows; Retail Zone A at €100 psm. The ground floor retail property is located in a village, was let on a casual yearly tenancy with no formal lease in place and the details were confirmed by the occupier.

A reduction of 10% on the valuation scheme values was applied to this property to allow for the frontage to depth ratio, and an addition of 50% to reflect the property's location within the village.

- 8.8 Ms. Farrelly submitted the following NAV Comparisons, full details of which are contained in the appendices (n/a to public)

NAV Comparison 1 - PN5006757 – Main Street, Camolin, Co. Wexford.

The comparable has an NAV of €6,810, which Ms. Farrelly broke down as follows;

Level	Description	Size – Sq. m.	NAV €/psm
0	Retail Zone A	49.07	€100
0	Retail Zone B	36.47	€50
0	Retail Zone C	3.38	€25
	Total	88.92	

The property which is a ground floor unit is located on Main Street, Camolin.

NAV Comparison 2 – PN2170507 – Main Street, Camolin, Co. Wexford.

The comparable has an NAV of €3,370, which Ms. Farrelly broke down as follows;

Level	Description	Size – Sq. m.	NAV €/psm
0	Retail Zone A	22.57	€100
0	Retail Zone B	20.68	€50
0	Retail Zone C	3.36	€25
	Total	46.61	

The property which is a ground floor unit is located on Main Street, Camolin.

NAV Comparison 3 – PN2009915 – Main Street, Camolin, Co. Wexford.

The comparable has an NAV of €3,440 which Ms. Farrelly broke down as follows;

Level	Description	Size – Sq. m.	NAV €/psm
0	Retail Zone A	29.18	€100
0	Retail Zone B	10.60	€50
	Total	39.78	

The property which is a ground floor unit is located on Main Street, Camolin.

NAV Comparison 4 – PN2008102 – Rathnure Lower, Co. Wexford.

The comparable has an NAV of €3,650, which Ms. Farrelly broke down as follows;

Level	Description	Size – Sq. m.	NAV €/psm
0	Retail Zone A	25.80	€100
0	Store	3.9	€20
	Throughput (In Litres)	-	€1,000
	Total	29.70	

The property is a ground floor retail unit with petrol pumps to the front and located in a small village on the R731 regional road, 12 km from Enniscorthy. Representations were made by an agent, was not appealed to the Valuation Tribunal.

NAV Comparison 5 – PN2009199 – Doncormick, Co. Wexford.

The comparable has an NAV of €6,100, which Ms. Farrelly broke down as follows;

Level	Description	Size – Sq. m.	NAV €/psm
0	Retail Zone A	51.04	€100
	Throughput (In Litres)	-	€1,000
	Total	51.04	

The property is a ground floor retail unit with petrol pumps to the front and located in a small village, approximately 18 km from Wexford town.

8.9 Ms. Farrelly submitted her opinion of value of the NAV as follows:

Level	Use	Area - Sq.m.	NAV / € psm	NAV
0	Retail Zone A	63.60	€100 / psm	€6,360
0	Throughput (In litres)		€1,000	€1,000
	Allowance due to frontage to depth ratio @ 10% of Shop NAV			
				€6,724

8.10 In cross examination Mr. Conroy put it to Ms. Farrelly that all her comparisons were of retail premises. She replied that the Property felt like a retail premises and the evidence was all gathered in Co. Wexford.

8.11 The Tribunal asked Ms. Farrelly whether the absence of heating in the Property should be reflected in a discount to the value. She replied that the rental evidence is higher than the €100 psm adopted for the Property. Ms. Farrelly confirmed that the KRT's submitted all concerned villages where the population size was less than 1,000 persons.

- 8.12 The Tribunal asked Ms. Farrelly whether the zoning system of valuation in the context of the Property was appropriate, given that the NAV in comparison 2, where the property measured 88.92 sq. m., larger than the Property, was valued at €6,810. She replied that the Property was at the entrance to the village and had nearly 16 metre main street frontage.
- 8.13 In summing up, Ms. Farrelly stated that the Property was a retail unit that had been valued like other retail units in Camolin village, that the Appellant had been given an allowance of 10% reduction due to the frontage to depth ratio and that a minimum value of €1,000 was attached to the petrol pumps, the business of which was busy on the day of the Property inspection.
- 8.14 Ms. Farrelly stated that the onus of proof was on the Appellant, who in her opinion had not proven his case. Of the NAV comparisons submitted by the Respondent, just one Representation had been received, and that had been on the grounds of floor area.
- 8.15 Ms. Farrelly requested that a valuation of €6,724 be entered in the Valuation List as representing the Net Annual Value for the Property, in accordance with Section 48 of the Valuation Act 2001 and the requirements of Section 19 (5).

9 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 Wexford County Council.
- 10.2 The Tribunal has examined the details of the Property and considered the written and oral evidence adduced by Mr Conroy who contended for a revised NAV of €3,000 and that adduced by Ms. Farrelly contending for a NAV of €6,724 which she felt was fair and equitable and should be entered into the Valuation List in accordance with Section 48 of the Valuation Act 2021 and Section 19(5).
- 10.3 The Appellant has submitted his opinion of the NAV of the Property, at €3,000, which comprised the accepted valuation of the petrol pumps throughput at €1,000 and the balance being his valuation of the detached premises.
- 10.4 Whilst the Appellants submitted that his business carried out from the Property could just as well be carried out from a container up a country lane, however the Tribunal finds that under Section 48 of the Valuation Act 2001, as amended by the Valuation (Amendment) Act 2015, the valuation of the Property is based on the premise of a hypothetical tenant paying a rent for exclusive occupation, one year with another.

The task of the Tribunal is to ensure that the Final Certificate of Valuation for a property fairly reflects a correct value, and that value is relative to other similarly circumstanced properties in the local rating area.

- 10.5 The Appellant in contending for the Property to be valued as an industrial showroom, submits only hearsay evidence, to support his valuation in that use category.
- 10.6 Upon consideration of the evidence submitted by both the Appellant and the Respondent, the Tribunal finds that the Property has had no significant alterations since it was last valued as a shop and finds that the Property NAV is to be valued as a shop, irrespective of the business carried on in it.
- 10.7 The Respondent submitted in evidence two KRT's that supported the valuation scheme. The NAV comparisons submitted were confirmed to be similarly circumstanced retail properties, in villages settings with a population of less than 1,000, like that of Camolin.
- 10.8 In the case of KRT 2, PN 2198732, the effective NAV Zone A rate derived with the 50% increase applied to reflect the property's location, is €150 psm, which is out of line with the Valuation Scheme.
- 10.9 In the case of the Respondents NAV comparisons PN5006757, PN2170507 and PN2009915, all these comparators are located on Main Street, Camolin.
- 10.10 The Tribunal notes that an adjustment of 10% has already been applied by the Respondent to reflect the frontage to depth ratio and that the parties have agreed a revised lower floor area of 63.60 m²., compared to that on the Valuation List.

11 DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to:

€6,724 (Six Thousand Seven Hundred and Twenty-Four Euro).

Set out as follows:

Level	Use	Area - Sq.m.	NAV / € psm	NAV
0	Retail Zone A	63.60	€100 / psm	€6,360
	Allowance	1.0	-€636	-€636
	Additional items			€1,000
	Total			€6,724