

Appeal No: VA19/5/0037

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Wexford Equestrian Venue Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5007399, Leisure at Equestrian Centre 12/1 Ballygullick, Wexford, County Wexford.

B E F O R E

Dolores Power - MSCSI, MRICS

Deputy Chairperson

Orla Coyne - Solicitor

Member

Liam Daly - MSCSI, MRICS

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 27TH DAY OF JUNE, 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 22nd day of September, 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 €38,800.

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: *“There are a number of grounds for appeal that are set out in a lengthy document that can be submitted separately for the attention of the appeal committee, these include the following but are not solely based on the following:*

the building is of agricultural planning

the building is in a zoned area for agricultural business

the business is solely used by horse producers for horse production which is an agricultural business

the rental valuation for the property is hugely excessive and attached is proof of what rental income should be attached to this property

the building was grant aided by WLD local funding in order to be established.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,084.

2. REVALUATION HISTORY

2.1 On the 29th 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 €49,700.

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 €38,800.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €38,800.

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

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 22nd day of April, 2022. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real Estate), BA. (Mod) of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Neil Corkery 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

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

4.2 The subject property of this appeal is located is located at Ballygullick, Tomhaggard, Co. Wexford. It comprises of an indoor equestrian arena

4.3 The Agreed areas are an Arena of 2769.73 m² and a store of 582.26m².

The relevant valuation date is the 15th September 2017.

5. ISSUES

5.1 The sole issue in this case is one of 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 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. Halpin began by outlining how this property was a very specialised one, in that it is built to competition specification. The construction of same had been facilitated by a rural development grant as the property is situated in a remote rural location and while built in 2011 as an equestrian centre to competition specifications, it does not have any stabling. While the property has outdoor arenas these do not fall to be rated.

- Mr. Halpin further contended that the difference between the property and other livery stables is that it does not have any stables there is no income other than from holding competitions and competition preparation.
- Mr. Halpin contended that the NAV of €38,800 as proposed by the Commissioner would not be paid by the hypothetical tenant for the property. Neither did he agree with this valuation.

In support of his contention Mr. Halpin stated that there could only be three types of hypothetical tenant.

- i) The tenant who would use the property for agricultural use in that the arena could be used for storage or housing livestock on its earthen floor;
- ii) An equestrian club could also rent the property, which more than likely would be a not-for-profit club; or
- iii) A use not dissimilar to what is currently in situ, namely an equestrian competition occupier.

Mr. Halpin provided two separate letters of opinion from two Auctioneers, they after having been asked what would a potential user pay in rent. Both auctioneers gave their opinions that the property was more suitable for agricultural value at €8,000 to €10,000 per annum.

In support further of his contention he also provided a copy of a lease that had been entered into by the Appellant and an equestrian club. The rent was agreed at €12,000 to include rates. However the deal fell apart because the local authority could not give assurances to the club that rates would not be demanded on the property.

The third hypothetical tenant which Mr. Halpin was proffering would be similar to the Appellant. He believed that anybody who would be interested in renting the subject property would have to look at the accounts of the business because of the nature of the business being carried out in the centre, that it is so specific namely for equestrian competitions.

This third hypothetical tenant he maintained could not afford to pay the rent that the Commissioner is proposing. Because it is the property alone that is being valued this tenant would be liable for approximately two thirds of the heating and lighting etc. because the outdoor arenas would not be included in the demise. He further stated that also a third of the income came from the property but two thirds came from the outdoor arenas. In support of this contention he produced the R and E accounts of the Applicant for the years 2014 to 2018 inclusive.

Therefore, in relation to his examples of the 3 hypothetical tenants none could justify paying any more than €8,000 to €10,000 NAV per annum because of its rental potential, as any more would be economically unviable.

The Appellant did not accept the Commissioners NAV of €38,800 per annum rental value as the Commissioner had used standard industrial buildings as comparisons. He contended that in view of the property having such limited use these comparators were not suitable.

However Mr. Halpin did accept that the Commissioner had valued other stables and equestrian centres on a rate per sq.metre basis similar to the property but once again he reiterated that the property is not similar in a number of ways to the other stables and equestrian centres that have already been rated. The subject property has no stables and is a licenced competition venue only.

While he did admit that the Commissioner tried to differentiate the property by applying a 10% allowance, this was not sufficient. He contended that the rate per sq. meter should be based on the rent that can be obtained from the market and therefore he believed that it should be rated based on sustainability within the market.

Mr. Halpin believed that the property should be valued taking the evidence that he had submitted namely the two auctioneers' valuations for rental, the Appellants accounts and the proposed rent for the subject property as per the lease would not lead to the figure which the Commissioner had arrived at. Therefore Mr. Halpin was calling for a NAV of €10,050 based on the rate per Square Metre method:

Arena 2769.73sq.m @ €3/sq.m=€8,309

Store 582.26sq.m @€3/ sq.m= €1,747

Cross-Examination of Mr. Halpin

In response to questioning from the Respondent Mr Halpin agreed that he had no comparisons in relation to the valuation of the property and neither did he have other properties similar to the subject property in Wexford that has been valued on an Rand E basis. However, Mr Halpin justified this by saying that there is no stand alone competition centre like the subject property in Wexford.

He agreed that the property had a double skinned roof and was a very superior property. He further agreed that the three comparators which the Commissioner had included in his precis were relevant and rateable and that rural stand alone buildings were rateable at €15 per m².

8. RESPONDENT'S CASE

8.1 Mr. Corkery requested an amendment to his Precis in relation to his second comparator in that there are no internal arenas, all external, and there was no reduction of 10%. in this instance.

Mr. Corkery then went on to outline the background of the valuation history of the property. The draft cert was issued in the sum of €49,700, with the arena being valued at €15 per m² with a mezzanine viewing area being valued at €3 m². Following representations, the arena was reduced to €13.50 per sq.m from €15 and the viewing gallery was removed, the valuation was amended to €38,800.

Mr. Corkery went on to describe the excellent condition and construction of the property.

Mr. Corkery introduced two comparators to demonstrate the rental tone in Wexford (Appendix 1 - n/a to public).

The Rental comparators that he introduced show the industrial tone that has been introduced post re-valuation. There are no equestrian centres in Wexford being rented therefore the Commissioner has no information on rental equestrian centres in Wexford.

He commented that the Commissioner's 3 NAV Comparisons are more important (Appendix 2 - n/a to public) as they all have equestrian facilities they are situated in Wexford. Each of them have stables and two of them also have an equestrian arena. Each of the arenas are valued at €13.50 per sq.m. In order to obtain equity and uniformity on the list he believes that the 10% reduction applied to the property is correct.

Mr. Corkery introduced 2 Valuation Determinations VA17/5/054, VA15/5/059. Only one of these had an equestrian centre and neither are situated in Wexford. Mr Corkery attempted to

introduce a third Determination VA15/17/567 but this was refused by the Tribunal as it was not contained in the Commissioner's Précis. The tone of the list had been set by the two comparators that he had introduced in respect of industrial property in Appendix 1 (n/a to public). However, he did accept the opinions of the auctioneers. In order to protect the tone of the list and to be fair and equitable he must maintain the list.

Cross Examination of Mr. Corkery

In response to questioning from the Appellant he agreed that an equine competition venue is a specialised industry. He also agreed that there was no rental evidence in relation to equestrian centres in Wexford. He accepted that certain properties are valued by the commissioner on trading data e.g. Pubs, Hotels, Guest Houses, and that there would be some rental evidence in relation to these establishments. Mr Corkery further agreed that in some instances a balance would be looked at by the Commissioner between rental and R&E in order to arrive at the NAV. Mr Halpin asked Mr Corkery, why the R&E was not taken into account by the Commissioner in respect of this property, given that there was no rental evidence available.

Mr. Corkery's response was that it is not the adopted approach by the Commissioner. The approach adopted is on a rate per square metre basis as they are being valued as vacant and to let by reference to the properties in existence on the valuation list. Mr. Corkery when asked as to why the rate per square meter is being adopted based on industrial valuations in this case considering the subject property is a very specialised sector property. Mr. Corkery emphasised that this is a very fine property and is being valued on a vacant and to let basis. He did not accept the property could be valued at no more than Mr Halpin had valued it namely at €3 per square meter equivalent to a storage facility. Mr Corkery, when asked by Mr Halpin whether he agreed with the two valuations he had produced from two Wexford Auctioneers, each stating the property would be for agricultural rental only. Mr Corkery replied by stating, that the tone of the list had been set although he did accept what Mr. Halpin had to state.

Mr Halpin asked Mr Corkery were his KRT comparators relevant. Mr Corkery accepted that the property is a competition arena unlike his comparators but he believed that the subject property is an industrial building. However he did accept that the business model of his comparators are different from the property, as it is a competition arena.

Tribunal Cross Examination.

The Tribunal put to Mr Corkery that he had no KRT's to put forward he replied that he accepted there is no comparator within the Wexford area to the property. However the Commissioner

has to take into account the vacant and to let property in relation to the hypothetical tenant. He said it depends on the occupier and their business model if they wish to have stabling or not. The Tribunal asked Mr. Halpin, if he accepted the valuations by the two local auctioneers. He said while he accepts that they are truthful, they have put agricultural purposes on the rental value of the property.

Summary by Mr Halpin.

Mr. Halpin commenced by stating that the property might look like an industrial building but it is not, it is a specialist building. It is a competition venue and needs to be treated differently, and it should not be compared to other equestrian centres with stables or riding venues. Even with its huge size this does not give it a material benefit. The local auctioneers valued it between €8,000 to €10,000 rental and the local equestrian club was willing to pay €12,000 to include rates. Even if this is ignored, then you have to go back to the income of the property in relation to the income justifying the rent. If a hypothetical tenant looked at the income he would not be in a position to pay the €38,800 rent. The turnover is between €100,000 - €110,000 maximum. The majority of this figure is generated from outside of the property. He further stated that a person can rely on the tone of the list as far as that goes, but there is no comparator to the property.

He requested that the Tribunal adopt the actuality and type of the property concerned and the business being carried on within it. He was seeking a NAV of €10,050

Mr. Corkery, when asked if he wished to give his summary, declined to do so.

9. SUBMISSIONS

9.1 There were none.

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.

The Tribunal, in assessing the evidence given, noted that the key rental transactions produced by the VO are in relation to industrial properties. They are not comparable to the property. The

VO had no other KRT's to place into the valuation and therefore reliance was on the NAVs of his other three comparators.

However of the NAV comparators provided, only one was of any assistance in that it had an indoor equestrian centre .But it was very much smaller than the property and valued at €13.50 sq.m. The comparisons produced by the Commissioner to the Tribunal were not considered suitable by the Tribunal.

Mr.Corkery accepted the rental valuations that the two auctioneers had put on the property at €8,000 and €10,000 respectively .Although he qualified his acceptance that the valuations were agricultural . Yet at the same time he wished to maintain the tone of the list. In so doing, the Tribunal believes that this would be at the expense of the occupier of this particular property.

The Applicant made a very strong argument as to why the Valuation Office should have considered utilising the R&E method in determining the appropriate NAV. While the methodology was not without flaw, the Tribunal considered the evidence very useful in their deliberation”

The Tribunal found it difficult to understand the Commissioner's methodology and accepted Mr. Halpins methodology instead. The Tribunal also accepted the valuations given by Local Auctioneers.

Accordingly on the basis of the evidence presented by the parties, and as both sides have accepted the auctioneers opinions, this, together with the evidence produced by the Appellant in the proposed Lease whereby the rent was included at €12,000 the Tribunal looked at and regarded the property as being a special activity and with no comparators.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate at €38,800 to:

Arena 2769.73sq.m @ €7/sq.m=€19,388

Store 582.26sq.m @€3/ sq.m= €1,747

Total NAV: €21,135.

And the Tribunal so determines.