

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Appeal No. VA 19/5/0905 Sean, Jonathon, and Giovanni Morris **APPELLANT**
Appeal No. VA 19/5/0899 Sean, Jonathon, and Giovanni Morris **APPELLANT**
Appeal No. VA 19/5/0891 Sean Morris **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

In relation to the valuation of

Property Number: 1278540, Retail (Shops) at 43.44/2 West Street, Drogheda, County Louth

Property Number: 1278250, Retail (Shops) at 43.44/1 West Street Drogheda, County Louth.

Property Number: 2202098, Retail (Shops) at 4 Patrick's Well Lane, Drogheda, County Louth.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3rd DAY OF JULY 2023

BEFORE

JOHN STEWART FSCSI, FRICS, MCI Arb

Deputy Chairperson

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 €9,350, €17,070, and €10,450.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: “*Unfit due to dereliction. (See attached photos)*”

1.3 The Appellant considers that the valuation of the Properties ought to have been determined in the sum of €0 in each case. All three appeals have been included in one Judgement.

2.0 RE-VALUATION HISTORY

2.1 On the 15th 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 valuations of €9,350, €17,070, and €10,450.

2.2 Final Valuation Certificates were issued on the 10th Day of September 2019 stating a valuation of €9,350, €17,070, and €10,450.

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

3.0 DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4.0 FACTS

4.1 The parties are agreed as to the following facts.

4.2 The subject property is located on West Street at its junction with Patrickswell Lane in Drogheda town centre on a section of the street known as Narrow West Street. Drogheda is an urban centre and port town on the southern border of Louth on the River Boyne. Louth County and Drogheda benefit from a high degree of public transport accessibility served by the high frequency Dublin to Belfast rail service and the M1 motorway.

4.3 The subject property is located within a three storey over basement end of terrace building situated on West Street at the junction of West Street, Narrow West Street and Patrickswell Lane. It is attached to the Abbey Shopping Centre which is mainly vacant, and the historic ruins of the Old Abbey are located to the rear of the building. This part of Narrow West Street comprises a collection of offices and retail building many of which are vacant.

4.4 There are three valuations/ property numbers that comprise the ground floor and basement of the building however the upper floors are not valued for commercial property purposes as they comprise domestic dwellings.

4.5 The first valuation PN 1278540(VA 19/5/0905) refers to lot 43. 44/ 2 and consists of the area to the right-hand side of the property fronting Narrow West Street.

4.6 The second valuation PN 1278250(VA 19/5/0899) refers to lot 43. 44/ 1 and consists of the area to the left-hand side of the property fronting Narrow West Street including the entire basement area.

4.7 The third valuation PN 2202098(VA 19/5/0891) refers to 4 Patrick's Well Lane, Drogheda, County Louth.

4.8 A separate area PN 1320654 Lot44a consists of part of the rear area behind Lot 43.44./2 of the ground floor of the building, however it has not been appealed to the Tribunal.

4.9 The building comprises a corner five bay three storey over basement property constructed circa 1675 and renovated in 1830. It has a rectangular layout with a pitched slate roof incorporating a flat roofed extension added circa 1940. The building incorporates painted smooth rendered and square headed window openings, painted stone sills, painted timber two over two sliding sash windows and square headed display windows to the ground floor. It has square headed door opening at the shopfronts to east and west and painted over light and painted timber doors. The ground floor only of this building currently is currently valued for rating purposes and is divided between three property numbers.

4.10 Floor areas

	Floor	M₂
Retail zone a (Blocks 1-4)	0	26.34
Retail zone b (Blocks 1-4)	0	24.36
Offices Block (10-11)	0	7.10
Store (Blocks 6-9)	-1	46.71
Total		104.51

4.11 The property is freehold.

5.0 ISSUES

The Appellants seek to have the valuations reduced to €0 as the buildings are derelict and incapable of economic use.

6.0 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.”

7.0 APPELLANT’S CASE

7.1 The Appellants noted that the three property numbers consisted of one building and that the entire building dated back to approximately the 17th century. They noted that the building

was constructed of masonry, structural timber, and slates. It comprised a three storey over basement building and they stated that the property was derelict and had not been in use for more than 10 years. The roof was defective with slates missing a number of windows were broken with pigeons having recently occupied the building.

7.2 They also stated that a number of years ago the owner had begun removing some defective structural timbers with a view to replacing them and the County Council issued him with a dangerous building notice and the said timbers had to be replaced. The Appellants noted that the building is listed/protected structure in the Development Plan.

7.3 The Appellants stated that planning permission would be required, and extensive works would be necessary before the building could be used again. They added that this was unlikely in the near future. They concluded their precis by stating that the entire section of West Street containing the subject property will require upgrading and refurbishment.

7.4 This concluded the Appellant's precis.

8.0 RESPONDENT'S CASE

8.1 The Respondents precis of evidence dated 22nd September 2022 acknowledged the agreed facts in No. 4 above noting that the subject property formed part of Westgate Vision Area-Regeneration of Westgate in Drogheda. Inter alia they noted that the project represents the first stage of the Westgate Vision, which is a targeted planning response aimed at channelling investment into this core area as an alternative to building on green field site at the edge of the town. A key objective of the project is to prepare an application for funding under the Urban Regeneration Development Fund. It is anticipated that Westgate Vision will be delivered in three stages over 10 years plus time frame.

8.2 The Respondents stated that the subject property is located within a three storey over basement profile end of terrace building situated on West Street also know as Narrow West Street at the junction of West Street/Narrow Street West Street and Patrickswell Lane. Narrow West Street comprises a number of office and retail building of which many are vacant.

8.3 The subject of the appeal to the Tribunal refers three valuations that are located on the ground floor and basement of the building. The first valuation PN 1278540(VA 19/5/0905) refers to lot 43. 44/ 2 and consists of the area to the right-hand side of the property fronting Narrow West Street. The second valuation PN 1278250(VA 19/5/0899) refers to lot 43. 44/ 1 and consists of the area to the left-hand side of the property fronting Narrow West Street including the entire basement area and the third valuation PN 2202098(VA 19/5/0891) refers to lot 4 43.44 West Street and consists of part of an extension to the rear of 43. 44 West Street.

8.4 The building contains features of architectural interest particularly a carved stone plaque which indicated that the building played a part in the Battle of the Boyne and important retained timber sashes. The floor areas as referred to in No. 4 above were reiterated and a block plan was provided. A selection of photographs was included to show the condition internally and externally from April 2022 and the internal photographs indicated a very poor state of repair showing significant levels of dereliction.

8.5 The Respondents address the Appellants evidence and the appeal process and timeline.

- 14th October 2019: Appeals received by the Tribunal in respect of PN 1278540(VA 19/5/0905) refers to lot 43. 44/ 2 West Street; PN 1278250(VA 19/5/0899) refers to lot 43. 44/ 1 and West Street including the entire basement area and PN 2202098(VA 19/5/0891) refers to and Patrickswell Lane.
- 12th November 2019: Notification of Appeals from the Tribunal received by the Valuation Office.
- AWL/Callover April 2022: The Appeals were listed on the Tribunal Advanced Warning List and the parties were requested to seek remedy or submit their respective Statements of Evidence in advance of the Callover at which point a Tribunal Hearing date would be set.
- 12th April 2022: The Appealed properties were inspected, and the Respondents Valuer met with Sean Morris and his structural engineer John Dineen on site.
- 22nd June 2022: The Commissioner deemed that all three properties were incapable of beneficial occupation.
- 23rd June 2022: The Tribunal was informed that agreement had been reached with regards to the three Appeals and the valuations would be struck off the valuation lists.
- 15th July 2022: Louth County Council wrote to the Tribunal objecting to the agreement.

8.6 The Respondents stated that following an inspection of the Appealed Properties it was deemed that they were incapable of beneficial occupation on the following grounds:

- The properties were not inspected during the initial stages of the Revaluation 2019 process however it had been noted that they were closed up and vacant.
- The Valuer had been informed that the entire building comprising 43.44 West Street had been vacant for more than 8 years.
- The entire building was in disrepair and derelict.
- The windows and doors were boarded up with some windows smashed on the upper floors.
- Internally, the ground floor had exposed walls, exposed timbers and a temporary RSJ supporting the structure to the rear of the ground floor.
- The floorboard were no longer in place, and it was unsafe to access the property. The stairs to the basement are unsteady. The upper floors are no longer in situ and the roof is in serious disrepair.
- Rainwater ingress is evident throughout the building.

8.7 The Respondents concluded their precis of evidence by stating that the two properties under appeal referred to as PN 1278540(VA 19/5/0905) refers to lot 43. 44/ 2 West Street; PN 1278250(VA 19/5/0899) refers to lot 43. 44/ 1 and West Street including the entire basement area and PN 2202098(VA 19/5/0891) as well as Lot 4 PN 1320654 which was not under appeal were incapable of beneficial occupation. This decision was supported by photographic evidence. Ms Beale the valuer for the Respondent stated that she had investigated all of the particulars of the appeal, considered the grounds and evidence of the Appellant, agreed any matters of fact, and concluded that the property should be struck off the Valuation List

9.0 SUBMISSIONS

9.1 As noted in the final point of 8.5 above the Local Authority objected to the agreement to strike out the valuations. They sought an extension of time to file a response and were granted an extension to the 8th December 2022. On 30th November 2022, they emailed the Valuation Tribunal confirming that they had nothing further to file.

10.0 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 Louth County Council.

10.2 The parties having agreed to compromise the appeals on the terms aforesaid and the Tribunal having notified parties and the rating authority of the terms of the parties' agreement to dispose of the appeal and the Local Authority seeking to lodge an objection to the agreement did not subsequently lodge an appeal within the extended time period the Deputy Chairperson acknowledged the position of the parties and makes a determination consequent upon that agreement in accordance with pursuant to section 37 of the Valuation Act 2001 as amended and the parties agreement, and hereby allows the Appeal.

10.3 In consequence of the foregoing, the Deputy Chairperson as a division of the Tribunal confirms that the net annual value of the properties as stated in the valuation certificates decreases from €9,350, €17,070, and €10,450 respectively to €0 in each case.

10.4 The Tribunal makes no order for costs.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuations of the Properties as stated in the valuation certificates to €0 in each case.

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.