

Appeal No: VA19/5/1869

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ABP

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 305544, Warehouse/Warerooms at Ballymun, County Dublin**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF MAY, 2023**

BEFORE

Eoin McDermott - FSCSI, FRICS, ACI Arb

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on 14th 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 €395,000.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: “*Excessive valuation*”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €113,281.50.

2. RE-VALUATION HISTORY

2.1 On 15th 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 €395,000.

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 manager did it not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on 10th September 2019 stating a valuation of €395,000.

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

3. 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. The Appellant’s summary was prepared by Mr. Tadhg Donnelly of Donnelly & Associates and the Respondents summary was prepared by Mr. Oliver Parkinson.

3.3 Both summaries contained the Declaration and Statement of Truth required under Tribunal Rules.

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 The property is located on the northern side of the M50 and is 1km away from Junction 4 and 6.3 km away from. Junction 5.

4.3 The property comprises a former meat processing factory, now vacant. It is in good condition. The area of the property is as follows: -

Level	Use	Area (m ²)
0	Warehouse	4,844.38
0	Workshop	740.09
0	Portacabin	9.21
0	Dock levellers	3
	Total	5,593.68

5. ISSUES

5.1 The issue 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 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.”

6.3 Section 19(5) (inserted by section 7(b) of the 2015 Act) of the 2001 Act provides:

(5) The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the

valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)

—
(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list,

and so that (as regards the matters referred to in paragraph (b) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.

7. APPELLANT'S CASE

7.1 Mr. Donnelly, on behalf of the Appellant, described the property as being constructed in piecemeal fashion since 1950. He noted that the property was currently vacant and had not been used since 2000. He advised that the property consisted of a warehouse, security hut workshop, stores and plantroom. The site is described as very outdated.

7.2 Mr. Donnelly stated that there were 68 industrial buildings described as factory on the valuation list and said that only 2 properties had higher NAVs than the subject property. He put forward the following six NAV comparisons.

Property No	Use	Address	Valuation	Factory Level
226660	Factory	ABP, Kilculliheen, Waterford, Co Kilkenny	€404,000	€30
226674	Workshop	Munster Proteins, Kilculliheen, Wateford, Co Kilkenny	€42,800.00	€20
1299508	Factory	ABP, 21 Kyletaun, Rathkeale, Co Limerick	€170,500	€15
116970	Factory	Kepak, Cloonkelly, Athleague West, Roscommon, Co Roscommon	€235,500	€30
1446568	Abattoir	Kepak, Ardnaglew, Mullingar, Co Westmeath	€63,800	€17
2008270	Factory	Slaney Foods International, Ryland, Bunclody, Co Wexford	€565,700	€27

7.3 Mr. Donnelly gave his opinion that the property had grown significantly since its establishment and would represent a significant cost to the occupier to upgrade the property

to current standards. He said that much of the factory would be considered as very basic in terms of design and specification. He does note that the property is in a good location.

7.4 Mr. Donnelly seeks a valuation of €113,226.24, calculated as follows: -

Use	Area	NAV €/ m ²	NAV €
Warehouse	4,844.38	€20.00	€96,887.60
Workshop	740.09	€20.00	€14,801.80
Portacabin	9.21	€4.00	€36.84
Dock levellers	3	€500.00	€1,500.00
Total			€113,226.24

8. RESPONDENT'S CASE

8.1 Mr. Parkinson, on behalf of the Respondent, described the property and its location using photographs and plans contained in his submission. He notes that it is located just off Junction 4 of the M50 and describes the property as a former meat processing factory. The condition of the property is described as good.

8.2 In response to the Appellants submission, Mr. Parkinson notes that none of the NAV comparisons put forward by Mr. Donnelly are located in the same Rating Area as the subject property and that they must be disregarded for that reason. He states that the NAV comparisons put forward do not comply with the requirements of section 19 (5) of the Valuation Act 2001 – 2020 and are not valid comparisons for the subject of this appeal.

8.3 Mr. Parkinson notes that properties that are “similarly circumstanced” are considered comparable. He defines this as meaning that they share characteristics such as use, size, location and/or construction. Reference is made to market evidence underpinning the valuation scheme, although no such evidence is provided. He also puts forward 4 NAV comparisons as follows: -

Property Number	Address	NAV €/ m ²	NAV
2151408	NORTHPOINT BUSINESS PARK, NAUL ROAD (SWORDS), DUBLIN, CO. DUBLIN,	€ 85	€ 193,100

305547	3 ST ANNES INDUSTRIAL PARK, BALLYMUN ROAD, DUBLIN, CO. DUBLIN,	€ 80	€ 35,600
5001820	6 ST ANNES INDUSTRIAL PARK, BALLYMUN ROAD, DUBLIN, CO. DUBLIN,	€ 80	€ 23,300
2166301	5 HORIZON LOGISTICS PARK, DUBLIN, CO. DUBLIN,	€ 88	€ 366,000

8.4 Mr. Parkinson seeks a valuation of €395,000, calculated as follows: -

Use	Area	NAV €/ m ²	NAV €
Warehouse	4,844.38	€70.00	€339,106.60
Workshop	740.09	€70.00	€51,806.30
Portacabin	9.21	€28.00	€257.88
Dock levellers	3	€1,300.00	€3,900.00
Total			€395,070.78
Say			€395,000.00

9. SUBMISSIONS

9.1 There were no legal submissions. However, the Respondent did note the Tribunals decisions in VA00/2/032 Proudland Ltd. t/a Plaza Hotel to support its contention that the onus of proof lies on the Appellant.

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 Fingal County Council.

10.2 The Appellants case is that the valuation as proposed is not in accord with values of similar properties in the State, that the basic NAV level of the factory space should be set at €20 per m², that the property was originally constructed approximately 60 years ago and has been updated on a piecemeal basis subsequently.

10.3 The Respondents case is that the property is a former meat processing factory, now vacant and in good condition. It believes that the valuation is in line with the tone of the list for the local authority area. It values the main areas of the property at €70 per m².

10.4 The Appellant has relied upon historic valuations from meat plants located in Limerick (valuation date March 2012), Kilkenny (valuation date October 2015), Roscommon (valuation date October 2015), Westmeath (valuation date October 2015) and Wexford (valuation date September 2017). No evidence has been provided from the Fingal Local Authority area. The Tribunal does not consider the comparable evidence put forward by the Appellant to be of assistance in arriving at its decision.

10.5 The Respondent has put forward no evidence of any of the market transactions which informed the valuation scheme used to value the subject property. Four pieces of NAV evidence are put forward. NAV comparison 1 is an NCT Testing Centre located close to the subject property and the Respondent states that this adds an extra €15 per m² to the value, which would imply a basic NAV of €70 per m². It is noticeable that the photographs provided by the Respondent show a more modern building than the subject property. NAV comparisons 2 and 3 are both located adjacent to the subject property but are significantly smaller in size and the Tribunal does not consider them to be of assistance in arriving at its decision. NAV comparison 4 is a modern high bay warehouse located in a business park some 2km from the subject property. It is smaller than the subject property but not significantly so. This comparison is valued at €88 per m² and the Tribunal considers this to be the best evidence available in determining this matter.

10.6 The Tribunal finds that in this appeal, and in all appeals before the Tribunal, the onus of proof rests with the Appellant. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal's determination.

10.7 The Tribunal finds that the Appellant has not been able to demonstrate that the valuation levels proposed by the Respondent are incorrect.

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.