

Appeal No: VA20/4/0031

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Frances Spears T/A Mourne Antiques

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1691632, Retail (Shops) at 45 Upper Main Street Letterkenny,
County Donegal.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18th DAY OF AUGUST 2023**

BEFORE

Fergus Keogh - MSCSI, MRICS

Tribunal Member

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 26th day of November 2020 the Appellant appealed against the determination of the Respondent pursuant to which the valuation of the above relevant Property was fixed in the sum of €55.
- 1.2 The grounds of appeal as set out in the Notice of Appeal by the Appellant 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 because;

“1. The 'shop' floor is only marginally more than my last shop on the same street and is valued 3 times higher. i.e. 18 up to 55!.

2. Although the property is more prominent it was vacant for years and I have revitalised it on the street.

3. *One of the reasons given for the high valuation was the presence of a bank Safe 'Strongroom' with door. This door was removed years ago, so it's a basically an office with no windows.*
4. *Because it was formerly a bank, yes, it has bigger windows but the sills are high and not 'shop' windows.*
5. *It is an old building with damp and dry rot”.*

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €30.

2. VALUATION HISTORY

- 2.1 On the 21st November 2017 a Revision Request Application Reference Number 1691632 was made by Donegal County Council to the Respondent.
- 2.2 A Draft Valuation Certificate was issued to the Appellant on the 26th February 2020 stating a valuation of €55.
- 2.3 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation on the 31st March 2020. Following consideration of those representations, the valuation manager did it not consider it appropriate to provide for a lower valuation.
- 2.4 A Final Valuation Certificate issued on the 10th day of November, 2020 stating a valuation of €55.

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.
- 3.3 In this appeal the Appellant, Ms. Frances Spears trading as Mourne Antiques did not have professional representation. The Respondent was represented by Mr. Andrew Cremin of the Valuation Office, ('the Parties').

4. FACTS

4.1 The Tribunal finds the following facts;

4.2 The Property is located on Upper Main Street, Letterkenny in the section between the Post Office Building and Dillon's Hotel, diagonally opposite Church Lane and comprises the ground floor section of a part two storey part three storey over ground floor building with a surface car park to the rear. The car park accommodates 11 no. car parking spaces of which the Property has the use of 6 no. spaces. The upper floors are not occupied by the Appellant and are separately valued.

4.3 The building was formerly occupied by a commercial bank and is in the style of a typical provincial bank type property. It is constructed of traditional materials with cement rendered and painted walls, timber shop-front windows, sliding sash windows at upper floor level, a slate covered pitched roof and ornate detailing in the front elevation.

4.4 The Property occupies the ground floor section of the building and comprises a rectangular shaped shop area with a series of ancillary storage rooms, kitchen area and toilet facilities to the rear as follows;

Accommodation	Size Sq. m.	Size Sq. Ft.
Shop	58.92	634
Store	40.99	441
Total	99.91	1,075

4.5 The Property is held in held under an occupational lease for a term of four years and six months details of which are set out in Appendix 1 (n/a to public)

5. ISSUES

5.1 The issue in this Appeal is one of the quantum of the valuation of the Property. In the Notice of Appeal the Appellant contended for the valuation to be reduced to €30. The Respondent has requested the Tribunal to affirm the List Valuation of €55.

6. RELEVANT STATUTORY PROVISIONS:

- 6.1 All references hereinafter to a particular section of the Valuation Act ('the Act') refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act 2015.
- 6.2 Section 3(1) of the Act in relevant part defines "material change of circumstances" as meaning a change of circumstances that consists of:
- (a) the coming into being of a newly erected or newly constructed relevant property or of a relevant property.
- 6.3 If a revision manager is satisfied that a material change of circumstances as defined by section 3(1) of the Act has occurred since a valuation under section 19 of the Act was last carried out in the rating authority area in which the property is situated, the revision manager has power under section 28(4) (b) of the Act, if the property does not appear on the List and is relevant property, to do both of the following:
- (i) carry out a valuation of that property and
 - (ii) include the property on the List together with its value as determined on foot of that valuation.
- 6.4 Where a property falls to be valued for the purpose of section 28(4) of the Act that value is ascertained in accordance with the provisions of section 49 (1) of the Act which provides:
- (1) If the value of a relevant property (in subsection (2) referred to as the "first-mentioned property") falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.*

7. APPELLANT'S CASE

- 7.1 In the Notice of Appeal the Appellant stated five grounds of appeal which are set out in paragraph 1.2 above.
- 7.2 Ms. Spears for the Appellant submitted a précis which contained two external photographs of the building and seven internal photographs of sections of the ground floor of the Property. The text and commentary and the photographs in the précis relate to and refer to the condition of the Property. The external photographs indicate that the

building adjoins a derelict building and the internal photographs indicate areas within the Property that are described as being damp.

7.3 Ms. Spears did not included any valuation commentary, evidence or rental comparisons in her précis to support her opinion of the value of the Property.

7.4 Ms. Spears' commentary in her précis related to the condition of and issues with the fabric of the building.

8. RESPONDENT'S CASE

8.1 Mr. Cremin for the Respondent submitted that the subject Property should be valued at a valuation of €55 based on an NAV value of €136 per m² being applied to the retail area and an NAV value of €75 per m² being applied to the storage areas. In his précis he appended a property location map, building floor plans and both external and internal photographs of the building and the subject Property.

8.2 Mr. Cremin introduced details of six NAV retail comparisons located in the Upper Main Street and Main Street areas of Letterkenny which are valued by the Respondent at rates ranging from €136 per m² to €164 per m² in support of the valuation of €136 per m² for which he contended.

A summary of these comparisons is set out below with additional details set out in Appendix 2 attached (n/a to public)

Comparison Number	Comparison PN Number	€ NAV Per m²	RV
1.	1691691	Shop: €136.00	€26.00
2.	1691704	Shop: €155.00	€238.00
3.	1691678	Shop: €136.00	€138.00
4.	2191493	Shop: €155.00	€187.00
5.	1691724	Shop: €155.00	€125.00
6.	1691674	Store: €164.00	€94.00

- (i) Comparison number one PN 1691691, comprises the ground floor section of a two storey over ground floor corner property located diagonally opposite the Property with a retail area of 26.58 m² and a storage area of 21.54 m² which are valued at €136 per m² and €75 per m² respectively.
- (ii) Comparison number two PN 1691704, comprises the ground and first floors of a two storey over ground floor property located in the section between Church Lane and Market Square with a retail area of 260 m² and a first floor storage area of 136 m² which are valued at €136.30 per m² and €50.00 per m² respectively.
- (iii) Comparison number three PN 1691678, comprises the ground floor section of a two storey over ground floor property located in the section between Church Lane and Market Square with a retail area of 133.50 m², a storage area of 110.78 m² and an office area of 50.50 m² which are valued at €136 per m², €48.00 per m² and €88 per m² respectively.
- (iv) Comparison number four PN 2191493, comprises the ground floor section of a two storey over ground floor property located in the section between Church Lane and Market Square with a retail area of 204.60 m², storage area 1 of 14.0 m² and storage area 2 of 86.50 m² which are valued at €155 per m², €82.00 per m² and €52.50 per m² respectively.
- (v) Comparison number five PN 1691724, comprises of a two storey over basement property located in the section between Rosemount Lane and the Market Centre Shopping Centre with a retail area of 100.80 m², first floor retail area of 65.69 m², a first floor storage area of 39.38 m², a second floor storage area of 34.53 m² and a basement storage area of 20.82 m² which are valued at €155 per m², €82.00 per m², €95.69 per m², €33.50 per m², €20.50 per m² and €50 per m², respectively.
- (vi) Comparison number six PN 1691674, comprises the ground floor section of a two storey over ground floor property located in the section between Church Lane and Speer's Lane with a retail area of 114.32 m² and which is valued at €164 per m².

9. SUBMISSIONS

9.1 No legal submissions were made by the Parties.

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 Donegal County Council.
- 10.2 The Property is required to be valued in accordance with section 49 of the Act by reference to the values of other comparable properties on the Valuation List. It follows that the Tribunal must consider the nature of the comparative evidence submitted by the Parties in their respective précis and any additional evidence submitted at the request of the Tribunal to determine whether it supports the argument advanced on behalf of the Appellant.
- 10.3 The précis and the appendices submitted by the parties and the requested additional information submitted for clarification purposes have been all been considered by the Tribunal in arriving at this decision.
- 10.4 The Tribunal relies upon and can only decide an Appeal based on the evidence placed before it and it is a well-established principle that the onus rests with the appellant to prove his / her case and provide evidence to the Tribunal that the Respondent's valuation of the property in question is incorrect and that the valuation should be amended. This valuation evidence is to be submitted by way of a précis of evidence the required content and format of which is set out in the Valuation Tribunal (Appeals) Rules 2019. A copy of this document is issued to appellants.
- 10.5 In this appeal, the Appellant's précis did not contain any comparative valuation evidence related to the values of other comparable properties on the Valuation List. No valuation evidence was submitted by the Appellant for the Tribunal's consideration. The Appellant has failed to persuade the Tribunal that the Respondent's valuation should be disturbed.

DETERMINATION

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

And the Tribunal so Determines

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.