

**Appeal No: VA21/4/0098**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Jim Burke**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 5018895, Retail (Shops) at Unit 9 Forster Court Galway City, County Galway.

**B E F O R E**

**Donal Madigan - MRICS, MSCSI**

**Allen Morgan - FSCSI, FRICS**

**Úna Ní Chatháin - BL**

**Deputy Chairperson**

**Member**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 17<sup>th</sup> DAY OF AUGUST, 2023**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 24<sup>th</sup> day of November, 2021 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 €180.

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 28(4) of the Act because:

*“(a) The Valuation is Incorrect*

*This premises was part of a bigger combined unit, units 8 and 9 which was [formerly] a restaurant and licensed premises until 2010. [This] premises is vacant since then and is impossible to rent and a high valuation will not help to try and rent it in the future. It's off the main street at the entrance to a housing estate and cul [de]sac.*

*It must have a reduced valuation and be in line with other premises in the area that have a much lower valuation presently.*

*Unit 9 is impossible to rent due to its location with no interest shown in the property in the past few years.”*

1.3 In the Notice of Appeal, the Appellant stated that the valuation of the Property ought to have been determined in the sum of €50. In the précis and at the hearing of the appeal, the Appellant’s Agent contended for a valuation of €57.

## **2. VALUATION HISTORY**

2.1 On the 26<sup>th</sup> day of August, 2021 a copy of a valuation certificate proposed to be issued under section 28 of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €180.

2.2 No representations were made by the Appellant to the proposed valuation.

2.3 A Final Valuation Certificate issued on the 15<sup>th</sup> day of November, 2021 stating a valuation of €180.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held remotely via Zoom, on the 16<sup>th</sup> day of March, 2023. At the hearing the Appellant was represented by Mr. David Molony BSc MA of Hennigan & Company, Chartered Valuation Surveyors, and the Respondent was represented by Mr. Terry Devlin BSc, MSCSI, MRICS of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties’ Valuers 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 or affirmed, adopted his précis as his evidence-in-chief in addition to giving oral evidence. Both Expert Witnesses had provided standard declarations and a Statement of Truth in accordance with Rule 41 of the Valuation Tribunal (Appeals) Rules, 2019.

## **4. FACTS**

From the evidence adduced by the parties, the Tribunal finds the following facts:

4.1 The subject property is located in Forster Court fronting onto Forster Place, a cul-de-sac linked to Bothar Uí Either R336 approximately 500m north-east of Eyre Square in Galway City centre.

4.2 The subject property is a ground floor end of terrace commercial unit in a terrace of commercial units with overhead apartments.

4.3 The parties are agreed that the floor area is 217.03m<sup>2</sup>.

4.4 There is parking available in front of the property on Forster Place.

4.5 The property is held freehold by the appellant as owner.

4.6 The property previously formed part of a larger property comprising Units 8&9 Forster Court and was in use first as a supermarket and subsequently as a restaurant. The entire of this larger property became vacant in 2010 and remained vacant thereafter. The appellant purchased this larger property in 2016 and subdivided it into Units 8&9. In 2017 he refurbished and occupied Unit 8.

4.7 Unit 9, the subject property, is vacant.

4.8 The valuation of the subdivided property was revised in 2021. Unit 8 was assessed at the valuation of €85 based on a rate of €83.71 per square metre and the subject property was assessed at the valuation of €180 based on a rate of €135.21 per square metre.

## **5. ISSUES**

The sole issue for determination on this appeal is the quantum of the valuation of the subject property.

## **6. RELEVANT STATUTORY PROVISIONS:**

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment) Act, 2015) 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 Mr Molony, for the Appellant, stated that the location of the subject property was poor. He described the property by reference to a map and photographs. He submitted that the property is located on Forster Place, a road leading into a residential cul-de-sac approximately 1 km from Eyre Square. It is located opposite residential units. Forster Place branches left off Prospect Hill/Bothar Uí Either ( R336), a one-way route into the city. The subject property is located on the left hand side of the cul-de-sac as you turn left off the R336, so that it is not visible to passing traffic on the R336. He contended that the only passing traffic is in and out of the residential estate and that pedestrians travelling down the R336 have no view of the subject property. He stated that only pedestrians walking up the R336 have a view of the subject property. The subject property is concealed from passing traffic, in his view, and pedestrian footfall and that the property was therefore unique in terms of location.

7.2 He outlined that the supermarket, which operated out of Units 8&9, prior to their subdivision, had closed due to inadequate parking facilities and poor footfall. The restaurant which subsequently operated out of Units 8&9 closed and the subject property has been vacant since 2010. Since the appellant purchased the properties in 2016 and subdivided them, he said that his Client has been unable to secure a tenant for the property. He said that no interest has been shown in the property due to its secondary location as well as its dilapidated condition and he described it as that it is uninhabitable in his précis.

7.3 Four photographs, showing the interior of the subject property, were appended to Mr Molony’s précis at Appendix 6 (N/A to public) The photos showed unfinished walls, ceilings and floors with some visible pipework. Mr Molony said that the condition of the property, which was without running water or electricity, was not attractive to the market and accordingly it had been vacant for over 6 years. He asserted that it was uninhabitable and required major expenditure to bring it up to market standard.

7.4 Mr Molony stated that after the properties were subdivided, Unit 8 had been refurbished and occupied by the appellant in 2017 at a cost of €350,000 including €50,000 on fitout. The

remaining €300,000 was spent on structural repairs, improvements, and services. That refurbishment cost approximately €1,850 per square metre. At the same rate, it would cost approximately €401,450 ( $€1,850 \times 217\text{m}^2$ ), a substantial amount, to bring the subject property to marketable standard. He reiterated that the condition rendered it unattractive to the open market which was evidenced by the lack of interest in the property.

7.5 Mr Molony said the property had no comparators as it was the only commercial premises on Forster Place. The other properties in the development had infinitely superior profile on the R336. The valuation evidence should be heavily discounted to reflect the property's poor condition and inferior profile. Mr Molony included one comparator intentionally to reflect the location and condition, Unit 8 Forster Court, from which the subject property was separated, and which is also owned by the Appellant and had been in an identical condition.

7.6 Unit 8, Forster Court was valued as follows:

Shop  $162.22\text{m}^2$  @ €83.71 per square metre = €13,579.44  
Reducing factor 0.0063% = €85.55 giving a rounded Rateable Value of €85.

That property is also occupied by the Appellant, is finished to a high standard and has frontage onto the R336. Mr Molony clarified that Unit 8 has 20 metres of frontage onto the R336 and 7m onto Forster Place, while the subject property has 12m of frontage onto Forster Place only, a limited profile.

7.7 Mr Molony stated that the valuation of the subject property was genuinely inequitable and proposed a reduced valuation of the subject property as follows:

Shop: $217.03\text{m}^2$ @ € 83.71 per square metre	€18,167.58
Less 50% allowance for location and poor specification	€ <u>9,083.79</u>
Total:	€ 9,083.79

€9,083.79 @ reducing factor 0.0063% = €57.23 rounded to Rateable Value €57

7.8 In cross-examination, Mr Molony rejected that the property was capable of occupation and stated that it was in shell and core condition, which, while undefined, is widely accepted as a commercial unit finished with a suspended ceiling, floor, light – none of which the subject property has. While Mr Molony agreed with Mr Devlin that a tenant would put in fit out, he stated that first a landlord would have to carry out structural works in the case of the subject property prior to a tenant taking on the unit. In response to a comment that the figures adduced in evidence were not worked out or costed but were calculated by reference to the next-door unit, Mr Molony said that it was not possible to get a better comparison as the unit next door had been in an identical condition to the subject property and agreed he had not provided any other details other than the figures furnished verbally in evidence, which he had received from the owner.

7.9 Mr Devlin asked about the closure of the units due to poor parking and footfall, asking whether that was hearsay and suggesting the subject property was in a good location off the R336 and benefitted from good frontage with a wide window. Mr Molony said that there was no passing traffic or visibility except to traffic passing into the residential estate, and agreed there was 12m frontage onto Forster Place. He did not agree there was a large amount of traffic passing, stating that there were only approximately 30 houses in the cul-de-sac.

7.10 Mr Molony agreed there were spaces for approximately 8 cars to park outside the subject property which was beneficial to the unit. When asked why he had not used the properties with frontage onto the R336 as comparators, Mr Molony stated they were not comparable due to their superior location and the unit next door was the closest comparator subject to a discount to reflect location. Mr Devlin suggested to him that the parking conferred a benefit on the subject property which the properties on the R336 lacked. Mr Molony agreed there was no parking on the R336 but stated that the spaces were not exclusively for the use of the subject property and could be used to benefit the other properties also.

7.11 When asked what other properties in Galway apart from Unit 8 were valued at €83 per square metre, Mr Molony stated that the subject property stood alone in terms of location and condition. When asked for the basis of the 50% discount sought, Mr Molony stated that it was his opinion.

7.12 In response to a question from the Tribunal about the valuation of the properties prior to subdivision, Mr Molony said he did not know the previous valuation. In response to a further question about whether he had looked at any larger units such as a large unit on Forster Place facing the subject property, Mr Molony said he did not, and had not enquired about it.

## **8. RESPONDENT'S CASE**

8.1 Mr Devlin, for the Respondent, stated that the subject property enjoys profile to the main road as well as profile to passing traffic into the residential area, with a large, glazed frontage and is close to Eyre Square, on Brendan O'Hare Road (R336) which leads up to Prospect Hill, one of the main routes into Galway City centre. He adduced maps and photographs to illustrate.

8.2 Mr Devlin submitted a number of photographs of the exterior and interior of the subject property, which he said was in the condition shown since the last tenant had left and described the subject property as being in core condition and capable of occupation, subject to a hypothetical tenant adding their own fit out to the unit. He stated that there was no evidence of the type of allowance proposed by the Appellant's agent being applied to units in a similar condition.

8.3 In his précis, Mr Devlin described the valuation of the adjoining Unit 8 as "an anomaly" and stated that the level of € 83.71 per square metre was not in line with the valuation levels applied to other retail units in the development.

8.4 Mr Devlin adduced four comparable properties in line with which the subject property had been valued, all being retail units from the same development as the subject property.

(a) Comparison 1 is Unit 2 in the development and located on the R336. This is a retail unit with a floor area of 65.73m<sup>2</sup>, with a Rateable Value of €55.87, based on a unit value rate of €135.21 per square metre.

(b) Comparison 2 is a Unit 3 in the development and located on the R336. This has a floor area of 59m<sup>2</sup> and the Rateable Value is €50.79, based on a unit value rate of €134.29 per square metre.

(c) Comparison 3 is Unit 4 in the development, located on the R336. This has a floor area of 59.07m<sup>2</sup> and the Rateable Value is €50.79, based on a unit value rate of €134.13 per square metre.

(d) Comparison 4 is Unit 1 of the development, located on the R336. This has a floor area of 65.73 m<sup>2</sup> and the Rateable Value is €56, based on a unit value rate of €135.23 per square metre. It has been converted to an apartment but was valued as commercial on the valuation list at the relevant date.

8.5 Mr Devlin said that all the comparable properties were from the same development and valued at the same rate, which was applied to the subject property and from where the valuation of the subject property was derived. He said that a map on page 24 of his precis showing the proximity of the properties to each other and the subject property showed their proximity and comparability.

8.6 Given the good profile of the subject property and its location under 1km from Eyre Square, the fact that it was capable of occupation and in shell condition, and the fact that the Appellant only supplied one comparable to support his opinion of value, and no evidence to support the 50% discount contended for, Mr Devlin contended for the affirmation of the valuation on the list of €180, which he calculated as follows:

217.03m<sup>2</sup> @ € 135.21 per square metre = € 29,344.65

€ 29,344.65 @ reducing factor 0.0063 = € 184.87

Rounded down to say, Rateable Value € 180

8.7 In cross-examination, when asked how a property in shell condition could be capable of occupation, Mr Devlin said that it was capable of rateable occupation, was not derelict, and could be used. It was secure and without access issues. It was in good condition externally. Electricity was brought through the building and just required connection. There were bathroom and toilet facilities to the rear. The property was capable of occupation. When asked what was required to bring the property up to standard for occupation, Mr Devlin repeated that it was capable of occupation but a tenant would install wall claddings and finishes. He said that although the floor needed work, that this could be agreed between a landlord and tenant. Mr Molony asked if that was the case where there were barefaced concrete block walls, exposed pipes, torn insulation, broken floors. Mr Devlin responded by saying that it was not unusual for a tenant to go into a shopping centre and instal a fitout. He contended that while the unit was not plastered and the floor needed to be levelled out, the walls were structurally sound and it was not unusual for a tenant to carry out fitout.

8.8 Mr Molony asked whether, in Mr Devlin's opinion, a landlord would discount the rent to reflect the condition of the property. Mr Devlin said that depended on the market, on what was available and what a tenant was looking for. For fitout to be done, there would either be a rent-free period or a contribution to the fitout from the landlord. When asked to agree that a market rent would not pertain to the subject property due to the works required (as some discount was required), Mr Devlin said that market rent was not what was relevant on a revision appeal. He said that a discount was something that hypothetically would be agreed between a landlord and tenant.

8.9 In reply to a question from Mr Molony to set out his preferences in terms of which of the comparators he would like most to rent, Mr Devlin stated that it would depend on the type of business in question. The subject property benefitted from a large glazed frontage and car

parking and would be suitable for a destination business. By contrast, he submitted that it was difficult to get in and out of the units on the R336. He said that the subject property was less than a ten minute walk from Eyre Square and the other units would be a draw also. Mr Devlin accepted that the parking spaces were open parking spaces and not exclusive to the subject property.

8.10 When asked about whether it was normal practice for Valuation Office valuers to make allowances for locational disadvantages in their assessment of value, Mr Devlin said it depended on the individual property and that the benefits of the subject property such as good frontage and parking spaces balanced out any allowance for not being located on the side of the street.

8.11 Mr Molony asked Mr Devlin to explain how Unit 8, inspected on the same day as the subject property, being a property of 162.22m<sup>2</sup> with double frontage, 20m on the R336 and 7m on Forster Place, was valued at € 83.71 per square metre to give a Rateable Value of €85, and Unit 9, the subject property, being a property of 217.03m<sup>2</sup> with only 12m frontage onto Forster Place, and being hidden around the corner with a low footfall, was valued at €135.21 per square metre, giving an Rateable Value of €180. Mr Devlin said that he accepted that Unit 8 was on the list at that valuation but stated that it was an anomaly, and probably incorrectly valued at €83.17 per square metre.

8.12 When asked to describe the valuation process, Mr Devlin said that he was a Revision Manager, and ultimately responsible. A Revision Officer was in charge of the valuation and it went before Mr Devlin before being issued. Mr Devlin had inspected the property in 2022. The property had been surveyed but the Surveyor did not carry out the valuation and was not the Revision Officer. Mr Devlin did not agree when asked that the valuations of Units 8&9 had been confused in a desk valuation and stated that he had inspected the property and the valuation of the property was in line with other properties on the list. He said that it was not in good condition but must be valued in line with other properties on the list. He stated that it was no more simplistic to stand back and look than it was to claim a discount of 50% without providing evidence for it.

8.13 In answer to questions from the Tribunal, Mr Devlin said there was insufficient information available to provide evidence in respect of Units 5,6 and 7 in the development but his understanding was that they were all valued on the same basis. He said he did not know why Unit 8 was valued at a lower rate but that this sometimes happens. He said that he would supply the original valuation details of the units prior to subdivision. He confirmed that the car parking spaces were not separately valued. When asked, in respect of the size of the units, as the subject property was several times the size of the comparators, what else he had looked at, to compare with the subject property and whether he had looked at a particular large property opposite the subject, he said that he found nothing else because there was insufficient information in a lot of Galway City property records to determine where valuations had come from. This, he said, was because they were valued a long time ago. When asked if he accepted that the location of the subject property was inferior to the other units, he agreed that the other units had profile on a busy road but said that the subject property had a large shop front and car spaces and that one factor must be balanced against the other. He added that there were double yellow lines in front of the small units on the R336.

## **9. SUBMISSIONS**

There were no legal submissions from either party.

## **10. FINDINGS AND CONCLUSIONS**

10.1 On this appeal the Tribunal has to determine whether the value of the Property accords with that which is required to be achieved by section 49. of the Act, namely a value that is relative to the value of other properties on the valuation list of Galway City Council rating authority area.

10.2 The notice of appeal set out as grounds of appeal that the property was impossible to let, was poorly located, and that its valuation was not in line with other premises. The Appellant's agent contended at the hearing for a Rateable Value of €57 rather than €50 as set out in the notice of appeal. The Surveyor for the Respondent sought affirmation of the Rateable Value of € 180.

10.3 The Tribunal accepts the evidence of the Appellant's agent that the subject property is in an inferior location in comparison to the comparable properties adduced. The Tribunal rejects the suggestion of the Respondent's Surveyor that the property's relative proximity to Eyre Square renders its location desirable or that it has a good profile. The 12m of glazed frontage which the Respondent's Surveyor describes as a benefit to the property faces onto a quiet road leading into a residential cul-de-sac. The subject property has little to no visibility to traffic or pedestrians on the main road. The subject property has been vacant since the original unit was subdivided, and prior to that material change of circumstances, the original unit had been vacant since 2010, a total period of vacancy of over 12 years. The parking in front of the subject property is unallocated and of benefit to all the units in the development and cannot be counted a unique advantage of the subject property. The Tribunal rejects the Respondent's contention that the advantages of the property, being its frontage and the parking available, balance out the disadvantage of not being located on the main road.

10.4 The Appellant's witness contended for a 50% discount in the valuation in part because the subject property is "uninhabitable" (or more appropriately unusable) due to its condition. There was no contention that the property was incapable of rateable occupation. There was no factual dispute as to the condition of the property as both parties submitted photographs of the interior. The photographs submitted show bare walls and a floor in poor condition. The Appellant did not contest the evidence of the Respondent that the property has been in the same condition since it was vacated by the last tenant in 2010. The Tribunal accepts the Respondent's Surveyor's uncontested evidence that the property merely requires connection to services, is structurally sound, and has no access issues and considers that the shell condition of the subject property would not be a deterrent to a potential tenant. The figures provided by the Appellant's witness at the hearing of the appeal to demonstrate the costs of renovation of the property were not detailed nor specific, and not set out in his précis nor supported by any independent professional evidence. Consequently, the Tribunal does not consider them to be of any assistance. The Appellant's Valuer has not established any basis for the reduction claimed. The Respondent's witness accepted that if the property were let, a rent-free period or contribution to fitout might be agreed between the landlord and tenant.

10.5 The four comparators adduced on behalf of the Respondent are very similar to each other, forming part of a terrace of retail units facing onto the R336, ranging from 59.07m<sup>2</sup> to 65.73m<sup>2</sup>



in size, and valued at approximately €135 per square metre (€134.13-€135.23). The four comparators have an unquestionably superior profile to the subject property, facing onto a busy main artery into the city as opposed to a quiet entrance to a residential cul-de-sac without visibility from the main road. Similarly, the comparator adduced on behalf of the Appellant, Unit 8, being 162.22m<sup>2</sup> in size and valued at €83.71 per square metre, has 20m of frontage on the R336 as well as 7m of return frontage onto Forster Place. The Appellant's comparator is also far closer in size to the subject property than the Respondent's comparators, which are significantly smaller.

10.6 It is most unsatisfactory that the Respondent's witness described the Appellant's comparator, a property on the list and which was valued as recently as 2021, as "an anomaly", "probably incorrect" and was unable to explain the reasoning behind its valuation. The Respondent also failed to provide evidence of valuation of the other 3 units in the development, and of another commercial unit on Forster Place. In the view of the Tribunal it is not readily apparent that the valuation of Unit 8 is an anomaly as, having regard to its size, relative to the other smaller main road comparables, it appears to be uniformly and equitably assessed.

10.7 Upon request, the Respondent, following the hearing, furnished the Tribunal with a valuation report relating to the valuation of the subject property prior to the material change in circumstances which prompted this revision. The valuation report arose from a previous material change in circumstances, and was compiled in 2003. The material change in circumstance in question was the subdivision of Unit 7 from Units 8 & 9 Forster Court. The Rateable Value of the 3 units 7,8 & 9, prior to the 2003 revision was €222.20. The 2003 valuation report showed a total Rateable Value of €200 for Units 8&9 combined. No floor areas are set out in the report. There is an abbreviated calculation of a NAV of €31,296 which was rounded up to € 32,000, and after applying the reducing factor of 0.0063% and further rounding, resulted in the Rateable Value of €200.

10.8 In the 2021 revision, Unit 8 was assessed at €85 (€83.71 per square metre) and the subject property was assessed at €180 (€135.21 per square metre), €265 in total, a €65 or 32.5% increase of value of the units from the 2003 valuation of €200 apparently by reason of their subdivision. The subject property carries most of that burden, having been valued at over twice the value of Unit 8. This is so notwithstanding that the subdivision of the property resulted in the significant locational disadvantage of the subject property in that it is now the only unit in the development which lacks frontage onto the main road, while Unit 8 enjoys dual frontage. The valuation of the subject property must reflect that disadvantage to avoid inequity.

10.9 The Tribunal is of the view that the undivided Units 8 and 9 are the most appropriate comparator for the subject property in this case, given that the original unit was merely partitioned in 2017 rather than changed in any more substantial way. The Tribunal is entitled to take this approach as clarified by the High Court in *Dayhoff Ltd v Commissioner of Valuation* [2020] IEHC 661, confirmed in the Court of Appeal [2022] IECA 35.

10.10 (a) The Rateable Value before the 2021 revision for Units 8 & 9 was € 200. Post revision by reason of their partition, in essence the value ought to be the same except to the extent that the divided units might differ from the undivided unit in terms of size, relative micro location etc.

(b) The current revision exercise provides the following net floor areas for the two units and their corresponding Rateable Values as follows:

PN 1158705	Unit 8	162.22m <sup>2</sup>	RV €	85.00
PN 5018895	Unit 9	217.03m <sup>2</sup>	RV €	<u>180.00</u>
	Total:	379.25m <sup>2</sup>	€	265.00

There is considerable doubt on the justification for the disparity between these figures given the information gained from the exchanges at the hearing.

(c) On a simple apportionment based on present day floor areas, the 2003 Rateable Value could be divided as follows:

Unit 8	162.22m <sup>2</sup>	(42.77%) X RV € 200 =	€ 85.54
Unit 9	217.03m <sup>2</sup>	(57.23%) X RV € 200 =	€ <u>114.46</u>
		Total:	€ 200.00

(d) Notwithstanding the smaller size of Unit 8, its superior profile makes it significantly more appealing to a prospective tenant than the subject property. In the view of the Tribunal, a more equitable approach would place the relative rental value of Unit 8 at 10% better than Unit 9.

Applying a 10% uplift to Unit 8 readjusts the figures and apportions the 2003 Rateable Values between Unit 8 and Unit 9 as follows:

Unit 8	42.77% X 1.1	= 47.047%	X 200	= € 94.094
Unit 9	(57.23% less 4.277%)	= 52.953%	X 200	= € <u>105.906</u>
		100.000%		= € 200.00

Accordingly, if the apportioned value is rounded this provides a Rateable Value of €106 for the Subject Property.

(e) Expressed another way, this revised analysis can be applied to the 2003 RV figures and modifies the unit value rate per square metre for Unit 9 as follows:

Unit 9	217.03m <sup>2</sup>	@ € 77.53 per square metre =	€ 16,826.34
		€ 16,826.34 @ reducing factor 0.0063 =	Rateable Value € 106

10.11 The Tribunal is satisfied that the valuation thus arrived at is in line with the tone of the list for the following reasons. The Respondent's comparators are less than one third the size of the subject property. Although their location is proximate, they are situated in a prominent location on a busy main artery into the city while the subject property is essentially located in a residential road, more or less concealed from passing traffic on the one-way main road. In order to achieve an equitable valuation, relative to the value of other comparable properties, an allowance has to be made for the significant locational disadvantage of the subject property compared to the other properties in the development, which has arisen as a consequence of the material change in circumstances leading to the revision. A reduction of approximately 40% in the rate per square metre is not unreasonable to reflect the size of the unit and inferior location relative to the unit value rates adopted in the other comparables.

10.12. Furthermore, in the view of the Tribunal it is not readily apparent that Unit 8 is undervalued as, having regard to its size, relative to the other smaller main road comparables, it appears to be uniformly and equitably assessed which, by contrast, does not appear to have been the case with the subject property which is simply assessed at the same unit value per square metre as the much smaller units in the better profile location. The valuation of Unit 9 appears more anomalous than the valuation of Unit 8 and the Tribunal is influenced by the ultimate unit value ascribed to Unit 8.

10.13 The Tribunal finds that, after proper investigation and consideration, the devaluation of Unit 8 as a comparable provides a more realistic guide to the comparative value (or, relativity to their assessments as directed by sec. 49) of the subject property in contrast to the unit value rates per square metre derived from the better located smaller units. Accordingly, the Tribunal is satisfied that the Rateable Value of €106 is equitable and uniform relative to the value of other comparable properties on the list.

#### **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 €106.

#### **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.