

**Appeal No: VA19/5/0264**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**David J Morgan t/a Molly's Bar**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 1278765, Hospitality at Reynoldstown, Clogher, Louth, County Louth.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 13<sup>TH</sup> DAY OF OCTOBER 2023**

**BEFORE**

**Barry Smyth - FRICS, FSCSI, MCI Arb**

**Deputy Chairperson**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 1<sup>st</sup> 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 €2,600.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *“This public house has effectively stopped actively trading. In 2018 its sales were less than €2,000; in 2019 there has been no activity. The valuation appears to be based on a figure of €1100 as a base increased by €1500 based on a turnover of ca. €25,000 in 2017. Since there is effectively no more trade and very little prospect of further trade for reasons outlined in the submission of May 3 it is considered that the valuation should be as close as reasonably possible to the base figure of €1100.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €1,300.

**2. RE-VALUATION HISTORY**

2.1 On the 29<sup>th</sup> 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 €25,000.

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 of the Property was reduced to €2,600.

2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September 2019 stating a valuation of €2,600.

### **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.

### **4. FACTS**

The parties are agreed as to the following facts.

4.1 The property is located in a rural area in Co. Louth at Murray's Cross approximately 5km north west of Clogherhead, 26km south of Dundalk and 12km north of Drogheda.

4.2 The property comprises a small single storey public house. There is adjoining and interconnected domestic accommodation which is exempt from being assessed for rates.

4.3 The accommodation comprises a bar of 48.8 sq. m. with a side room of 16.8 sq. m. and WC facilities. The accommodation is basic. A suite of photographs of the public house and a block plan of the pub and residence were provided.

4.4 Turnover figures were provided for the years 2014 to 2017 with an estimated figure for 2018. These are in an appendix to this judgment (n/a to public)

4.5 The statutory valuation date is the 15<sup>th</sup> September 2017 and the date the valuation list was issued was the 17<sup>th</sup> September 2019.

### **5. ISSUES**

The only matter in dispute is the quantum of the Net Annual Value (NAV).

### **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 The Appellant set out his case in his submission at representation stage, the notice of appeal to the Tribunal and his response to the Respondent’s precis of evidence. He noted the following:

7.2 This pub business is an adjunct to the residence, run as a sole trader by the owner who does not live at this address.

7.3 Despite some refurbishment to the pub in 2013 revenue has been declining. In 2018 due to hospitalisation of the owner the pub was only open for two nights and in 2019 did not operate at all.

7.4 Leasing the pub is not feasible because of the integral nature of the residence.

7.5 The effective rental value is, subjectively, zero.

7.6 In the opinion of the Appellant the appropriate Net Annual Value or NAV is €1,300 and the general minimum NAV for Co. Louth is not justified in this case.

## **8. RESPONDENT’S CASE**

8.1 The Respondent’s case was set out in the Statement of Evidence of the Commissioner’s representative Olwyn Jones of 25/10/2022.

8.2 Ms. Jones noted that at representation stage the valuation had been reduced from €25,000 to €2,600 following receipt of turnover information for the years 2014 to 2017.

8.3 In the valuation scheme for licensed pubs in Co. Louth pubs with a Fair Maintable Trade (FMT) below €100,000 are valued at 6% of FMT with a minimum NAV of €2,600.

8.4 In this instance a FMT of €25,000 per annum was adopted which would provide for an NAV of just €1,500 but applying the valuation office scheme minimum a NAV of €2,600 was fixed.

8.5 Ms. Jones provided various comparisons details of which are appended to this judgment. (n/a to public) These included two Key Rental Transactions, one in Drogheda and the other in Dundalk.

8.6 She provided three NAV comparisons from Clogherhead with NAVs of €19,200, €17,500, and €25,000 and acknowledged that the subject is in a more rural and isolated location.

8.7 She then introduced six other NAV comparisons in County Louth, four of which are located in rural settings, where the minimum NAV of €2,600 was entered on the list. These are summarised as follows:

Comparison No. 4 Rural location

FMT: €30,000

NAV: €2,600 Not appealed to the Valuation Tribunal

Comparison No. 5: Rural location

FMT: €50,000 less entertainment allowance

NAV: €2,600 Not appealed.

Comparison No. 6: Small town fringe

FMT: €7,000

NAV: €2,600 Not appealed.

Comparison No. 7: Rural location

FMT: €35,000

NAV: €2,600 Not appealed.

Comparison No. 8: Rural location

FMT: €35,000

NAV: €2,600 Not appealed.

Comparison No. 9: Town location

FMT: €30,000

NAV: €2,600 Not appealed.

8.8 Four further NAV comparisons (10-13) of rural pubs were introduced where the FMTs ranged from €65,00 to €80,000, in each case valued at 6% of the FMT. It was acknowledged that, albeit rural, these are in more populated locations.

8.9 Ms. Jones' opinion of the correct NAV for this property is €2,600 calculated on the basis of Fair Maintainable Trade, drink sales, €25,000 per annum at 6% €1,500 with the minimum NAV of €2,600 applied.

8.10 In summary Ms. Jones noted the NAV for the subject property has been set at the minimum level €2,600 in line with the valuation scheme for pubs in County Louth which reflects what the Commissioner considers the minimum a potential hypothetical tenant would pay in rent for a full year at the valuation date of the 15<sup>th</sup> September 2017, and this equates to just €50 per week. This level of €2,600 is on the basis that a reasonably efficient tenant occupying the premises would expect to achieve drink sales in the region of €43,333 per annum and comparisons 10 to 13 outlined demonstrate this level of trade is achievable for a rural pub such as this.

## **9. SUBMISSIONS**

9.1 There were no legal Submission.

## **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 Louth County Council.
- 10.2 The Appellant provided no comparisons in support of his estimate of the appropriate NAV.
- 10.3 The proprietor's personal circumstances are not relevant to the assessment of the NAV. The valuation is on the basis of the property being "vacant and to let".
- 10.4 It is not accepted that the public house element of the property is incapable of being let separately to the residential accommodation.
- 10.5 In relation to the Respondents comparisons the two Key Rental Transactions are not comparable with the subject property in location terms and the comparisons from Clogherhead were acknowledged to be better located than the subject and also appeared from the photographs provided to be superior properties.
- 10.6 Of more relevance are the six pubs in County Louth that are valued at the minimum NAV of €2,600. The FMT on drink sales in these varied from as low as €7,000 to €35,000 per annum but each was valued at €2,600. None of these was appealed to the Valuation Tribunal. There is therefore an emerging "tone of the list".
- 10.7 The fact that some rural pubs in County Louth have FMTs in the range of €65,000 to €80,000 does not demonstrate that this pub could achieve anything approaching that level.
- 10.8 The onus of proof lies with the Appellant and in this instance the Appellant has not proven that the valuation entered onto the list is incorrect, whereas the Respondent has supported the valuation with suitable comparisons in particular pubs with low estimates of FMT where the minimum NAV of €2,600 has been applied and accepted.

### **DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent in the sum of NAV €2,600.