

Appeal No: VA19/5/0282

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Valerie's Hairstudio

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2161200, Retail (Shops) Hairdressing Salon at 79 Main Street (Ground floor), Cashel, County Tipperary.

B E F O R E

Dolores Power - MSCSI, MRICS

Deputy Chairperson

Barra McCabe - BL, MRICS, MSCSI

Member

Raymond J. Finlay - FIPAV, MMIL, ACI Arb, TRV, MCEPI, PC

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF NOVEMBER, 2023**

1. THE APPEAL

1.1 By Notice of Appeal received on the 8th 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 €11,300.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *“The passing rent being paid is €10,800 per annum so calculation is wrong and being overcharged. Also property is not actually on Main Street, it's situation is actually almost behind town hall. Shop is a hairdresser's and not all floor space is being used.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €10,100.

2. REVALUATION 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 a valuation of €11,300.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €11,300.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September, 2019.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 28th day of March, 2023. At the hearing the Appellant Ms Valerie O'Brien appeared in person and the Respondent was represented by Mr Andrew Cremin of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties 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, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The subject property is used as a Hairdressing/Beauty Salon.

4.3 The property's location is central to Cashel located on Main St.

4.4 The accurate measurement of the property is now agreed at:

Retail Zone A 42.03sq.m.

Shop Zone B 14.14sq.m.

Store 8.82sq.m.

Total 64.99sq.m.

4.5 The property is held on a short term lease that has been inflating by agreement on review.

4.6 The Hearing was held remotely after a preliminary meeting on 3.3.23 between all the parties to discuss the presentation, précis and procedure of an appeal.

5. ISSUES

5.1 The main issue was the misunderstanding between the parties of a flawed measurement of the property by the respondent on their visit for valuation purposes.

5.2 There was some misunderstanding and confusion from the Appellant in relation as to the whole business of Rating and how Appeal is managed.

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.”

7. APPELLANT’S CASE

7.1 The Appellant gave evidence that she was advised that the value placed on the property was incorrect, by an unnamed third party, as there had been an incorrect measurement given by the Respondent initially on which a valuation had been raised, but this issue of measurement had been now agreed at the figures shown.

7.2 The Appellant felt that the rates demanded were too high for the shop area utilised.

7.3 The Appellant felt that the recent improvements of Cashel Main St’s layout and access had not improved her business. She also added that her location was behind the corner of the old Town Hall.

7.4 The Appellant gave evidence that the rental on the property had risen from €850 per month to €1,050 per month in the rent reviewed periods.

7.5 The Appellant voiced concerns that the property was now not well serviced from free available parking. The Appellant voiced concerns that the Hotel has corralled a number of spaces of the previously free and accessible car spots located behind the old town hall. This, in the Appellant’s opinion, has left the car parking less accessible to her premises.

8. RESPONDENT’S CASE

8.1 The Respondent was clear that the ‘Typo’ that led to the area discrepancy had now been clarified and agreed.

8.2 The Respondent pointed out the relevant date is 10th September 2019 and not the date of inspection as was at the core of the issue.

8.2 The Respondent felt, that as evidenced in his precis, the NAV rate of €220/m² had been proven to be accepted in four directly adjacent properties on Main St Cashel, as he used these as comparisons in his precis of subject Property No 2161200.

Comparison 1: No 1350614, Similar location, NAV €220/m² Zone A

Comparison 2: No.1350614, Similar location, NAV €220/m² Zone A

Comparison 3: No 1350576, Similar location, NAV €220/m² Zone A

Comparison 4: No.1350444, Similar location, NAV €220/m² Zone A

All four comparisons were indicated to be of a fair comparison size, location and retail use.

8.4. Mr Cremin was adamant that the subject property enjoyed the benefits of location that his comparisons in his Precis also enjoyed.

9. SUBMISSIONS

9.1 There were no legal submissions.

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 Tipperary County Council.

The Tribunal's view of this case was relatively simple and straightforward.

Although there was a certain sympathy with the Appellant, she chose to represent herself even though the Chair advised, at the initial previous discussions of 2/3/23, that perhaps some professional input on her behalf could have assisted and clarified the situation for her. A certain lack of procedural and evidential knowledge was manifest.

The Area dispute had been mutually resolved and agreed.

No comparable rental evidence was provided by the Appellant as proof that the Respondent had incorrectly calculated the NAV of the subject property.

Based on the evidence provided that Tribunal did not not concur with the Appellants opinion that the improvements to the (now) pedestrian square in front of the subject property and the consequent elimination of car spaces from this area had negatively affected the Appellants business. It was the Tribunal's view that the increases in rent to which the Appellant had agreed was evidence, of her willingness to remain and continue trading successfully from the subject property

However, the Tribunal takes issue with the Respondent in relation to the amount of €132/sq.m. as the NAV relating to the Shop area B. The Tribunal finds that it is well established and accepted that the Shop Area B NAV should be 50% of the relevant Retail Zone A NAV. This fact is historically evident as the accepted method of valuation by not only the Commissioner but also the professional property bodies and is further evidenced by three of the Respondent's Comparisons.

The Tribunal determines that in this case the Retail Zone A NAV is proven at €220/m².

The Tribunal also determines that €110/m² is the appropriate NAV in respect of Zone B ("The Shop"),

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and amends the valuation of the Property as follows;

NAV Zone A	€220/sq.m.	€9,246.60
NAV Zone B	€110/sq.m.	€1,555.40
NAZ Store	€ 22/sq.m,	€ 194.04
Total		€10,996.04

Say **€11,000**