

**Appeal No: VA19/5/0859**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Easy Fuels LTD**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2164349, Fuel/Depot at Local No/ Map Ref:9E/1 Ballinacor East, Dunganstown South, Rathdrum, County Wicklow.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 14<sup>th</sup> DAY OF NOVEMBER 2023**

**BEFORE**

**John Stewart, FSCSI, FRICS, MCI Arb**

**Deputy Chairperson**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 14<sup>th</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 €100,000.

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 19 (5) of the Act because:

*“Valuation is excessive”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €15,000.

**2. RE-VALUATION 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 €100,000.

2.2 A Final Valuation Certificate issued on the 10th day of September 2019, stating a valuation of €100,000.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15<sup>th</sup> day of September 2019.

### **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**

4.1 The parties are agreed as to the following facts.

4.2 The subject property is located in Dunganstown South, Rathdrum, Co. Wicklow. It comprises a busy filling station on a busy stretch of road and includes a yard for storage and a forecourt with fuel pumps and a shop. The business operates a 24-hour service station and is used as an HGV rest station.

### **5. ISSUES**

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.”

### **7. APPELLANT’S CASE**

7.1 The Appellant provided a precis of evidence in relation to the premises at Rathdrum Co. Wicklow to support a reduction in the net annual value of the subject property. Mr Donnelly, the

Appellants valuer stated that the valuation had been based on information and documents provided to him by Easy Fuels Limited and that he had relied on this information for the purposes of this report.

7.2 Mr Donnelly provided a statement of truth and confirmed that the valuation date was the 15<sup>th</sup> September 2017. He provided a location map identifying the subject property and referred to the full and final certificate of the 10<sup>th</sup> September 2019 with an estimated NAV of €100,000. He noted that the valuation had remained unchanged on publication on the 10<sup>th</sup> September 2019 and an appeal was lodged to the Tribunal.

7.3 Mr. Donnelly described the subject property as being located in Dunganstown South, Rathdrum, County Wicklow and that it comprised a busy filling station on a busy stretch of road, he further stated that it consisted of a yard used for storage and a forecourt with fuel pumps and a shop. He noted that this was a busy fuel station located on a busy road and was a 24-hour service station and used as an HGV rest station. In a pre-Tribunal exchange Mr Donnelly provided a spreadsheet referred to as a sales sheet for 2016-2019 on 29<sup>th</sup> August 2023. On the 6<sup>th</sup> September the Valuation Office wrote to Mr Donnelly requesting point of sales reports noting that failure to provide trading information will result in the case potentially being assessed as non-compliant under section 34(3)

7.4 Under the heading methodology/ rationale Mr Donnelly stated that the subject property was located in Rathdrum Co. Wicklow and was a busy service station. No valuation calculations or approach was included in the precis.

7.5 Under the heading valuation Mr Donnelly stated that having regard to the foregoing his opinion of value was as follows:

Floor Use	Floor use	Area M <sub>2</sub>	NAV (C) per M <sub>2</sub>	NAV (C)
0	Est Nav	1.00	15,000	€15,000

Opinion of Value €15,000.

This concluded the Appellant's precis.

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

8.1 The respondent provided a location map photograph and description of the subject property as indicated in the agreed facts.

8.2 Addressing the appeal he noted that the statement of evidence submitted contained no assertions opinions or facts which amount to grounds of appeal. He noted that the basis of appeal was valuation excessive but that no evidence was provided to support the Appellant's contention that the valuation should be reduced to €15,000.

8.3 He also noted that no section 45 (1) information has been provided to support this appeal, no comparisons or other information had been submitted for consideration. He added that the agent for the Appellant had made no attempt to support his opinion of value with any facts

statistics or comparably properties. He referred to the well-established law that the onus of proof lies with the Appellant to demonstrate that the entry on the list is incorrect, and he submitted that the Appellant has not reached this threshold.

8.4 He referred to a case VA 19 5 1716 Silverstream Service Station which refers to a similar type property where the trading information was not provided, and the appeal was subsequently disallowed. He added that extrapolating from this case the Appellant should not be permitted to ground or support an appeal before the Tribunal where such information was not previously provided when requested as per section 34 (3) of the Valuation Act. He also stated that the ACT provides no discretion as regards permitting such evidence and the Appellant, through their agent, did not offer any reasons why they failed to engage with these requests at any stage prior to the hearing of the matter.

8.5 Consequently the Respondent claims that the burden of proof has simply not been met and that the entry on the list of €100,000 should not be amended. He added that the trading information was requested through a section 45 (1) notice on the 20<sup>th</sup> June 2018 and that no trading information had been included in the precis of evidence. He also noted the subsequent requests for this information had not resulted in the requested information being provided.

## **9. SUBMISSIONS**

9.1 No legal submissions were made.

## **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 **Wicklow County Council**.

10.2 The Tribunal notes that the onus of proof is on the Appellant to discharge the burden of proof. This is well established law.

10.3 The Tribunal notes that the Appellant was obliged to provide information to the Respondent arising from the service of a notice under section 45 one of the Valuation Act 2001 as amended. The original notice was dated 20<sup>th</sup> June 2018, and the information was not provided and following subsequent requests the information sought was not provided.

10.4 The Tribunal has noted that no argument, comparable information, or basis of valuation was included in the Appellant's precis.

10.5 Consequently the Appellants have failed to make a case and clearly the onus of proof test has not been met.

10.6 The Tribunal determines that the valuation of €100,000 as it appears on the Valuation List is correct.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and the valuation of the Property as stated in the valuation certificate to €100,000 is confirmed.