

**Appeal No: DS18/0/0005**

**VALUATION TRIBUNAL  
AN BINSE LUACHÁLA**

**DERELICT SITES ACT, 1990  
AN tACHT UM LÁITHREÁIN THRÉIGTHE, 1990**

**Katie Connolly**

**APPELLANT**

**And**

**Monaghan County Council**

**RESPONDENT**

**In relation to the market valuation of a site on Fermanagh Street, Clones, County Monaghan**

**TRIBUNAL**

Dolores Power - MSCSI, MRICS

Deputy Chairperson

Ray Finlay - FIPAV, MMII, ACI Arb, TRV, MCEPI, PC

Member

Sarah Reid - BL

Member

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 20TH DAY OF DECEMBER 2023**

**THE APPEAL**

1. A copy of Notice of Determination of Market Value issued in accordance with s. 22 of the Derelict Sites Act, 1990 Act ('the Act') was sent to the Appellant indicating a market value of €12,000 in respect of urban land situated at Old Cinema Site, Fermanagh Street, Clones, Co. Monaghan, hereinafter referred to as 'the Derelict Site'.
2. The date by reference to which the value of the Derelict Site was determined is the 1st May 2018
3. By Notice of Appeal received on the 28<sup>th</sup> May 2018 the Appellant appealed against the Respondent's determination of value. The grounds of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Derelict Site is incorrect because the valuation is too low and further that "I have just completed the purchase of this site and I am working with my architect N. McGuigan to lodge planning to develop it"

4. The Appellant didn't provide their opinion of market value of the Derelict Site.

## **THE HEARING**

5. A Direction letter was sent to the Appellant regarding the filing of her precis on 24/08/2022 with a second letter issued to her new solicitor on the 30/08/2022. The Appellant failed to furnish the Tribunal with her precis until the 26<sup>th</sup> October 2022, the day before the hearing of the Appeal was to proceed. Arising from this, the Appellant failed to provide their precis of evidence within the timeframe permitted and envisaged in Rule 129 or the Valuation Tribunal (Appeals) Rules, 2019.
6. The appeal proceeded by way of a remote hearing held via Zoom platform, on the 27<sup>th</sup> October 2022. The Appellant did not attend the hearing of the matter on 27<sup>th</sup> October 2022 but her solicitor sought an adjournment in order to take instructions from her client where a question remained as to who was the lawful owner of the site, and whether the Appellant had standing to bring the Appeal in the circumstances.
7. The Tribunal has reviewed the circumstances of the Appeal and for clarity refers to the following extracted from the Valuation Tribunal (Appeals) Rules 2019 (the 2019 Rules) which provides the following:

### Conduct of Appeal Hearings

Pursuant to article 89 of the Valuation Tribunal (Appeals) Rules 2019 “... *the Tribunal may regulate its own procedure and conduct the appeal in the manner it considers fair and proportionate to the importance of the appeal, the anticipated costs and the resource is of the parties.*”

8. Article 116 of the 2019 rules provides that a failure to comply with any provision of the 2019 rules or any direction of a Tribunal does not of itself render the appeal or any step taken in the appeal void. In the case of such non-compliance, a Tribunal may take such action as it considers just.
9. Further article 117 provides “*An appeal will be struck out for want of prosecution where there is no adequate justification for delay resulting from non-compliance with the direction of Tribunal which adequately warned the party that failure to comply with the direction would lead to the striking out of the appeal.*”
10. Pursuant to article 92 of the 2019 rules “*If A party does not appear at a hearing having been informed in writing of the date, time, and place of the hearing in accordance with rule 83, a Tribunal may dismiss the appeal. Before doing so, a Tribunal shall consider any information available to it following such enquiries as may be practical about the reason for the party's absence.*”
11. Article 79 (c) of the 2019 rules in relation to appeal hearings provides “*The Valuation Tribunal must hold a hearing before deciding an appeal except where (c) subject to rule*

*108, an appeal is struck out in accordance with rule 92 by reason of the non-appearance of the Appellant.”*

## **RELEVANT STATUTORY PROVISIONS**

12. A local authority is required by s. 22 of the Act to determine, after a derelict site has been entered on the derelict sites register maintained under s. 8 of the Act, the market value of unencumbered value of that site in such manner and by such means as they think fit. In that regard, a local authority may authorise a person suitably qualified to inspect the site and report to them on the site’s market value.
13. Under s. 2 of the Act ‘market value’ means the value of the relevant urban land assessed in accordance with s. 22. That assessment is undertaken *“by estimating or causing to be estimated the price which the unencumbered fee simple of such land would fetch if it was sold on the open market on the valuation date in such manner and in such conditions as might reasonably be calculated to obtain for the vendor the best market price for the land.”*

## **THE FACTS**

14. There was no appearance by the Appellant at the hearing scheduled for this Appeal but, through her solicitor an adjournment of the hearing was sought. No adequate explanation was furnished to the Tribunal for the no compliance with the Tribunal’s direction and the Appellant’s solicitor was unable to advise the Tribunal or otherwise confirm whether the Appellant was the legal owner of the site under appeal.
15. The Appellant failed to furnish the Tribunal with her precis until the 26<sup>th</sup> October 2022, the day before the hearing of the Appeal was to proceed. Arising from this, the Appellant failed to provide their precis of evidence within the timeframe permitted and envisaged in Rule 129 or the Valuation Tribunal (Appeals) Rules, 2019.
16. The Tribunal was not satisfied that the Appellant had progressed her Appeal properly and in compliance with the Rules and was not satisfied that the reasons offered by the Appellant’s solicitor merited the adjournment sought. Further the Tribunal was not satisfied that there was evidence before it confirming the Appellant was entitled to bring the appeal, being the legal owner of the site under dispute.

## **DETERMINATION:**

For the reasons outlined above, the Appellant was not in a position to pursue the Appeal and the Tribunal determines that the Appeal should be struck out for want of prosecution.

**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.