

Appeal No: VA19/5/1731

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Sherry Fitzgerald

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2184506, Retail (Shops) at Local No/Map Ref: Unit 2 Abbey House, Clonee, Dunboyne, Dunshaughlin, County Meath.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF JANUARY 2024**

BEFORE

Frank O’Grady - MA, FSCSI, FRICS

Member

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 14th 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 €15,140.
- 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: The Headline rent of €10,000 per annum agreed for the subject property as part of a brand new letting in September 2017 - the valuation date. Rent Free was obtained too so net effective rent is less again. “
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,983.25.

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 €15,140.
- 2.2 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €15,140.
- 2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is the 10th day of September 2019.

3. DOCUMENT BASED APPEAL

- 3.1 The Tribunal considered it appropriate that this appeal be determined based on 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. Both parties then had the opportunity to give written replies to the evidence submitted.

4. FACTS

- 4.1 The parties are agreed as to the following facts.
- 4.2 The subject property is a ground floor shop/office situated in a small development of similar units, known as Abbey House, Main Street, Clonee, Co. Meath. Clonee is a small town (pop. 631), some 15km.north-west of Dublin City, between Blanchardstown and Dunshaughlin.
- 4.3 The unit is situated in a commercial complex with 6 retail units at ground floor and 3 office units overhead. One of the retail units is vacant and available to rent for the past number of years.
- 4.4 The floor areas have been agreed between the parties at 88.29 sq.m.
- 4.5 The property is held on a 10-year lease from June 2017 at €10,000 pax.

5. ISSUES

- 5.1 The matter at issue is quantum.
- 5.2 The Appellant claims that the valuation is excessive and is seeking a reduction in the NAV to €10,000.

5.3 The Respondent states that the NAV is in line with the tone of the list for Co. Meath at NAV €15,140. and requests the Tribunal to affirm same in accordance with the Valuation Acts.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property must 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 considered 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 Mr. Robert Mc Hugh MSCSI, MRICS, Dip. Arb. Law submitted his precis on behalf of the Appellants and confirmed the details on location, description, accommodation, and title. He stated that configuration and actual position of the unit with its elevated location created a separation between the unit and the street environment which differed from most retail /offices in the area and hinders visibility from the street.

7.2 He contested the Valuation Offices approach to the valuation stating that the comparison method and information on actual rent of the subject property was the best indicator of market rents in the area. He described how the VO applied a rate of €220 / sq.m. Zone A when they had evidence of a letting with a Zone A rate of €145 /sq.m.

7.3 To support his case Mr. Mc Hugh introduced 2 rental comparisons (Appendix A – N/A to public) in addition to the subject property which was rented at €10,000 pax or €113/sq.m (€10.52 /sq.ft.) to indicate the prevailing market rates in that timeframe.

1. Main Street Rathoath Co. Meath. 2,067sq.ft. @€8.46/sq.ft.
2. Main Street, Dunboyne, Co. Meath. 1,067sq.ft. @€6.69/sq.ft.

7.4 Mr. Mc Hugh set out his opinion of value on the subject property.

Zone A 49.41 sq.m. @ €145/sq.m.= NAV €7,164.45

Zone B 38.88 sq.m. @ €73 /sq.m. =NAV €2,838.24

TOTAL NAV €10,000.00

7.5 He stated that the prevailing market evidence and the restricted access to the subject property supports a reduced NAV when compared to similar properties in the area.

8. RESPONDENT'S CASE

8.1 Ms. Claire Callan submitted her precis on behalf of the Respondent and confirmed agreement with details on location, description, accommodation, and title. Some additional photographs and block plan was also provided.

8.2 Ms. Callan stated that her evidence relied on the scheme of valuation prepared by Tailte Eireann, in which all available market information is investigated, verified, and analysed. The aim of the scheme is to ensure individual correctness, equity and uniformity between ratepayers who occupy similarly circumstanced properties in the rating authority area.

8.3 To further her case she stated that for Main Street, Clonee, there were 21 retail properties valued as part of Revaluation 2019 and the subject is the only property under appeal to the Valuation Tribunal and therefore the tone of the list for Main Street, Clonee is clearly established at Zone A €220 / sq.m.

8.4 Ms. Callan assessed the NAV as follows.

Retail Zone A 49.41 sq.m. @ €220/sq.m. NAV €10,870.20

Retail Zone B 38.88 sq.m. @ €110/sq.m. NAV €4,276.80

TOTAL NAV €15,140.00

8.5 Ms. Callan opined that the burden of proof rests with the Appellant and he has not provided evidence to alter the valuation. She stated that the actual rent for any individual property may be material in deriving an estimate of value but is not conclusive of Net Annual Value (NAV) in the context of Section 48 and Section 19 (5) of the Valuation Act 2001 as amended.

9. SUBMISSIONS

9.1 There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must determine the value of the Property 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 Meath County Council.

- 10.2 On this appeal the Tribunal has examined the particulars and considered the written evidence adduced by Mr. Mc Hugh for the Appellant, seeking a reduction to €10,000 NAV and Ms. Callan for the Respondent who sought confirmation of the NAV €15,140 as fair and reasonable in accordance with the Valuation Acts.
- 10.3 The matter in dispute is quantum and whether the scheme of valuation prepared by the VO and sets the tone of the list is correct verses the actual market rent being paid by the Appellant. The onus of proof is on the Appellant to supply sufficient market information to outweigh the tone of the list.
- 10.4 In this instance both parties did not provide sufficient market data to influence the outcome. The Respondent chose to ignore the rent on the subject property and maintain the tone of the list. The Appellant did not provide any additional rental comparisons on the development to counteract the tone of the list.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

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.
