

Appeal No: VA19/5/0528

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Kevin Keenan t/a Go Filling Station

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5014256, Fuel/Depot at Unit 4 Newry Road, Dundalk, County Louth.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14th 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 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 €81,900.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: "excessive, inequitable and bad in law"

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €12,000.

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 €81,900.

2.2 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €81,900.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th 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 were instructed to exchange their respective summaries of evidence and submit them to the Tribunal. No summary was presented by the Respondents.

4. FACTS

4.1 There was no precis from the Respondent and accordingly it is not possible for the Tribunal to determine or list the agreed facts.

5. ISSUES

The only issue refers to 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 Newry Road Dundalk Co. Louth to support a claimed for reduction in the net annual value of the subject property to €12,000. Mr Donnelly the Appellants valuer stated that the valuation had been based on information and documents provided to him by Kevin Keenan.

7.2 Mr Donnelly provided a statement of truth and confirmed that the valuation date was 15th September 2017. He confirmed that the publication date was the 17th September 2019 and that the

final certificate referred to a total NAV of €81,900. He noted that the valuation had remained unchanged following publication.

Floor level	Floor use	Floor area M ₂	NAV € per M ₂	Total NAV €
0	EST NAV	1.00	€81,900	€81,900

7.3 He provided a location map and stated that the property was located on Newry Road outside Dundalk Co. Louth. He further stated that it comprised a busy filling station on a busy stretch of road and included a yard as part of the fuel station. He also stated that it consisted of a car wash and car parking for HGV's and that it served a busy area of Dundalk. He stated that the station sold 30,000 litres of fuel per annum and that the site consisted of a forecourt and shop and a car wash and fuel pumps.

7.4 Under the heading valuation Mr Donnelly set out his opinion of value as follows:

Floor use	Floor Use	AreaM ₂	NAV (€) Per M ₂	NAV (€)
0	Est Nav	1.00	€12,000	€12,000

No calculations or methodology was provided.

7.5 Mr Donnelly provided a comparison which related to a filling station on the outskirts of Dundalk. PN1280831.

Level	Use	Area M ₂	NAV €/M ₂	NAV €
0	Retail zone A	21.07	€13.00	€2,548

PN1280832.

Filling station on the outskirts of Dundalk.

Level	Use	Area M ₂	NAV €/M ₂	NAV €
0	Workshop	75.65	€52.00	€3,933.80
0	Yard hardcore	775	€5.20	€4,030.00
	Additional items			€1,800.00
			Total	€9,763.80
				Say €9,760.00

7.6 This concluded the submission on behalf of the Appellant.

8. RESPONDENT'S CASE

8.1 No submission was made by the Respondent.

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 Louth County Council.

10.2 As no submission was made on behalf of the Respondent the Tribunal examined the submission made on behalf of the Appellants. The Tribunal noted 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 no argument, floor areas, business accounts, relevant comparable evidence or basis of valuation or methodology was included in the Appellant's precis.

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

10.5 The Tribunal determined that the valuation of €81,900 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 on the valuation certificate at €81,900 is confirmed.

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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.