

Appeal No: VA19/5/1180

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Lakeland Farm Machinery Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1551354, Fuel/Depot at Local No/ Map Ref :6, Moraghy, Castleblaney Rural,
Castleblaney, County Monaghan.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5th DAY OF MARCH 2024**

BEFORE

Annamaria Gallivan - FRICS, FSCSI, MPhil SEE

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 €70,000.00.

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 property has been closed and vacant since 2014. Zero turnover. The site and building are vacated. In poor condition.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €25,000.00.

2. RE-VALUATION HISTORY

2.1 The Tribunal is unaware of when a copy of the proposed valuation certificate was issued to the Appellant or if any representations were made.

2.2 There is no evidence before the Tribunal of representations being made to the valuation manager.

2.3 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €70,000.00.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th day of September 2017.

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 Appellant has submitted his summary of evidence to the Tribunal. The Valuation Office did not comply with the Tribunal's directions and failed to submit the Summary of Evidence to the Tribunal.

3.3 There is limited documentation available to the Tribunal.

4. FACTS

4.1 Based on the evidence before it the Tribunal finds the following facts.

4.2 The address is Moraghy, Monaghan Road, Castleblaney, County Monaghan.

4.3 The property consists of various units attached to a service station.

5. ISSUES

5.1 The issue in dispute is 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 Mr O'Reilly for the Appellant, submitted his précis of evidence in the form of a letter, hand drawn floor plan with areas, 8 in no. interior photographs and a copy of Form A- revaluation appeal.

7.2 The property is described by the Appellant as a shop, business units, workshop and service station. The service station is described as closed.

7.3 Mr O'Reilly gives a brief history of his family's sale and subsequent repurchase of the property. He describes the property as derelict for over 10 years and ongoing. During the transaction he says he was not made aware of the fact of rates being payable on a vacant property.

7.4 The areas are described to be (measurements and drawing/layout included):

Description	SQM
Vets Office No 1	15.3
Vets Office No 2	21
Store room	9
Vets main shop	85
Vets Hall & WC	19.2
Rays Front Shop	61.2
Rays Workshop	132
Total	342.7

7.5 It is the Appellant's evidence that the property was sale agreed in October 2019 and waiting on completion.

7.6 The property is described as being vacant and closed from 2014. The income deriving from same is referenced to as 'zero'. The site is further described as vacant and in poor condition.

7.7 The Appellant outlines the following tenant schedule:

Notes	Unit	Commencement	Term	Rent passing
Occupied	Farm Machinery Unit			
Applied for planning	Vets Unit			
Occupied as Car wash	Filling station			

The Tribunal has no evidence in relation to the income passing or terms of the leases.

7.8 The Appellant's evidence is that the property is difficult to let and that the 'high' level of rates proposed would be a further barrier to future lettings. He confirms that there is a carwash in operation adjacent to the service station. He describes the service station as closed.

7.9 Mr O'Reilly provided neither evidence of the values of other comparable properties on the Monaghan County Council rating list, or elsewhere, nor of any relevant rental transaction to assist the Tribunal.

7.10 The Appellant believes the NAV ought to be €25,000. Mr O'Reilly's rationale for the valuation was that following:

1. He was not aware during the transaction that rates were payable on vacant properties.
2. The property has been derelict for 10 years.
3. A reduction in rates would make the property more attractive to the hypothetical tenant.

8. RESPONDENT'S CASE

8.1 The valuation as stated on the Valuation Certificate is €70,000.

8.2 The Respondent did not provide a précis of evidence to the Tribunal.

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 Monaghan County Council.

10.2 The Appellant provided none of the particulars required under Paragraphs 36 and 39 of Valuation Tribunal (Appeals) Rules, 2019 in support of his case. There were no accurate floor plans or schedule of areas and no evidence of planning permission to change the user. Neither was there any evidence of the values of other properties on the Monaghan County Council rating area, comparable to the Property put forward to support the Appellant's estimate of value.

10.3 Tribunal finds that in this appeal, and in all appeals before the Tribunal, the onus of proof rests with the Appellant. This has been stated and affirmed on multiple occasions. The onus is on the Appellant to prove that the valuation on the list is incorrect. This has been held by the Tribunal in several cases, including VA07/2/045 William Savage Construction, VA00/2/032 Proudlane and VA09/1/018, O'Sullivan Marine Limited. This remains the guiding principle for Tribunal's determination.

10.4 The Appellant provided no evidence of the poor state of repair of the property, in fact he confirmed tenancies in the "Farm Machinery Unit" and car wash and a planning application for the section known as the 'Vet's'. The Tribunal finds that property is capable of rateable occupation in circumstances where a hypothetical tenant could enjoy beneficial occupation.

10.5 The Appellant contends for a valuation of €25,000. In his précis Mr O'Reilly provided no explanation to assist the Tribunal for the lower values that he contends for. There was no evidence nor examples of rental transactions provided to the Tribunal for guidance.

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.