

**Appeal No: VA19/5/1571**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**MJA TAVERNS LTD**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of  
Property No. 1280585, Retail (Shops) at Castletowncooley, Rathcor, Dundalk, County Louth.**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 5<sup>TH</sup> DAY OF APRIL, 2024**

**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 €9,930.
  
- 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: *Property Concerned ought to have been excluded in relevant Valuation List "The area in question is listed as being a retail area. However, this area has been part of the licensed premises for as many years as we have been on business. We would respectfully require that this area be amalgamated with VO 1336529 and valued in accordance with that premises.*

*Please note the forms for the valuation of the premises were addressed to a different person and that person has not been in the premises for circa 20 years.*

*This valuation ought to have been amalgamated with VO 1336529”.*

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

## **2. RE-VALUATION HISTORY**

- 2.1 On the 10<sup>th</sup> of September 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 John McMahon MJA Taverns Limited indicating a valuation of €9,930.
- 2.2 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September 2019 stating a valuation of €9,930.
- 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 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 parties were requested to exchange their respective summaries of evidence which were to be submitted to the Tribunal. The Appellants supplied a precis; however, none was received from the Respondents.
- 3.3 The Tribunal requested that the Appellants confirm whether the licenced area of the adjoining premises was included the area in dispute. On 5<sup>th</sup> March the Appellants

confirmed that the property in dispute was included in the Publican's Licence for the adjoining premises.

#### 4. FACTS

- 4.1 No precis of evidence was provided by the Respondents however the Tribunal has extracted the following facts from the Appellants precis which have not been disputed.
- 4.2 The subject property referred to as Martins is located on the R173 Dundalk to Carlingford Road.
- 4.3 The property is referred to as Martin's Pub and Cooley Whiskey Bar. The Appellants have identified an L-shaped section on the eastern side of the property as the area in dispute by photographs and a floor plan.
- 4.4 The Appellants provided a series of internal photographs which identified the main bar area and two photographs of the area which is subject to dispute.
- 4.5 The Property No. 1280585, Retail (Shops) at Castletowncooley, Rathcor, Dundalk, County Louth. The reported floor areas published by the Valuation Office which were not disputed are as follows:

<b>Floor level</b>	<b>Floor Use</b>	<b>Area M<sup>2</sup></b>
Ground	Retail Zone A	45.75
Ground	Retail Zone B	45.75
Ground	Retail Zone C	15.75
Ground	Store	61.60

- 4.6 The Net Annual Value was €9,930.

4.7 The property in dispute adjoins Property No. 1336259 which refers to Martins Pub with an NAV of €44,400 and described as hospitality.

## **5. ISSUES**

5.1 The issue in dispute refers to whether Property No. 1280585 should be amalgamated into Property No. 1336529 and should not be separately rated or assigned a nil NAV.

## **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 appellants have claimed that Property No. 1280585 was part of Property No 1336529 and any value had been included in the NAV of €44,400 as Property No. 1280585 was integrated with the Pub and had not traded separately.

- 7.2 They provided two floor plans, and they stated that areas referred to as D and E have never been used for retail purposes and that these areas were incorporated into the museum and whiskey tour area. Various photographs were provided which showed the main bar area and specifically the disputed area which showed seating benches and a raised display area.
- 7.3 The Appellants also provided a 360° walkthrough of the pub and whiskey room published on Google Maps in 2016.

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

- 8.1 No precis of evidence was received from the Respondents.

## **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 The Appellants evidence provided was mainly limited to still photographs of the subject area which the Tribunal finds were persuasive. The four windows of the single storey part of the premises contains four similar window displays and there was no clear evidence of a shop front or separate access to the disputed area in these photographs.
- 10.3 However the Appellants also included a 2016 360° walk-through of the pub and the whiskey room which was published on Google Maps. This video clearly shows that the disputed

area was self-contained and laid out in a partial retail format with a display of various whiskeys gifts and memorabilia for sale. The access door opens to the side on to the car park and contained the words 'Craft Beer And Whiskey Shop'. The area also included a sales counter and till.

10.4 The Tribunal finds that the disputed area comprised retail and ancillary accommodation and that the Valuation of €9,930 is fair and equitable and the case advanced by the Appellants must fail.

10.5 However, to avoid the possibility of any double taxation; if the accounts for the shop were included in the accounts provided for when assessing the NAV for Property No. 1336529 the retail sales should be discounted from the accounts for Property No. 1336529.

#### **DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent subject to any adjustment occasioned by the possibility of double accounting as indicated in 10.5 above.

#### **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.