

Appeal No: VA23/5/0195

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

SUPERVALU

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. **1109998**, Supermarket at Main Street, Claregalway, County Galway.

B E F O R E

Donal Madigan - MRICS, MSCSI

Gerard O'Callaghan - MRICS, MSCSI

Michelle O'Gorman - BL

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 12TH DAY OF MARCH, 2025**

1. THE APPEAL

1.1 By Notice of Appeal received on the 7th day of October, 2023 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 **€224,000**

1.2 The summary grounds of appeal as set out in the Notice of Appeal are:

(i) The subject property's valuation is excessive and inequitable in view of the tone of the list for comparable property. The subject property is a SuperValu supermarket, constructed piecemeal over a significant period and such that it has significantly more physical intrusions than a modern green field equivalent.

(ii) The subject property is located in the town of Claregalway (population: 1,632). It is located 11km northeast of the centre of Galway City and has been valued by the Commissioner at €90/m2. The subject's best comparison is a modern purpose-built SuperValu supermarket, located in Moycullen (population: 2,279). It is located 14km northwest of the centre of Galway City and has been valued by the Commissioner at €60/m2. The Comparison is physically superior and serves a

higher population and yet the subject is assessed at 50% more per m2. A further SuperValu supermarket, 10km northeast of the subject property and in a lower population area, is valued by the Commissioner at €50/m2. It is physically impossible that the subject property would exceed €60/m2 in view of the tone of the list.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of € **156,600** on the Notice of Appeal which was revised to the figure of € **153,000** in his written evidence and oral testimony.

2. REVALUATION HISTORY

2.1 This is a Revaluation appeal arising from the Galway County Council revaluation which was undertaken as a result of the Galway County Council Valuation Order 2022 that was signed by the Commissioner of Valuation on 6th September, 2022, for the Valuation List published on 22nd September, 2023.

2.2 The functions of the Commissioner of Valuation are now performed under the authority of Tailte Éireann with effect from 1st March, 2023 (S.I. No. 58/2023 - Tailte Act 2022 (Commencement) Order 2023).

2.3 On the 23rd day of September, 2022 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 € **491,000**.

2.4 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to € **224,000**.

2.5 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of € **224,000**.

2.6 The date by reference to which the value of the property, the subject of this appeal, was determined is the **1st day of February, 2022**.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 29th day of February, 2024. At the hearing the Appellant was represented by Mr. David ES Halpin M.Sc. (Real Estate) Ba. (Mod) and the Respondent was represented by Mr Ian Power B.Sc.(hons) of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts:

4.1 This Property is situated in Claregalway (population 1,632 persons: 2022 Census) which is located some 11 kilometres northeast of the centre of Galway city on the Tuam Road (N83).

4.2 The Property comprises a supermarket at ground floor level with ancillary space on a first floor over. It has been developed over time in a piecemeal fashion. Car parking is provided on site.

4.3 The floor areas of the Property are agreed between the parties as follows:

Ground Floor	Supermarket/Stores	2,161.53m ²
First Floor	Offices	121.30m ²
	Stores	<u>235.10m²</u>
		2,517.93m ²

4.4 The Property is in good condition.

4.5 The Property is freehold.

5. ISSUES

(a) The issue arising in this appeal is one of quantum of the valuation only.

(b) The Valuers for the Appellant and Respondent are agreed upon the floor areas; that the unit value per square metre applicable to the first floor should be taken at a unit value rate of 50% of that adopted to value the ground floor area; that an addition of 2% be made to the value of the ground floor area value for fit-out and that the sum of € 10,000 be applied for the value of the off-licence.

(c) The only area of difference between the parties is in the unit value rate per square metre to be adopted for the ground floor area. The Appellant applies a unit value rate of € 60.00 per m² and the Respondent applies a unit value rate of € 90.00 per m².

(d) Consequently, the Appellant Valuer contends for a valuation of € 153,000 whilst the Respondent Valuer contends for a valuation of € 224,000.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references hereinafter to a particular section of the Valuation Act 2001 ('the Act') refer to that section as amended, extended, modified, or re-enacted by the Valuation (Amendment) Act, 2015 and other statutes.

6.2 In **Revaluation** type appeals, as in this appeal, sec. 37 of the Act provides that the Valuation Tribunal must reach a determination having regard to the provisions of section 19(5) inserted by section 7 of the of the Valuation (Amendment) Act 2015 as follows:

"The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list,

and so that (as regards the matters referred to in paragraph (b) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area."

6.3 The Net Annual Value (the **NAV**) of the Property must be determined in accordance with the provisions of section 48 (1) of the Act, as amended, 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."

6.4 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the basis 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 expected to let from year to year, on the assumption that the probable average 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. David Halpin of Eamonn Halpin and Co. Ltd began by adapting his Précis as his evidence in chief. At the outset Mr. Halpin set out the relevant issues pertaining to the subject property in which are agreed by both parties namely the size, age and methodology to be applied in valuing the subject property. The parties agree that the value of the subject property should be calculated by applying a value per square meter to the ground floor area and that the first floor is assessed at 50% of the value of the ground floor. Furthermore Mr. Halpin stated that a 2% allowance is applied for fitout and that the Off- License is valued at €10,000 NAV.

7.2 Mr. Halpin stated that the Commissioner had applied an NAV of between €50 and €90 per square metre for ground floor supermarkets in the County of Galway and the Respondent had applied a value of €90 to the subject property and it was the Appellant's case that the correct NAV should be €60 per square metre.

7.3 Mr. Halpin proceeded to reference his precis describing the location of Claregalway as a regional centre with a population of 1,632. Claregalway was described as a non-traditional town in that it does not have a main street with most of the commercial/retail activity taking place in a series of small shopping centre type developments which were developed from the 1990's onwards.

7.4 The subject property was described as a ground floor supermarket and ancillaries, alongside a first floor admin office and ancillaries. Mr. Halpin stated that the property was developed in a piecemeal fashion over the previous 50 years and is distinct from modern greenfield supermarket developments. Mr. Halpin described the subject property as being different from its modern peers with a larger proportion of the ground floor space dedicated to storage, much more than one would expect in a modern purpose built supermarket. The internal fitout of the subject property was described as the same as a modern supermarket.

7.5 Mr. Halpin stated that the best way to assess the correct NAV for the subject property was to benchmark Claregalway with other nearby population centres and set out the table below as guidance.

Location	Population (census 2022)	Distance to Galway City	Rate per Sq.m applied by the Commissioner
Subject- Claregalway	1632	11 km	€90
Moycullen	2279	14 km	€60
Lackagh	Under 200	15 km	€50
Athenry	4603	23 km	€70
Loughrea	6332	35 km	€70
Tuam	9647	35 km	€70

7.6 Moycullen was stated to be the most similar to the subject being of a similar distance from Galway, having a similar population and also trading under the Supervalu brand. Mr. Halpin outlined that Lackagh was located just 4km from the subject property and whilst it was acknowledged that Claregalway has a larger population and is therefore superior to Lackagh, the

differential in values still could not be justified. The three other comparisons cited located in Athenry, Loughrea and Tuam were all situated in larger population centres than the subject. The Athenry comparison traded as a Tesco supermarket with both the Loughrea and Tuam trading as Supervalu outlets.

Cross examination by Mr. Ian Power for the Respondent.

7.7 Mr. Power queried the weight attached to population numbers in the Appellant's Precis and evidence and questioned whether other factors such as turnover should have been considered. Mr. Halpin responded by stating that he did not have access to the comparison properties' trading figures.

7.8 Mr. Power stated that Moycullen would not have the potential for passing trade that applies in Claregalway and that lower rental Zone A rates apply in Moycullen and questioned whether the Appellant had looked at general retail zone A rents that apply in Moycullen and Claregalway. Mr. Halpin responded that he did not see much difference in the passing trade potential between the two towns, nor had he investigated the general retail unit zone A rents that applied in the two towns. He did comment that he was aware that the Commissioner had applied higher zone A values in Claregalway but stated that he was unaware of the justification for this and did not have sight of relevant market evidence to support the difference in Zone A NAV rates applied by the Commissioner. He further stated that he did not deem general retail Zone A rents to be relevant to NAV's for supermarkets and stated that the Tribunal had previously ruled decisively on this fact.

7.9 Mr. Power outlined that the Appellants had initially sought an NAV of €80 per square metre when making representations following the issuance of the Proposed Valuation Certificate and questioned why the Appellants had subsequently sought an NAV of €70 per square metre. Mr. Halpin responded that when they became aware of the valuations applied to other supermarkets in County Galway they reduced their opinion of value to €70 in light of the evidence that became available.

7.10 Mr. Power queried the Appellant's view that the lack of existing or other supermarkets in Claregalway is indicative of the poor trading potential of the location. Mr. Power stated that this may be due to the lack of available sites and opined that the presence of two hotels in the town is evidence of the strategic location of the town. Mr. Halpin stated that there was no evidence to support the view that there is a lack of available land in the area for supermarket development and disagreed that the presence of two hotels supported the Commissioner's view on value.

Questions from the Tribunal.

7.11 The Tribunal asked whether the Appellant was able to source any open market rental transactions to support his view on NAV. Mr Halpin stated that as far as he was aware most or all supermarkets in County Galway were owner occupied and therefore no open market rental transactions are available.

7.12 The Tribunal also queried the history of development on the site and specifically when the existing subject property was constructed. Mr. Halpin responded by stating that the entire site was

redeveloped in the early 2000's and the Supervalu supermarket had expanded by taking over adjoining retail units that were originally separately occupied. He further stated that there may have been a more recent extension to the side of the property.

7.13 The Tribunal queried the comparison with Moycullen regarding passing traffic. Mr. Halpin stated that he is unaware of any data in relation to passing traffic and stated that in his opinion there would be little difference between traffic heading west from Galway city to Moycullen and north to Claregalway and when further questioned stated that Claregalway may have larger passing traffic volumes. Mr. Halpin further stated that there is only one supermarket in Moycullen as is the case with Claregalway, which, in his view, indicates the likely footfall that would be relevant to cross the threshold of each.

8. RESPONDENT'S CASE

8.1 Mr. Power began by adapting his Précis as his evidence in chief and began by emphasising the strategic location of Claregalway. He stated that the subject property is located just off the M17 and N83 which offers connectivity to the wider region and public transport links and is located close to Galway city. The presence of two hotels is testament to the strategic location of the subject property. Mr. Power further stated that the location was well serviced by amenity and other retail outlets all of which combined offered support to the Respondent's opinion on NAV.

8.2 Mr. Power described the subject property as a modern purpose built supermarket constructed in the early 2000's. There are two adjoining retail units on the ground floor occupied by a Post Office and coffee shop and offices on the first floor which are separately occupied to the subject property. There are a large number of carparking spaces to the front side and rear. Mr. Power outlined various photographs showing the external and internal aspects of the property.

8.3 Mr. Power stated that the property was valued according to the provisions of Section 48 of the Valuation Act 2001, as amended, and that the valuation applied to the subject property was fair and equitable and valued in line with similar circumstanced properties in the local authority area.

8.4 On the matter of rental comparisons, Mr. Power stated that there was a dearth of open market rental comparisons for the subject property available as nearly all supermarkets in the Galway County Council local authority area are owner occupied. In cases where similar properties are leased, Mr. Power stated that the rents are often influenced by Landlord inducements, and it can be difficult to obtain fair rental transactions for this type of property.

8.5 Mr. Power disagreed with the Appellant's view that Moycullen is a similar location and directly comparable to the subject property. He stated that it differed in a number of aspects from Moycullen as it is located close to the main industrial location for Galway and that is strategically located close to main arterial routes. He stated that Moycullen would have a lot less passing traffic than Claregalway.

8.6 Mr. Power stated that the levels applied to general retail zone A in Claregalway is €250 to €300 per sq.m which is the same as Oranmore. The Zone A NAV applied to Moycullen by contrast is €130 per sq.m.

8.7 Mr. Power stated that the level of €90 per sq.m applied to the subject property is fair and in line with similarly circumstanced property elsewhere in Galway. In support of the Respondent's opinion on NAV, Mr. Power outlined the following NAV comparisons;

Property No.	Address	Per sq.m	NAV
2209289	Tesco, Tesco Shopping Centre, Oranmore	€90	€390,000
5006110	Aldi, Innplot, Oranmore	€90	€170,100
2162037	Tesco (Joyces), Oranstown SC, Oranmore	€90	€161,900
2203930	Tesco, Dunlo Town Centre, Ballinasloe	€70	€456,000
1155615	Supervalu, Post Office Street, Clifden	€60	€122,600
2190598	LIDL, Galway Road, Tuam	€70	€194,700
2172216	Clarkes Supervalu, Barna Village Centre, Barna	€90	€148,300

8.8 Mr. Power outlined that Oranmore was comparable to the subject in terms of location as they are both located to the east of Galway city and both are situated off main roads. The first three NAV comparisons are all situated in Oranmore and all have been assessed at €90 per sq.m. The fourth comparison was situated in Ballinasloe which is located further away from Galway city and had been assessed at a lower level for this reason. Similarly, SuperValu in Clifden was also assessed at a lower level due to its remoteness from Galway city. Clarkes, SuperValu is also located on the outskirts of Galway city and is similar to the Subject. Clarkes SuperValu valuation has been appealed to the Tribunal.

Cross Examination by Mr. Halpin.

8.9 Mr. Halpin asked Mr. Power if he agreed that Claregalway was detached from the city as there was "blank space" between Galway and Claregalway. Mr. Power agreed but emphasised that there was a substantial difference between Claregalway and Moycullen as Moycullen was more removed from Galway city.

8.10 Mr. Halpin questioned whether Barna and Oranmore were removed from Galway city. Mr. Power stated that it was his view that both Barna and Oranmore were removed from Galway city in that there was a break in the urban development between the city and Oranmore and Barna.

8.11 Mr. Halpin queried why the Respondent did not consider population to be the primary drivers of value for supermarkets. Mr. Power responded by saying the Commissioner did consider populations in arriving at valuations for supermarkets however they also considered the general level of zone A rents in the locality when considering valuations and stated that larger population centres such as Loughrea and Tuam had lower retail rental levels than Claregalway. Mr. Power also submitted that the large amount of passing traffic in Claregalway was also a factor in considering the NAV.

8.12 Mr. Halpin questioned whether there was two other Supervalu's anywhere in County Galway that were located in similarly close proximity as the subject property and the Supervalu in Lackagh being just 4km apart and whether it made sense that the subject was valued at €90 per sq.m and

the Supervalu in Lackagh at €50 per sq.m given their proximity. Mr. Power responded that there was a significant difference in the two locations and that Lackagh was a rural location with no significant other commercial activity to the local Supervalu and ancillary hardware business.

Questions from the Tribunal

8.13 Mr. Power was asked by the Tribunal to confirm whether all supermarkets in County Galway outside of the city had been assessed in the range of €50 to €90 per sq.m and responded by confirming that this was the range applied by the Commissioner.

8.14 Mr. Power confirmed that Oranmore is a more developed settlement than Claregalway with 3-4 supermarkets and is strategically located close to the Limerick-Sligo Road and he accepted that it has a population of 5,819 persons as per the 2022 Census.

8.15 Mr. Power was asked by the Tribunal whether the subject property was the only supermarket in Claregalway. Mr. Power confirmed that it was the sole supermarket. Lild had applied for Planning Permission for an additional supermarket but that Planning Permission was refused.

8.16 He confirmed that his seventh comparable, in Barna PN 2172216, is under appeal and may be dismissed on account of that fact.

9. SUBMISSIONS

There were no legal submissions in this case.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct, equitable and uniform 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 Galway County Council.

10.2 Both parties have confirmed that supermarkets in the Galway county area are assessed in the range of €50 to €90 per square metre. The Respondent has valued the subject property at €90 per square metre in line with other supermarkets in Oranmore and Barna. The supermarket in Barna was subject to a separate appeal to the Valuation Tribunal at the time of the hearing.

10.3 The Tribunal considered whether Claregalway was comparable to Oranmore for the purposes of valuing supermarkets. Both parties agree that the population of Oranmore is 5819, which is significantly larger than the population of Claregalway. Notwithstanding the potential passing trade in Claregalway due to its proximity to main roads, the Tribunal considers that Claregalway is an inferior trading location to Oranmore due to the disparity in population and that the NAV per square metre needs to be lower for Claregalway to reflect this.

10.4 The Tribunal disagrees with the Appellant's view that the supermarket in Claregalway should be valued in line with the supermarket in Moycullen. The Tribunal agrees with the Respondent that Claregalway is strategically better located than Moycullen and that a higher NAV level should apply.

10.5 Having considered the documentary and oral evidence submitted by both parties, the Tribunal is satisfied that the subject property is incorrectly valued and that subject property ought to be valued in line with levels applied in Tuam, Loughrea and Athenry.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the Valuation Certificate to €177,000 calculated as follows;

Area	Use	Size SQ.M	NAV per sq.m	NAV
Ground Floor	Supermarket/ stores	2161.53	€70	€151,307.10
First Floor	Offices	121.3	€35	€4245.50
First Floor	Stores	235.10	€35	€8228.50

Sub Total €163,781.10

+ Fit-out allowance @ 2% €3026.14

+ Allowance for Off License €10,000

Total €176,807.24

Rounded to NAV € 177,000.

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.