

Appeal No: VA19/5/0574

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

T.J RYANS BAR

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 1350423, Hospitality at 46 Main Street, Cashel, County Tipperary.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16th DAY OF JANUARY, 2025**

BEFORE

Liam Daly - FSCSI, FRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th 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 €25,500.

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: “<1> *Figures for turnover include food sales of an average 450 P.W 23,400. <2> An average turnover figure was not used, the average turnover is 232811 <3> The trend in turnover figures since 2018 is down by 15% T.O 30/4/17 was 365584 T.O 30/4/19 is 292082 reduction 20%*”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €16,296.

2. RE-VALUATION HISTORY

2.1 On the 29th 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 €29,200.

2.2 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 €25,500.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €25,500.

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, 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 their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The property is a public house located at 46 Main Street, Cashel, Co. Tipperary.

4.3 The subject property is a two-story unit. The public house is operated on the ground floor only.

4.4 The accommodation has not been agreed between the parties.

4.5 The property is reported to be held on a freehold basis.

5. ISSUES

The issue is one of 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’s precis was prepared by Mr. Tim Looby, Tim Looby Accountants on behalf of the Appellant, Mr. TJ Ryan. The Appellant’s precis outlined the grounds of appeal as

1 *“The valuation assessed by the valuation office is based on drink sales of €365,000. However, this figure takes the turnover for the year 2017 only. The figure of turnover should be based on average of 3 or 5 years turnover. A Rolling Average of 300,983”.*

2 *“The Licensed Premises is a wet pub. There is no facilities to turn it into a gastro pub. These types of licensed premises are facing downward pressure on sales. The pandemic has dramatically changed people’s drinking habits. The current turnover figures for the business are on 30/04/22 €265,327 and 30/04/23 €285,536. All input costs especially energy and wages have risen dramatically further reducing new profit margins”.*

3 *“The rent achievable for non-residential licensed premises is €400 per week excluding rates and insurances in Cashel town”.*

7.2 The Appellant’s precis included turnover figures for the years 2015 to 2023 (See Appendix 1, N/A to public).

7.3 The Appellant precis included an opinion of open market rent for the subject property from PJ Broderick & Co. The letter was dated the 12th May 2023 and proposed a rental value of €400 per week.

7.4 The Appellants representative made a further submission to their precis on the 2nd June 2023. The Appellant’s representative stated that their client's accounting period is 30th April 2017. This covered the period from 1st May 2016 to the 30th April 2017. The Appellant’s representative was of the opinion that other pubs may have used annual figures for the year 2017, subsequently different periods were used. It was therefore the Appellant’s opinion that rolling average would be more accurate and fair.

7.5 The further submission of the 2nd June 2023 also questioned the data considered at the appeal. The Appellant’s Representative maintained if current information can not be considered, why would there be an appeals process. The Appellant’s representative included additional NAV values for licensed premises in Cashel, together with comments (See Appendix 2, N/A to public). It was the Appellant’s Representative’s opinion that there were serious discrepancies in the valuation of licenced premises, and the exclusion of current information made *“zero sense in the real world”*

8. RESPONDENT'S CASE

8.1 The Respondent's precis was prepared by Mr. John Shaughnessy on behalf of the Commissioner of Valuations. The Respondent's precis provided the address of the subject property as 46 Main Street, Cashel, Co. Tipperary.

8.2 The Respondent's precis described the property as a public house which is operated on the ground floor only. The Respondent's precis explained at revaluation, the proposed valuation certificate was issued with a value of €29,200. At representation stage, the NAV was reduced and the final valuation certificate was issued with a revised value of €25,500.

8.3 The Respondent's precis outlined the Appellant's three grounds for appeal and these were addressed as follows:

Response to Point 1:

The Respondent's precis explained that for the revaluation of Tipperary local authority, a valuation date was taken and the values on that date were applied to the properties. The Respondent described that for the pub sector, the calculations were based on a percentage multiplier of the trade from 2017 figures. The Respondent's precis explained that for the subject property this was rounded to €365,000 for 2017. The percentage multiplier used by the Commissioner was based on bands calculated from the average gross profit margins of the trading accounts for the previous three years. In calculating the Gross Profit Margin for the subject property, the Respondent's precis explained this was based on the accounts certified by the Appellant's agent and submitted to Tailte Eireann in July 2018. The Respondent's precis outlined that all other pubs in the Cashel and Tipperary County were assessed in that manor. It was the Respondent's opinion that to treat the Appellant differently, would be inequitable and unjust to other ratepayers.

Response to Point 2:

The Respondent's precis explained that the revaluation of Tipperary local Authority was based on the values of properties on the Valuation date of the 15th September 2017. The Respondent's precis outlined how accounts details for the previous three years were sought and

everyone in the local authority area were treated the same and the same methodology was employed. The Respondent's precis explained the implications of the events of 2020 on to 2023 were irrelevant as the date of valuation was the 15th September 2017.

Response to Point 3

The Respondent's precis explained that the Auctioneers certificate submitted provided no date as to when this value per week is achieved, i.e. 2017 or 2023. There was no other comparable evidence submitted to validate the figure outlined in the Auctioneer certificate. The Respondent's precis explained how the Commissioner does not utilise the comparable method of valuation when determining the NAV for Public Houses.

8.4 The Respondent's precis concluded by stating it was his opinion that the correct NAV for this property was €25,500.

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 Tipperary County Council.

10.2 The Tribunal agreed with the Respondent, that for the Commissioner to calculate the Gross Profit Margin differently than other Pubs in the area, would be inequitable and unjust to other ratepayers.

10.3 The Tribunal agreed with the Commissioner that the implications of events from 2020 to 2023 are irrelevant. While the Tribunal acknowledges the consequences to all business during this period, the valuation date for the subject property was 15th September 2017.

10.4 The Tribunal found the Auctioneer's certificate was not satisfactorily substantiated, therefore it was of limited assistance in their determination.

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.