

Appeal No: VA23/2/0001

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

DR MICHAEL ROWAN & DR BERNADETTE WHITE

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 5015669 , Property Type: Primary Care Centre. Address of Property: Primary Care Centre, Armagh Road, Crumlin, County Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF APRIL, 2025**

BEFORE

Killian O'Higgins - FSCSI, FRICS

Tribunal Member

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 5th day of April, 2023 the Appellant appealed against the determination of the Respondent pursuant to which the rateable value of the above relevant Property was fixed in the sum of €17,080.
- 1.2 The valuation of the Property falls to be determined from a decision made by the revision manager under section 28(4) of the Valuation Act 2001 as amended ('the Act') that a material change of circumstance occurred since a valuation under section 19 of the Act was last carried out in relation to the rating authority area in which the Property is situate [OR since the last previous exercise of powers under section 28(4) or of comparable powers under the enactments repealed by the Act in relation to the Property). Accordingly, the value of the Property must be ascertained by reference to values, as appearing on the valuation list (OR existing valuation list) for the rating authority area wherein the Property is situated of other properties comparable to the Property.
- 1.3 The grounds of appeal as set out in the Notice of Appeal is that the valuation

of the Property is (a) incorrect as it does not accord with that required to be achieved by section 49 of the Act and (b) should have been excluded from the Valuation List and (c) other grounds because:

(a) *“In 30 years of general practice our rates were €3,400. Now with no increase in staff our rented care centre has increased rates valuation €17,080 - a 500% increase.”*

(b) *“4 rented rooms by our practice. Ten rooms not rented by us. Also shared waiting room several practices and shared reception.”*

(c) *“While we have rented 4 consultation rooms, one room is used only by administrator (the before non-consultation room) and our nurse is part-time only (20 hours/week). Also waiting room is open....also 'open corridor' is used by all visitors medical or non-medical and this should be taken into account.”*

- 1.4 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,400.

2. VALUATION HISTORY

- 2.1 It was uncontested that an application was made by Dublin City Council to the Respondent for the appointment of a revision manager to exercise powers under section 28(4) of the Act in relation to the Property on the basis that by reason a material change of circumstances had occurred since a valuation under section 19 was last carried out in relation to the rating authority area of Dublin City Council in relation to the Property, the valuation of the Property ought to be amended.

- 2.2 On the 3rd day of February, 2023 a copy proposed valuation certificate issued under section 28(6) of the Act in relation to the Property was sent to the Appellant indicating a valuation of €17,080.

- 2.3 A final valuation certificate issued on the 21st day of March, 2023 stating a valuation of €17,080.

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 and submitted them to the Tribunal. Only the Respondent complied with the Tribunal's direction.

4. FACTS

4.1 The following facts provided by the Respondent were uncontested:

4.1.1 The property is located on the site of the former St Agnes Convent at the junction of Old Country Road and Bangor Drive in Crumlin, Dublin 12.

4.1.2 The Property comprises four ground floor consultation rooms within St Agnes Primary Care Centre, a detached, modern and recently constructed three storey structure. Other services available with the Centre include a pharmacy, café, dental and a physiotherapy practice which are valued separately. The Property has shared reception and waiting area. There are a total of 75 non-designated car parking spaces surrounding the Property. The property is in very good condition.

4.1.3 The uncontested floor areas provided by the Respondent were:

Description	Floor	Sq. M
Surgery	0	52.80
Common areas (26.11% pro rata)	0	61.12
Total	-	113.92

4.1.4 Ms. O’Beirne for the Respondent believes that the property is leasehold. No information to the contrary was provided by the Appellant.

4.1.5 The Material Change of Circumstances relates to the construction of a new Primary Care Centre, not previously valued, beside the former St. Agnes convent, Crumlin Road, Dublin 12.

5. ISSUE(S)

Quantum and exclusion from the valuation list are the only issues in dispute, as per the Notice of Appeal received by the Tribunal on the 13th day of April 2023.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references 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.

6.2 Section 3(1) of the Act, so far as material to this appeal, defines “*material change of circumstances*” as meaning a change of circumstances that consists of:
“*the coming into being of a newly erected or newly constructed relevant property.....*”
under Section 3(1)a.

6.3 If a revision manager is satisfied that a material change of circumstances as defined by section 3 of the Act has occurred since a valuation under section 19 of the Act was last carried out in the rating authority area in which the Property is situated, the revision manager has power under section 28(4) of the Act to “*amend the valuation of that property as it appears in the list*” and under Section 28(4)(a)iii “*amend any other material particular in relation to that property as it appears on the list*”

6.4 Where a property falls to be valued for the purpose of section 28(4) of the Act that value is ascertained in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) *If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”)* falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

(2) *For purposes of subsection (1), if there are no properties comparable to the first-mentioned property situated in the same rating authority area as it is situated in then-*

(a) In case a valuation list is in force in relation to that area, the determination referred to in subsection (1) in respect of the first-mentioned property shall be made by the means specified in section 48(1), but the amount estimated by those means to be the property's net annual value shall, in so far as is reasonably practicable, be adjusted so that amount determined to be the property's value is the amount that would have been determined to be its value if the determination had been made by reference to the date specified in the relevant valuation order for the purposes of section 20”

7. APPELLANT'S CASE

7.1 The Appellant's case is set out at 1.3 above. In addition, the Appellant attached an additional page to the Notice of Appeal, stating:

“We received your rates assessment for our section of the Medical Centre and we very taken aback at the quote. This practice has been in operation for 60 years , initially in No 60 St Agnes Road, Crumlin , a converted 4 bedroomed terraced building. The practice occupied the entire ground floor and was 60 square metres in size. including a downstairs extension. The number of staff is the same as in the previous building , but the consultation rooms were bigger in the previous building .The waiting area in the

previous building was 30 ft room which was enclosed with four walls .The new premises has a larger waiting room but it is shared by others. We occupy just 4 of the 14 available consultation rooms and some of the remaining rooms are used by another practice , and also a counsellor. Likewise the reception area is also a shared space. The rates in the previous practice were 3,400 euro . we are astounded by a five fold increase in charge of over 17,000. Some of our staff do not work full time and therefore the consultation room they use is only in use part time. Also both of the doctors are planning towards retirement in the next few years and we would be reducing our workload gradually in anticipation of same .This assessment does not appear to be in step with previous estimates and we strongly request a revised estimate in keeping with the area we actually use.”

7.2 Other than the Notice of Appeal, the Appellant did not further engage with the Tribunal.

8. RESPONDENT’S CASE

8.1 Ms. O’Beirne stated the Property is valued by reference to Section 49 Valuation Act 2001 as amended and that this is commonly known as ‘Tone of the List’. In her opinion, the tone of the list indicates a valuation level of €150psm which is reasonable. According to Ms. O’Beirne, the Appellant had not forwarded any comparable evidence or indeed an opinion of value. Ms. O’Beirne stated that the floor area of the reception had been measured and a valuation level applied in accordance with Section 49 Valuation Act as amended. The cluttered nature of the reception, referenced by the Appellant, was not and should not be reflected in the rate per sqm applied.

8.2 Ms. O’Beirne contended that The Appellant was seeking a reduced NAV based on their view that it is “too high”. The evidence relied upon by the Appellant, according to Ms. O’Beirne appeared to be a number of photographs of the space and common/waiting area. Further the Appellant stated that the other tenants’ rooms, waiting area and reception were cluttered. In addition, Ms. O’Beirne stated that the Appellant requested the Respondent to take into account a reduction in space when “other tenants increase”.

8.3 Ms. O’Beirne stated that the Appellant had not provided comparable evidence or an opinion of their NAV (Tribunal Note: a figure of €3,400 was specified in the Appellant’s Notice of Appeal).

8.4 The evidence provided by the Appellant was considered. In Ms. O’Beirne’s opinion, the view the shape / size of the waiting area was not the determining factor when assessing for NAV. Likewise, the level of tidiness or otherwise should not be considered when assessing the NAV.

8.5 Ms. O’Beirne submitted that the NAV of the common/waiting area was divided out among all ground floor occupiers including the vacant areas/rooms, on a pro-rata basis.

In Ms. O’Beirne’s opinion, the tone of the list indicated a valuation level of €150psm which is reasonable.

- 8.6 In arriving at the NAV of the Property in accordance with Section 49 Valuation Act 2001 as amended, Ms. O’Beirne considered the following three properties, on the Dublin City Council valuation list.

Comparable NAV 1

Property Number	673367
Occupier	Building Design Partnership Ltd
Address	Grd Floor, Old Stone Building, Blackhall Green, Dublin 7, D07 VORF
Total Floor Area	142.36 sq.m
Rounded NAV	€28,700

Level	Description	Size (sq.m)	NAV per sq.m
0	Offices	142.36	€160
0	Car Spaces	3	€2,000 each
	Total	142.36	€28,700

Ms. O’Beirne’s comments were not contested: this property is in office use, of similar size and similar locality, 5km distant from the Property.

NAV Comparable 2

Property Number	748480
Occupier	Emaint Emea
Address	7-21 Beresford Street, Dublin 7, D07 KP83
Total Floor Area	250.05 sq.m
Rounded NAV	€45,400

Level	Description	Size (sq.m)	NAV per sq.m
0	Offices	114.87	€150
0	Mezzanine	74.34	€150
-1	Stores	60.84	€75
0	Car Spaces	5	€2,500 each
	Total	250.05	€45,400

Ms. O’Beirne’s comments were not contested: this property is in office use, of similar size (offices only) and similar locality, 5km distant from the Property.

NAV Comparable 3

Property Number	720745
Occupier	Dr Anthony Hynes
Address	1A Thorndale Drive, Artane, Dublin 5, D05 DX09
Total Floor Area	42.46 sq.m
Rounded NAV	€6,790

Level	Description	Size (sq.m)	NAV per sq.m
0	Surgery	42.46	€160
	Total	42.46	€6,790

Ms. O’Beirne’s comments were not contested: this property is a purpose-built medical centre built on the grounds of a domestic property, similar locality albeit 11 km distant from the Property.

8.7 Ms O’Beirne’s opinion of value is as follows:

Use	Floor	M2	NAV (€) PSM
Surgey	0	52.80	€150
Common areas (26.11% pro rata)	0	61.12	€150
TOTAL	-	113.92	€17,080

9. FINDINGS AND CONCLUSIONS

9.1 On this appeal the Tribunal has to determine whether the value of the Property accords with that which is required to be achieved by section 49 of the Act, namely a value that is relative to the value of other properties on the valuation list of Dublin City Council rating authority area.

9.2 The Appellant made no submission to the Tribunal – only submitting a Notice of Appeal. Rule 36 of the Valuation Tribunal (Appeals) Rules 2019 states that the Appellant's précis must include the following documents:

(a) where appropriate, a copy of the relevant valuation certificate or notification of the valuation manager or revision manager;

(b) a copy of any written record of the decision appealed;

(c) a copy of the notice of appeal to the Tribunal;

(d) maps and photographs of the property the subject of the appeal and of all comparator properties relied upon. Photographs must be dated and titled. Maps must be to scale, with north-point, road names, the property the subject of the appeal and the comparator properties clearly marked;

(e) where appropriate, all relevant market evidence relating to the property the subject of the appeal and a copy of any lease affecting that property;

(f) a copy of any other document verifying facts or particulars relied upon by the appellant.

9.3 No submission was made by the Appellant and therefore the Appellant is entirely deficient in relation to Rule 39. No evidence of any expertise in valuation was advanced at any time. No evidence was advanced to support the Appellant's contention that the

valuation should be €3,400. No evidence was advanced by the Appellant to support the claim that the property should be excluded from Dublin City Council's Valuation List.

- 9.4 Other than the Notice of Appeal the Tribunal had no other information before it from the Appellant. No submission or critique of the Respondents submission was received from the Appellant despite the Tribunal's best efforts to encourage the Appellant to provide a submission.
- 9.5 It was uncontested that the "*Material Change of Circumstances*" related to the construction of a new Primary Care Centre, not previously valued, beside the former St. Agnes convent, Crumlin Road, Dublin 12. Section 3(1) of the Act, so far as material to this appeal, defines "*material change of circumstances*" as meaning a change of circumstances that consists of:
"the coming into being of a newly erected or newly constructed relevant property....."
The Tribunal accepts that there has been a material change of circumstances.
- 9.6 The Respondent provided uncontested evidence of three properties, two office premises valued at €150psm and €160psm and a smaller medical centre suite valued at €160psm, all, it was contended, similarly located.
- 9.7 Ms O'Beirne for the Respondent adopted the lowest value of the three comparable NAV's of €150psm in valuing the Property – the Tribunal has no evidence before it to reject Ms. O'Beirne's approach and concludes that Ms. O'Beirne's evidence is in accordance with the 'tone of the list' in Dublin City Council's administrative area.
- 9.8 In appeals before the Valuation Tribunal, the onus of proof strictly rests with the ratepayer – the Appellant. The Appellant has failed to provide any evidence to support, never mind, prove, its case.
- 9.9 Although not in evidence, it appears to the Tribunal that the Appellant may have been confused as to the revision process undertaken by the Respondent, Tailte Éireann, at the request of Dublin City Council. The NAV of €17,080 is not the rates liability – the Valuation Certificate dated the 21st day of March 2023 clearly states "*Note this is not a Rates Bill. Rates are set by, and paid to, the rating Authority*". The Appellant

mentioned a previous occupation at 60 St. Agnes Road, Crumlin with a rates liability of approximately €3,400. The Tribunal has identified the valuation details of this property (Property Number 604144) – a Ground Floor, described as offices with an area of 71.4 Sq. M valued at €160psm. The Rateable Valuation of 60 St. Agnes Road Crumlin is based on a valuation date of the 7th day of April 2011, published on 31st day of December 2013 is €11,420. The rates liability in 2023 was set by Dublin City Council is based on an Annual Rate on Valuation (ARV) multiplier of 0.273. Accordingly, the rates liability (for 2023) at 60 St. Agnes Road Crumlin is calculated at:

€11,420 multiplied by 0.273 = rates liability of €3,116.66.

A similar calculation for the Property (for 2023) based on a NAV of €17,080 is:

€17,080 multiplied by 0.273 = rates liability of €4,662.84.

The above calculations are simply provided to help the Appellant understand the implications of the NAV of €17,080 relative to the Appellant's previous premises, and related liability for rates.

10. DETERMINATION:

- 10.1 Accordingly, for the above reasons (9.1 to 9.8), 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.