

Appeal No: VA20/4/0033

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Cygnium

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 2183874, Factory at IDA Industrial Estate Macroom, Cork, County Cork.

B E F O R E

Dolores Power - MSCSI, MRICS

Deputy Chairperson

Michael Brennan - BL, MSCSI

Member

Fergus Keogh - MSCSI, MRICS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF FEBRUARY, 2023

1. THE APPEAL

1.1 By Notice of Appeal received on the 27th day of November, 2020 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property (“the Property”) was fixed in the sum of €830.

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 28(4) of the Act because : *“1. The estimated NAV is excessive and inequitable. Significantly greater allowance needs to be made for the actual type and nature of the buildings in their actual location. The Commissioner cites new buildings as his reason for revision, however, they are merely new on this site. The structures themselves are old and were*

dismantled and re-erected on the site. Indeed, substantial sections are not sheeted down to the ground and are open-sided.

2. The valuation is not in line with that of comparable property, as shown by the comparisons. Indeed, cases such as VA97/5/019, VA95/4/002 and VA95/4/006 all defined the tone for comparable property in the area.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €540.

2. VALUATION HISTORY

2.1 On the 25th day 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 Appellant indicating a valuation of €913.

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 €830.

2.3 A Final Valuation Certificate issued on the 16th day of November, 2020 stating a valuation of €830.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 16th day of June, 2022. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Martin O'Donnell FRICS, FSCSI, BA (Econ) on behalf 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. PRELIMINARY ISSUE

4.1 This appeal was originally listed for hearing on 10th January 2022. When the parties appeared before the Tribunal, it was evident that there was a dispute in relation to the extent of the property that was subject of the appeal, pertaining to a newly constructed building. The Tribunal directed that it would adjourn the hearing to allow the parties to clarify the extent of the property the subject of the appeal.

4.2 Subsequent to the adjournment on 10th January 2022, the parties were unable to reach agreement in relation to this issue. Before the recommencement of the hearing on 16th June 2022, the Appellant raised the matter as a preliminary issue for the Tribunal to decide upon prior to the opening of their evidence. The preliminary issue put before the Tribunal was whether a new building that was not included in the Final Valuation Certificate dated 16th November 2020 was subject to this appeal. The Appellant sought to have the building excluded whilst the Respondent sought to have the building included. The building in question extends to 1,045.20 sq m and is referred to as ‘Block 6’ in the Respondent’s précis (hereinafter referred to as “Block 6”).

4.3 Mr. Halpin referred the Tribunal to a prior decision in VA14/5/170 which he stated had similar circumstances to the subject case. It was his view, that reasons for exclusion in that case applied equally to the subject appeal. It was the Appellant’s argument that Block 6 did not form part of the Final Valuation Certificate that issued and should not therefore be included in this appeal.

4.4 Mr. O’Donnell conceded that Block 6 did not form part of the Final Certificate. However, it was Mr O’Donnell’s understanding of the legislation that in order to be fair to all ratepayers, that Block 6 should be included in this appeal. Mr O’Donnell also stated that the onus was on the Appellant to prove that Block 6 was not capable of being occupied.

4.5 The Tribunal delivered their *ex tempore* decision to exclude Block 6 from this appeal. The Tribunal found that as Block 6 was not included in the Final Valuation Certificate, it does not form part of the appeal of same. The Notice of Appeal provides for the jurisdiction of this appeal in accordance with section 34 of the Act. There is no statutory jurisdiction under section 34 of the Act to include buildings that were otherwise excluded, did not exist or were not valued in the Final Valuation Certificate that is currently under appeal. Such a proposition is outside

the scope of the Act. In addition, the inclusion of Block 6 in this appeal would deny the Appellant of their right to procedural fairness and principles of natural justice. The Tribunal is in full agreement with the comprehensive rational as it set out in pages 3-7 of the prior Tribunal decision in VA14/5/170 and considers that the rational applies equally in this case.

5. FACTS

5.1 From the evidence adduced by the parties, the Tribunal finds the following facts relevant to the Property.

5.2 The Property is occupied by Cygnum Timber Frame Ltd.

5.3 The property is located at the IDA Industrial Estate, Macroom, Co. Cork. It is a rural location 2-3km from Macroom town centre and is adjacent to the N22 Cork to Killarney road.

5.4 The Property is a factory premises comprising of a number of interlinked industrial units, offices and ancillary space used for the production of timber frame buildings.

5.5 The property was assumed to be held freehold.

5.6 Notwithstanding the exclusion of Block 6 from this appeal, the parties were still at some variance with regard to the extent of the property under appeal, as follows:

Appellant Floor Areas		Respondent Floor Areas	
Building	Size (Sq M)	Building	Size (Sq M)
Factory	2,144.49	Factory	2,144.49
Ground Floor Offices	329.15	Ground Floor Offices	318.15
First Floor Offices	318.15	Offices	318.15
Loading Bay (open Fronted)	967.20	Store (Open)	967.20
Warehouse (Single Skin)	1,224.00	Factory (Extension 2019)	1,224.00
Warehouse (partly Open)	2,436.00	Factory (Extension 2019)	2,436.00
		Yard (Hardcore)	5,000.00
		Staff Parking	400.00

6. ISSUES

6.1 The appeal raised the sole issue as to whether the NAV of the Property as determined by the Respondent is excessive.

7. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment) Act, 2015) 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.”

8. APPELLANT’S CASE

8.1 Mr Halpin, for the Appellant, contended for a valuation of €550 as follows:

Building	Size (Sq M)	NAV (per Sq M)	Total NAV as at November 1988
Factory	2,144.49	€20.50	€43,962
Ground Floor Offices	329.15	€27.34	€8,999
First Floor Offices	318.15	€27.34	€8,698
Loading Bay (open Fronted)	967.20	€6.83	€6,606
Warehouse (Single Skin)	1,224.00	€13.67	€16,732
Warehouse (partly Open)	2,436.00	€10.25	€24,969
			€109,966
		RV @ 0.50%	€549.83
		RV say	€550.00

8.2 Mr Halpin stated that the subject property comprised of an original factory building that was constructed circa 2005. He stated that the property was extended with a lean-to section with basic single skin roofing to the rear around 2015/2016. He also confirmed that a further addition was carried out in 2016 which comprised of the construction of a second-hand structure. He stated that the structure is partly open sided and is not sheeted to the ground and acts as a timber storage area and is constructed with a double skin insulated metal deck roof.

8.3 Mr Halpin stated that the location of the Property was a “moderate location in rural “County Cork” and that this factor limited its potential. He stated that although the building is modern, it comprised of a mixture of a mixed specification with some of the buildings being partly open sided and not sheeted to the ground and was not suitable for many industrial uses. Mr Halpin also stated that one of the buildings comprised of a second-hand steel frame that was installed on the Property and this limited the valuation attributable to this portion.

8.4 It was Mr Halpin’s view that the established tone of the list for comparable industrial properties in rural County Cork is characterised by moderate historic NAV levels. He further stated that the original valuation that was carried out in 2006 was valued on an erroneous basis and was valued at 0.63% of the NAV rather than 0.50%.

8.5 Mr Halpin submitted four NAV Comparisons in support of his valuation and are detailed in Appendix 1 hereto (N/A to public). He noted to the Tribunal that the publication of the 1988 valuation list excluded a valuation breakdown. They can be briefly summarised as follows:

NAV Comparison 1: Lissarda, Co. Cork – 6km from subject property

Building	NAV (per Sq M)
Factory element valued at	€21.87
Timber Treatment Area element – valued at	€13.67
Canopy element – valued at	€4.10
RV	€780

NAV Comparison 2: Macroom, Co. Cork – 16km from subject property

Building	Size (Sq M)	NAV (per Sq M)
Original Factory	940.00	€17.08
Original Stores	271.41	€13.67
New Factory	523.00	€20.50
New Stores	183.67	€13.67
New Stores	193.67	€17.08
RV		€209.51

NAV Comparison 3: Macrooom, Co. Cork – located close to the subject property

Building	Size (Sq M)	NAV (per Sq M)
Original Factory	1,2000.00	€17.08
Modern Section	1,850.00	€19.82
RV		€450

NAV Comparison 4: Lacka Cross, Co. Cork – 45km north of the subject property

Building	NAV (per Sq M)
Industrial	€13.67
RV	€69.85

8.6 Under cross-examination, it was put to Mr Halpin, if the open sided buildings could be sheeted to the ground and he confirmed that he was unsure if the specification would allow but that it would be a different building if that was to happen. It was also put to him that the gantry cranes were indicative of the quality and specification and Mr Halpin confirmed that they were column supported but was unsure of the floor capacity for the gantry. In relation to the buildings that were constructed in 2015/2016 (referred to as Block 4 and Block 5 in the Respondent précis), it was put to Mr Halpin that it they could easily be cladded down to the ground. Mr Halpin confirmed that it would be straightforward to clad it to the ground but that it would be expensive and would be a different building specification. Mr Halpin was referred to a photograph with HGV trailers parked on a yard and was asked if it was in existence at the valuation date. Mr Halpin confirmed that it existed but was not part of the original valuation in 2005 (meaning the 2006 valuation). He also confirmed that the yard would not be valued separately but would be premium on the industrial rate. It was put to Mr Halpin as to why he did not include comparisons in the immediate vicinity. In response, he confirmed that the subject property comprised of a joinery facility whereas the adjacent properties had a much higher specification and were purpose built, were used for medical device manufacturing and had clean room standards. When it was put to him that his NAV Comparison was remote, he stated that he included it as a comparison for the buildings that were open sided and that he applied higher levels on the better buildings.

8.7 In summarising his evidence, Mr Halpin confirmed that the Property was in excess of 5,000 sq m of buildings and quantum should apply. He stated that it was apparent in the comparison

evidence that different rates are applicable to different specifications of buildings. He was of the view that the Respondent's NAV Comparison 2 while location proximate to the subject property, it was not comparable from a specification perspective as it was a high specification facility. He stated that the extensions to the Property were more moderate than the original specification. He stated that the tone of the list for basic specification is €20.50 per sq m and that the rate of €27.34 per sq m was not comparable as it was for office specification. He confirmed that he applied a discount on the rate of €20.50 per sq m for the buildings that had open sides.

9. RESPONDENT'S CASE

9.1 Mr O'Donnell, for the Respondent, amended his valuation at hearing and contended for a RV of €946.65, as set out below, based on an NAV of €189,328.95.

Initially Mr O'Donnell in his oral evidence stated that his amended RV was to have been €912. However, there was an error in the written calculation contained in his précis of evidence at section 5.3. The total NAV was stated to be €217,660 whereas the correct total should have stated €224,510.

Building	Size (Sq M)	NAV (per Sq M)	Total NAV as at November 1988
Factory	2,133.49	€27.33	€58,308
Offices	329.15	€33.21	€10,931
Dispatch Building / Loading Bay	967.20	€13.67	€13,211.95
Factory (Extension 2019)	1,224.00	€27.33	€33,452
Factory (Extension 2019)	2,436.00	€27.33	€66,576
Yard (Hardcore)	5,000.00	€1.37	€6,850
			€189,328.95
		RV @ 0.50%	€946.65

9.2 Mr O'Donnell stated that the subject property essentially consists of a factory, offices, and a hardcore yard. He said that the factory is laid out in four main sections, the two-story office section along the east of the building, the main original production area, the dispatch building (which is open sided) and the new additional factory buildings to the west of the site. He

confirmed that the property is of steel frame construction and would appear to consist of both single and double skin cladding to the roof and side elevations. He confirmed that the eaves height of the factory ranges in height from 4.9 meters to 7.5 meters.

9.3 Mr O'Donnell referred the Tribunal to a block plan on page 8 of his précis. He referred to Block 7 which comprises of a hardcore yard. He stated that he made a 25% allowance as circulation space on this area whereas there was no circulation allowance in the 2006 valuation. He stated that the hardcore yard was always valued. Mr O'Donnell stated that the loading bay building was valued at 50% of the factory rate in 2006 and he has made the same percentage discount from his factory rate per sq m.

9.4 It was Mr O'Donnell's view that the open-sided nature of some of the buildings did not deserve such a significant reduction in value as by their nature they could be easily cladded to the ground. He also stated that there were no grounds to exclude the hardcore area from the valuation and that it was included in the valuation.

9.5 Mr O'Donnell submitted four NAV Comparisons in support of his valuation and are detailed in Appendix 2 hereto (N/A to public). They can be briefly summarised as follows:

NAV Comparison 1 – IDA Industrial Estate Macroom

Building	Size (Sq M)	NAV (per Sq M)
Factory	369	€22.54/sqm
Office(s)	172	€34.15/sqm
Offices – 1 st floor	24	€27.30
Plant room	35	€17.09
Store – 1 st floor	44	€13.65
Add for oil tank and HP		RV €3.17
Total	541	€23,500.
RV Say		€133.32

NAV Comparison 2 – Hartnets Cross Business Park, Macroom

Building	Size (Sq M)	NAV (per Sq M)
Factory	5,802	€27.33/sqm
Office(s)	2,076	€44.45/sqm
Store	135	€17.08/sqm
Total	8,013	1265.76
RV Say		€1,265

NAV Comparison 3 – Hartnets Cross Business Park, Macroom

Building	Size (Sq M)	NAV (per Sq M)
Factory	96.20	€17.08
Factory	2,042.32	€27.34
HP & Tanks		€30,000 NAV
Total	2,139.52	437.54
RV Say		€442

NAV Comparison 4 – Coolcour, Macroom

Building	Size (Sq M)	NAV (per Sq M)
Workshop	588.71	€27.34
Workshop	144.28	€20.50
Showroom	775.32	€47.85
Workshop	86.74	€6.83
Yard	336.00	€0.9569
Car Spaces	38	€40.00
Total	732.99	
RV Say		€295

9.6 Mr O'Donnell noted the following in relation to his NAV Comparisons. He stated that they are all directly from the area of the subject property. He stated that he did not inspect his NAV

Comparison 1. In relation to his NAV Comparison 2, he stated that he could not vouch for its quality but that it had a factory element and was on the same land. In relation to his NAV Comparison 3, he stated that the subject was valued in line with it and there was no evidence that the buildings were of better quality. In relation to his NAV Comparison 4, he stated that the subject is valued in line with this workshop and that this represents the tone.

9.7 Under cross-examination, Mr Halpin put it to him that a quantum discount should apply to the subject based on the rate in his NAV Comparison 1. Mr O'Donnell accepted that a quantum discount was applied generally in 1988. In relation to his NAV Comparisons 2 and 3, Mr O'Donnell confirmed that they were purpose built for medical device manufacturing. He did not accept that his NAV Comparison 2 had 15-meter eaves, but he did confirm that it was a better building when questioned. In relation to his NAV Comparison 4, Mr O'Donnell accepted that this was a car showroom and that they were generally valued at a premium on industrial levels. Mr Donnell agreed that the Property had to be valued *rebus sic stantibus* and it was put to him that he valued the Property on the basis that the open-sided buildings were enclosed. Mr Donnell stated that the hypothetical tenant would not seek a reduction for the buildings being open sided. He did not accept that the second-hand steel frame was of inferior construction quality when the question was put to him. He agreed that the occupier of his NAV Comparison 2 would not be able to carry on its operation from the subject property due to the lower specification.

9.8 In summarising his evidence, Mr O'Donnell stated that the valuation in 2006 was subject to professional representation and was agreed. He stated that the levels applied are well established. He rejected Mr. Halpin's assertion that they relied significantly on his NAV Comparison 2 in applying the rate to the subject property. He stated that the property was easily accessible and was supported by levels applied to the industrial area along the N22. He stated that the Property was not comparable to a rural area with bad access. He confirmed that the yard should be valued as it was in 2006 and that he was applying the same level of discount that was applied then.

10. SUBMISSIONS

10.1 There were no legal submissions.

11. FINDINGS AND CONCLUSIONS

11.1 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 Cork County Council.

11.2 The relevant question on this appeal concerns the determination of the value of the Property on the terms set out in section 49 of the 2001 Act, as amended 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.*”

11.3 In assessing the relevant similarity of comparable NAV's, careful analysis of each individual property is required. In this regard, the Tribunal had regard to, *inter alia*, the following factors which would be key considerations under section 49 of the Act:

- (a) Locational characteristics
- (b) Physical characteristics
- (c) Design & functionality and
- (d) user.

11.4 The Tribunal considers that the parties are generally in agreement as to the quality of the subject location. What is in issue is the value that is being attributed to the buildings relative to their physical and functional characteristics as well as their use. The Property is used as a timber frame production facility and has been constructed specifically for that purpose. The specification of a property is generally driven by the requirements of the user. The specification of this building requires open sided areas specific to the user and this lower specification is a natural consequence of the use of the property.

11.5 The Tribunal considers that the Property whilst modern is not comparable to a modern medical device manufacturing facility or modern pharmaceutical facility. Likewise, it would not be directly comparable to an industrial unit that would have a high office content or high specification offices. Except for the office component, elements of the Property comprise of a more basic level of construction and specification that would not be suitable for the foregoing uses.

11.6 From an analysis of the photographs submitted in evidence, Mr. Halpin relies on comparisons that conform to more basic construction typically associated with traditional manufacturing. The rate per sq m associated with these comparisons ranges from €13.67 to €21.87 per sq m. Mr. Halpin's valuation is at the upper end of this scale for the higher specification industrial buildings. For reduced specification buildings, Mr. Halpin contends for the following: a discount of 33.33% for buildings with single skin specification; a 50% discount for buildings with open side walls that are not fully cladded to the ground; and a 66.7% discount for the loading bay. Mr. Halpin has applied a high-specification rate to the office element reflecting the higher specification. It is apparent that Mr. Halpin's NAV Comparison 1 and 3 have similar characteristics to the subject property whilst NAV Comparison 2 appears less modern. NAV Comparison 4 which represents the low end of the rate per sq m, though modern, appears to be of significant scale and the rate may be reflective of the significant quantum. Overall, the Tribunal finds that the comparisons are relevant to the Property.

11.7 In relation to Mr. O'Donnell's comparisons, the Tribunal has disregarded NAV Comparison 4, which is a car showroom and is not reflective of the use and physical characteristics of the subject property. No photographs were submitted to the Tribunal in relation to NAV Comparison 1 and it was Mr O'Donnell's evidence under cross examination that the rate of €22.64 per sq m for the factory reflected the fact it has a low eaves height and was a poorer quality building in comparison. However also under cross examination, Mr O'Donnell accepted that a quantum discount would apply on the factory size of 369 sq m relative to the subject factory size of 2,144.49 sq m. In relation his NAV Comparisons 2 and 3, it was Mr. Halpin's contention that these comparisons, which have a common occupier, were top manufacturing plants for medical device manufacturing and were entirely different to the subject property. Mr O'Donnell accepted that they were higher specification to the subject property. Having considered the photographs submitted in evidence and the rate applied to the offices of €44.45 per sq m, the Tribunal is of the view that they are of a significantly higher specification and are not directly comparable for that reason.

11.8 In relation to whether the hardcore yard forms part of the valuation, the onus is on Mr. Halpin to prove that it should not be valued. The Tribunal finds that no evidence was submitted by Mr. Halpin to justify its omission from the valuation.

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 €600, as follows:

Building	Size (Sq M)	NAV (per Sq M)	Total NAV as at November 1988
Factory	2,144.49	€20.50	€43,962
Ground Floor Offices	329.15	€27.34	€8,999
First Floor Offices	318.15	€27.34	€8,698
Loading Bay (open Fronted)	967.20	€10.25	€9,914
Warehouse (Single Skin)	1,224.00	€13.67	€16,732
Warehouse (partly Open)	2,436.00	€10.25	€24,969
Hardcore Yard	5,000.00	€1.37	€6,850
			€120,124
		RV @ 0.50%	€600.62
		RV say	€600.00

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