

Appeal No: VA21/4/0108

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

RIVERFOREST BARBER

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1739580, Property Type: Shop Address of Property: 6AB.7.9A Unit B.1 (Unit 2) Riverforest Shopping Centre, Riverforest, Leixlip, County Kildare.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF JULY 2025**

BEFORE

Peter Stapleton - FSCSI, FRICS, Dip Arb

Member

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 27th day of November, 2021 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 €9,130.
- 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. Accordingly, the value of the Property must be ascertained by reference to values, as appearing on the valuation list for the rating authority area wherein the Property is situated of other properties comparable to the Property.

- 1.3 The sole ground of appeal as set out in the Notice of Appeal is that the valuation of the Property is incorrect as it does not accord with that required to be achieved by section 49 of the Act because: "(a) The Valuation is Incorrect I use less space. "
- 1.4 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €1,000

2. VALUATION HISTORY

- 2.1 On the 23rd September 2019, an application was made 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 Kildare County Council in relation to the Property, the valuation of the Property ought to be amended .
- 2.2 On the 17th day of September 2021 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 €9,130.
- 2.4 A final valuation certificate issued on the 1st day of November, 2021 stating a valuation of €9,130.

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 The parties are agreed as to the following facts.
- 4.2 This property is located in Riverforest Shopping Centre in Leixlip. The subject is a ground floor retail unit which is currently in use as a barbers. Alterations resulted in the size of the property being reduced.

5. ISSUE(S)

The floor areas are not agreed between the parties and hence the dispute is one of quantum.

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: Part of this unit has been portioned off and is now occupied by the pharmacy next door application 1739581 submitted under separate application. The valuations of both PN 1739580 (subject property) and PN 1739581 (pharmacy) were updated accordingly.

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 on the certificate and then issue the final certificate.

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 Mr Kazlauskas does not agree with the floor area as set out by Ms Scanlan of Tailte Eireann.
- 7.2 Mr Kazlauskas puts forward a floor area of 42 sq m and that any floor area in excess of this is not used by him as a result of changes made by the property owner. A hand sketched floor plan with measurements is provided. Photos of 'unused space' are provided.
- 7.3 No comparators are put forward.

8. RESPONDENT'S CASE

- 8.1 Ms Scanlan put forward that alterations did take place in around 2020 when the adjoining Smiths Pharmacy extended their premises into the rear of the subject property, thereby reducing the floor area of the subject property. The valuations were both revised in 2021 to reflect the changes and the revised floor area of the subject property as 49.59 sq m.
- 8.2 Ms Scanlan advises that the Appellant advised her that the commercial rent was reduced as a result of the change in floor area and that no lease exists.
- 8.3 Ms Scanlan put forward three NAV comparators and set out the reduction in valuation from €12,140 to €9,130 as a result of the Revision 2021.
- 8.4 Ms Scanlan produced evidence that she attempted to agree floor areas with Mr Kazlauskas. She advised that no response was received.

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 Kildare County Council rating authority area.

9.2 On 14 May 2024 The Tribunal requested Mr Elvinas Kazlauskas and Ms Scanlan to agree the floor area of the Property. In the absence of agreement, the applicant shall produce a lease plan that is duly verified by the landlord of the applicant clearly indicating the extent of the Property held by the applicant. The tribunal provided seven days for the information to be provided. This information has not been provided to date.

9.2 In this, as with any appeal to the Tribunal, the onus of proving that the Respondent's opinion of the NAV is incorrect lies with the Appellant. In the instant case, the burden of proof has not been met. Furthermore, as the Tribunal has received no reply to its request to the appellant of 14 May 2024 the appeal is deemed to be abandoned.

10. DETERMINATION:

10.1 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.