

Appeal No: VA23/5/0474

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

JOHN HEALY T/A HEALY'S XL

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

**In relation to the valuation of
Property No. 1360217, Fuel/Depot at Barnatra, Belmullet, County Mayo.**

B E F O R E

Dairine Mac Fadden- Solicitor

Deputy Chairperson

Fiona McLafferty- Solicitor

Member

Suzy Quirke-MSCSI, MRICS, Dip. Arb. Law.

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 23RD DAY OF JULY, 2025

1. THE APPEAL

1.1 By Notice of Appeal received on the 16th 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 ("the subject property"), was fixed in the sum of €95,000.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the subject property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

'The Valuation is Incorrect. I have a large file with all the relevant information which we will post on tomorrows date (17th October). I have followed the guidelines for the appeal off the official Tailte Eireann website.'

1.3 In his Notice of Appeal, the Appellant considered that the valuation of the subject property ought to have been determined in the sum of €5,000.

2. REVALUATION HISTORY

2.1 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 subject property, was sent to the Appellant, indicating a valuation of €95,000.

2.2 A Final Valuation Certificate issued on the 15th day of September, 2023, stating a valuation of €95,000.

2.3 The date by reference to which the value of the subject 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 28th day of May, 2025. At the hearing the Appellant appeared in person and the Respondent was represented by Triona Mc Partlan MRICS SCSi of Tailte Éireann.

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.

4. FACTS

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

4.2 The subject property is part of the ground floor of a two-storey building which operates as a retail shop and fuel filling station, situate in Barnatra, Belmullet, Co. Mayo. The first floor of the property is residential. The forecourt has six pumps.

4.3 The floor areas have been agreed by the parties as follows:

Zone	Level	Block	Use	L	B	Total SQM
	0	1	Covered Filling area	16	16	256
		2	Entrance	8.6	2.89	24.85
A		3	Retail	27.5	6.1	167.75
B		4	Retail	27.5	4.3	118.25
		5	Storage	7.1	10.4	73.84
		6	Storage	17	10.86	184.62

4.4 The Fuel Throughput has been agreed by the parties (**APPENDIX 1, N/A to public**).

4.5 The Fair Maintainable Trade (FMT) for the subject property has been agreed between the parties (**APPENDIX 2, N/A to public**).

5. ISSUES

The parties differ as regards the NAV of the subject property. At the hearing the Appellant contended for a NAV in the region of €9,000 - €10,000, with the Respondent contending for a NAV of €28,500.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The NAV of the subject 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 Mr. Healy said that previously the subject property had been valued as one single property together with two other properties which he owned. All his three businesses were inter-dependent and at the time the properties were divided up for valuation purposes, he did not understand the implications. He contended that the division into three separate properties, had resulted in a higher rates bill, with the rates increasing by 400-500%.

7.2 He said that given his remote location and with a low population, it would not be feasible to rent out any of the properties. His family had been in the business for 127 years and if he was not involved, there would be no one else to take it on. He was providing a community service in a rural area.

7.3 The subject property was being compared to properties that were in busy towns with greater turnovers, and he was being expected to pay the same rates. Belmullet was approximately 10km from the subject property. The shop was not a supermarket, and he operated under the smallest brand available.

7.4 He accepted that the floor areas set out by the Respondent’s valuer in her précis at paragraph 4.4 were correct but said that the storage area 5 was not in use. It had been part of the shop until a few years ago but was then closed off when Aldi came into the area. He also contended that area 6 was not in use.

7.5 He agreed with the Respondent's estimate of Fuel Throughput and he also agreed with the Respondent's estimate of FMT.

7.6 He contended that the NAV of the subject property should be €9,000 - €10,000 maximum based on an annual rates bill of €2,500.

7.7 The reason why he had not submitted details of more comparable properties was because he only became aware recently that he could get this information from the Respondent's website. He referred to the NAV for Mc Donalds in Castlebar and said that under the Respondent's valuation, his liability would be the same as Mc Donalds. He accepted however, that this was based on the NAV of €95,000 in the final valuation certificate, which the Respondent was not now contending for.

7.8 He referred to new regulations on fuel stations that he said had been enforced mostly in the west of Ireland and which he said would require him to incur expenditure of between €180,000 and €190,000 on upgrades. He had a temporary licence running from 2023 to October 2025 and would have to complete substantial works by 2026 to be in a position to remain licensed. His position was becoming untenable.

7.9 Under cross-examination by Ms Mc Partlan for the Respondent, he confirmed that:

7.9.1 The valuations for his other properties had been agreed.

7.9.2 He had reduced the area of the retail offering in the shop and the area not in retail use (area 5) had been changed to a storage area. The other portion of the store, area 6, had ice cream machines, ice cream freezers and was still connected to the business.

7.9.3 The subdivision of the subject property and the two other properties was carried out on revision in 2021, and he would have had the opportunity to make representations at that stage.

7.9.4 The FMT and Fuel Throughput had been agreed.

7.9.5 The new regulations he had referred to and requiring significant investment by him, came into force after the valuation date.

8. RESPONDENT'S CASE

8.1 Ms. Mc Partlan, valuer for the Respondent, adopted her précis as her evidence-in-chief in addition to giving oral evidence. Ms Mc Partlan thanked the Appellant for consenting to her submitting a second précis dated the 15th May, 2025, to amend an error in the Fuel Throughput figures in her first précis and which he had brought to her attention.

8.2 She outlined the location of the subject property as set out in her précis and also gave an outline of the 2023 Revaluation Scheme for Service Stations. The established valuation methodology for service stations was widely accepted, and deviating from this standard would be inappropriate. She said that it had been considered prudent in the 2023 Revaluation, due to the substantial disruptions caused by the Covid-19 pandemic in 2020 and 2021, to extend the trading figures analysis to a longer trading period than the usual 3 years prior to the valuation date.

8.3 No trading data had been provided by the Appellant prior to the issue of the final valuation certificate. However, at the Valuation Tribunal appeal stage, the Appellant had provided point-of-sale (POS) reports covering five years, from 2018 to 2022, which were certified by the Appellant's accountant (**APPENDIX 3, N/A to public**). In light of said trading figures, the Respondent was now contending for a reduced valuation of €28,500.

8.4 The agreed Fuel Throughput was as per **APPENDIX 1 (N/A to public)**.

8.5 Ms. Mc Partlan accepted that the subject property had been affected by the opening of Aldi in Belmullet but contended that she had reflected this in her estimated FMT. The shop turnover for 2018 – 2021 was considerably higher than the estimated FMT.

8.6 The Appellant had not provided a specific valuation figure in his précis or a detailed valuation and had provided no comparable information.

8.7 The subject property was not a retail shop or supermarket, and it would be inaccurate to assess its value based on any category other than under that of a service station.

8.8 By way of rental evidence, she gave details of PN 1359868 as per **APPENDIX 4 (N/A to public)**. She submitted that this property which was in the town of Belmullet, approx. 7km from the subject property, was in a superior location, with a shop turnover similar to the subject but with a greater Fuel Throughput. The NAV applied was close to the rent being paid which had been adjusted to reflect the fact that the date of that lease was some time prior to the valuation date for the subject property.

8.9 By way of tone of the list comparisons (NAVs), she gave details of the following:

8.10 NAV Comparison 1

Property Number	1359874
Occupier	Geraghty's Garage Ltd
Address	Bridge Road, Belmullet, Co. Mayo
Eircode	F26A5D2
Category / Use	Fuel / Depot – Service Station
Total Floor Area	286.89 sq. m.
NAV	€45,100

This was a fuel/depot – service station, located in Belmullet, approx. 10km from the subject property with a Fuel Throughput which was considerably more than that of the subject but which had a considerably less than the shop turnover.

8.11 NAV Comparison 2

Property Number	134713
Occupier	Caseys Londis Ballina
Address	Circular Road, Ballina Co. Mayo
Eircode	F26E9X0
Category / Use	Fuel / Depot – Service Station
Total Floor Area	652.58
NAV	€130,500

This was a fuel/depot - service station, located on the Circular Road in Ballina, with a Fuel Throughput and a shop turnover which was considerably more than that of the subject property.

8.12 Taking all of the foregoing into account, she was of the opinion that the correct, fair and equitable NAV for the subject property was €28,500. She referred to the table which she had included in her précis which gave a breakdown of her calculation (**APPENDIX 5, N/A to public**).

8.13 The Appellant declined to cross-examine. In response to questions from the Tribunal, Ms Mc Partlan said that information in relation to fuel card sales had not been provided to her. At this point, the Appellant clarified that they were included in the overall fuel sales data. Storage area 6 was included in the overall service station valuation as it was being used as storage and had always been in that use. Storage area 5 had previously been part of the retail space but was now valued as a store to reflect that it could be rented out separately as otherwise it would be a wasted space. It had been valued at an industrial level of €20 per square metre which was at the lower level of the valuations for stores in a rural area and as could be seen from one of her comparisons.

9. SUBMISSIONS

There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal, the Tribunal has to determine the value of the subject property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the subject 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 Co. Mayo.

10.2 The subject property in this appeal was valued by the Respondent based on the FMT method of valuation. By applying the FMT method, the NAV of a property is determined by applying a given percentage to the estimated FMT to produce a notional rent that a hypothetical tenant would pay as a yearly rent for the property. The FMT is an estimate of the gross annual receipts from each individual revenue stream generated in the property which a reasonably competent operator could be expected to achieve at the property at the valuation date. In estimating the FMT, the factors to be considered include not only the actual turnover but whether the property is under-trading or over-trading having regard to the facts and circumstances pertaining to the property. The Tribunal accepts that the method of valuation of utilising turnover and fuel throughput, and estimating FMT, is an appropriate method in the valuation of the subject property to ensure both correctness of value, and equity and uniformity of value across comparable properties on the valuation list in the rating authority area.

10.3 The Tribunal notes the Appellant's dissatisfaction with the fact that his three properties (PN5021142, PN5021143 and the subject property) are now separately valued. However, that took place under a previous revision which occurred prior to the revaluation before this Tribunal and if the Appellant was dissatisfied, he had a right to appeal at that point in time. The sub-division of the properties into three distinct properties for valuation purposes is not before this Tribunal.

10.4 The Appellant referred to Planning Regulations which he said would impact on the subject property. However, he did not submit a copy of these Regulations to the Tribunal for consideration and it is unclear if the Regulations he was referring to came into effect before or after the valuation date. The costs he submitted on the 9th May, 2025 are estimated only and the contractor did not give evidence as regards the nature of the works required and was not available for cross examination by the Respondent's valuer. Further, and as objected to by Ms Mc Partlan, the Appellant made no reference to these Regulations or the impact of same in his Notice of Appeal and included this information only in a communication to the offices of the Tribunal on 9th May 2025, which was after the date of the Respondent's first précis (17th April, 2025).

10.5 The Appellant contended that there would be no “hypothetical tenant” to rent the subject property and further contended that part of the storage area in the subject property was not being used by him. The term “hypothetical tenant” is the widely accepted concept used when arriving at a determination of the NAV for a property, of estimating the rent which might reasonably be expected to be achieved on a hypothetical letting of the property, vacant and to let, from year to year, where the tenant is responsible for repairs, insurance and rates and other taxes. The “hypothetical tenant” includes the Appellant who is carrying on a business in the subject property. Further, as regards the storage, it falls to be valued as such even if it is not all being used for that purpose as contended by the Appellant.

10.6 The Appellant did not submit details of any comparable properties to support his contention that the Respondent’s NAV was incorrect. He was representing himself and said that he did not realise that he could check the information as regards the valuation of other properties on the Respondent’s website. However, the onus of proof is on him to show that the NAV put forward by the Respondent is actually incorrect. This has been decided and approved repeatedly by the Tribunal and also by the Courts. The fact that the Appellant is a lay appellant does not reverse this onus.

10.7 The Respondent applied the 2023 Revaluation Scheme for Service Stations (details of the scheme had been set out in Appendix 1 of her précis), based on the trading data as certified by the Appellant’s accountant. The Appellant accepted the FMT put forward by the Respondent and the Fuel Throughput was also agreed. The Appellant did not challenge the valuation scheme and the percentages applied to the FMT. The valuation scheme was applied to the NAV comparisons produced by the Respondent in line with the scheme details. Area 5, which had been previously part of the retail area, was valued separately on a square footage basis, as a store. The Appellant’s argument that he was not using this area has been addressed at 10.5 above. He has not challenged the rate applied (€20 per square metre) or shown that it is incorrect.

10.8 Taking the foregoing into account, the Tribunal finds that the Appellant has failed to prove that the valuation of the subject property is incorrect or should be valued lower than €28,500.

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.