

Appeal No: VA23/5/0794

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ORTEGA DUENAS ENTERPRISES LTD

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 497877, Industrial Uses, at Old Stone Works, Murphystown, Sandyford, County Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF AUGUST 2025**

BEFORE

Paul McElearney - FRICS, FSCSI, FCI Arb

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 18th 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 was fixed in the sum of €62,400.

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: “ (a) *Other grounds. We find the increase unreasonable and not feasible. In 2020 valuation was €37125.00 In 2021 it increased to €67300.00 the proposal for 2024 was €81700.00 and now the current valuation is €62400.00 this is an increase of 68% The business will not be able to sustain this increase.* ”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €40,000.

2. RE-VALUATION 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 Property was sent to the Appellant indicating a valuation of €81,700.

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 €62,400.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €62,400.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1st February 2022.

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 following facts do not appear to be in dispute.

4.2 The subject property is located off Murphystown Road, with access to and from Murphystown Way almost opposite the Gallops and Glencairn Rd. The property is well located with access to the M50 motorway. The subject property is adjoined by other premises - business which are separately rated and do not form part of this appeal.

4.3 The subject property would be described as a single storey detached industrial – warehouse type building, which has been repurposed to provide a series of self-storage units, comprising a combination own door storerooms and individual shipping containers at ground level with a part Mezzanine floor and walkway which provide additional self-contained storage units. The mezzanine floor is serviced by a goods lift. The walls are constructed of rendered concrete blocks and insulated panels to eaves height and sit beneath a Kingspan insulated roof. Additionally the property benefits from 3 external customer car parking spaces. The property is in excellent condition and is well maintained.

4.4 That the property is leased from a Mr Thomas Murphy under an agreement dated 22nd of June 2023 (a copy of the one-page agreement was provided.) The parties to the agreement are Mr. Thomas Murphy as Landlord and Ortega Duenas Enterprises Limited as tenant. The agreement is signed by Thomas Murphy as landlord and Jessica Murphy and Carman Ortega Murphy on behalf of the tenant. The Appellant confirmed that 30% of Southside storage is rented from Mr. Thomas Murphy at a rate of €26,250 per annum the remaining 70% is owned by Carmen Ortega at no charge. The balance of the lease is in respect of the stone studio which is rated separately and not part of the subject appeal, at a rent of €8,750 which is part of the Ortega Duenas Group. The Precis of Evidence dated 12th September 2024 as submitted on behalf of the Appellant was signed by Carmen Ortega as Owner /Director.

4.5 Accommodation – Areas. The warehouse has a gross external floor area extending to 843.74 sq. m and a mezzanine floor extending to 588.56 sq. m. (as per the Tailte Valuation Certificate 2023.)

4.6 Title. We understand the subject property is held in freehold title.

5. ISSUES

The sole issue in this appeal 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 A Precis of Evidence dated 12th September 2024, was submitted on behalf of the Appellant and signed by Carmen Ortega, in which, the following matters were confirmed:-

7.1.1 The Appellant had not had a professional valuation of the property carried out in the last number of years.

7.1.2 The Appellant outlined that the Valuation Certificate of September 2023 increased the 2018 valuation assessment from (2018) - €37,125 to (2023) - €62,400 which resulted in an increase in the rates payable from €7,147.30 to €12,960.48 per the 2024 rate demand and that their business will not be able to sustain this increase.

7.1.3 That there had been no changed to the premises.

7.1.4 That Sales and Gross Operating Income was unchanged with no increase being achieved due to current market conditions in an extremely competitive market. The Appellant supported this statement with trading data.

7.1.5 That running costs have risen considerably since 2018, with the main increases being attributable to rates for the premises, electricity – light & heat and insurance costs at €25,893 per annum, general maintenance, wages, PRSI, rent at €105,050 per annum, together with other annual costs including taxation and depreciation.

7.1.6 The appellant confirmed that the size of the Property: 1, 432.1 sq. m in total (as per Tailte Valuation Certificate 2023).

7.1.7 The appellant has confirmed that there are 3 car parking spaces outside the door of the subject property reserved for customers.

7.1.8 The appellant has stated that the condition of the property is excellent and is maintained on a regular basis.

7.1.9 The Appellant opined that the valuation ought to have been determined in the sum of €40,000.

7.2 The Appellant made no reference to rental transactions or rental values, and introduced no comparable evidence in support of their contention that the valuation ought to have been determined in the sum of €40,000.

8. RESPONDENT'S CASE

8.1 A Precis of Evidence was submitted by Mr Anthony Mulvey on behalf of the Respondent in which he confirmed :-

8.1.1 That the subject property was not valued by reference to trading income.

8.1.2 That the matter of the appellants rates liability is not a valuation matter.

8.1.3 That Mr Mulvey was unaware that any part of the building was leased, furthermore based on the copy agreement provided, that it was his understanding that the parties to the lease were connected parties being the Landlord Mr Thomas Murphy and the Tenant, Ortega Duena Enterprises Limited. The lease is signed on the Tenant's behalf by Ms Jessica Murphy and Ms Carmen Ortega Murphy, directors of Ortega Duenas Enterprises

Limited. As connected parties, this is not a market lease, or an arm's length transaction and must be disregarded.

8.1.4 That the appellant states that they did not have a professional valuation of the property carried out in the last number of years.

8.1.5 Mr Mulvey provided details of his comparison evidence for properties which were in his opinion 'similarly circumstanced' and considered comparable, as they shared characteristics such as use, size, location and/or construction.

8.1.6 Mr Mulvey provided relevant comparative market rental evidence and NAV Comparisons which in his opinion underpinned the valuation scheme.

8.1.7 Mr Mulvey's Key Rental transactions for industrial properties in Dun Laoghaire range from €90.00 per sq. m - €120 per sq. m depending on size and location together with NAV comparables which were valued higher than the subject property demonstrate that both correctness and equity & uniformity of value have been achieved in this case. The details of Mr Mulvey's Key Rental transactions and NAV Comparison properties are provided in Appendix 1 (N/A to public).

8.2 Mr Mulvey for the Respondent concluded that having investigated all of the particulars of the appeal and having considered the grounds and the evidence of the appellant and that there were no disputed matters of fact, that the valuation for the subject property should not be amended.

9. SUBMISSIONS

9.1 There were no submissions of a legal nature.

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 Dun Laoghaire Rathdown County Council.

10.2 In any appeal to the Tribunal, the onus is on the appellant to demonstrate reason that the valuation placed on the property should be disturbed. This is a well-established principle and one from which the Tribunal cannot depart.

10.3 This case was presented by a lay Appellant who failed to provide or make reference to rental transactions or rental values, or to provide any comparable evidence in support of their contention that the valuation ought to have been determined in the sum of €40,000. While the Tribunal attempts to take into account the fact the Appellant was not professionally represented, the Tribunal cannot depart from the principle cited at 10.2. Affordability is not something which the Tribunal can consider when assessing an appeal.

10.4 Absent the submission of any comparative evidence to the contrary, or any other substantive grounds, the Tribunal is left with no choice but to disallow the Appeal and confirm the valuation placed on the property by the Respondent.

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.