

**Appeal No: VA22/2/0005**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**SMYTH'S FUNERAL HOME**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 5020661, Property Type: Funeral Home, Address of Property: Feakle Lower, County Clare.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 6<sup>TH</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**Gerard O'Callaghan – MRICS, MSCSI**

**Member**

**1. THE APPEAL**

- 1.1 By Notice of Appeal received on the 27<sup>th</sup> day of May, 2022 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 €20.
- 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:  
*"Valuation is Incorrect*

*A comparative funeral home in the same area is valued at 8.89.  
It should be the equivalent to the one in the same area. 8.89.”*

- 1.4 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €8.89.

## **2. VALUATION HISTORY**

- 2.1 Pursuant to Section 29 of the Valuation 2001 Act as amended, 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 County Clare in relation to the Property and that the valuation of the Property ought to be amended.
- 2.2 On the 16<sup>th</sup> day of March, 2022 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 €20.
- 2.3 A final valuation certificate issued on the 3<sup>rd</sup> day of May, 2022 stating a valuation of €20.

## **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 The subject property is a funeral home which is owner occupied and trades as Smyths Funeral Directors.
- 4.3 The subject property is situated in a rural location on the outskirts of the village of Feakle, Co. Clare and is situated circa 500m from the Village centre.
- 4.4 The subject property is a newly constructed purpose built funeral home consisting of main funeral parlour, waiting area, toilets, kitchenette and adjoining garage.

4.5 The floor areas are agreed as follows;

<b>Description</b>	<b>Area (SQ.M)</b>
Funeral Parlour	90.74
Garage	49.56
<b>Total</b>	<b>140.3</b>

**5. ISSUE**

The issue to be determined here is one of Quantum. The Appellant states that the valuation is incorrect.

**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 per definition (a) "the coming into being of a newly erected or newly constructed relevant property or of a relevant property."

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) (b) of the Act to " if that property does not appear on the said valuation list and it is relevant property (other than relevant property falling within *Schedule 4* or to both the following;

- I. Carry out a valuation of the property and
- II. Include that property on the list together with its value as determined on foot of that valuation

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 situated 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, Mr. Niall Smyth of Smyth's Funeral Directors, stated in his Appeal that the Valuation is incorrect and ought to have been determined in the amount of €8.89.
- 7.2 Mr. Smyth in his written submission to the Tribunal stated that "the rate should be reduced due to the lack of use due to the public requesting the use of local churches rather than funeral homes. The current scenario is proving unequal with some businesses opting for the rate free churches to facilitate reposals"
- 7.3 Mr. Smyth further stated that the subject property was used for a total of 2 days over 2023 and had been used for just 5 days in 2022.
- 7.4 To prove this point Mr. Smyth provided details of local funerals with names of funerals reposing in the subject property and other funerals reposing in local churches for the years 2022 and 2023. Extracts were provided from the individual funeral notices showing the dates and locations for the respective reposals.

## **8. RESPONDENT'S CASE**

- 8.1 Mr. Terry Devlin of Tailte Éireann acted on behalf of the Commissioner of Valuation (the Respondant).
- 8.2 Mr. Devlin described the subject property as being in good condition throughout and is constructed with concrete floors, block walls with external render and internal plaster finish with stonework features to the external façade. It has a pitched slate roof with limited car-parking on site.
- 8.3 In addition to the agreed floor areas a floorplan and various photos showing the property were provided.

- 8.4 In reply to the points raised in Mr. Smyths submission to the Tribunal, Mr. Devlin stated that no comparable evidence was provided to support the Applicants opinion of value and therefore no analysis of the Appellants opinion of value could be undertaken.
- 8.5 Mr. Devlin stated that the subject property was valued in line with comparable funeral homes in County Clare and offered 7 NAV Comparison Properties (Tone of List) in the local authority area. See table of 7 properties below

Property No.	Location	Description	NAV SQ.M	NAV
2175569	Creagh, Kilrush	Funeral Home	€41.00	€14
5006599	Kilmayley	Funeral Home	€34.17	€15
1209004	4 Cabeys Lane, Parnell St., Ennis	Funeral Home	€34.17	€10
2173603	Sixmilebridge	Funeral Home	€34.17	€12
5014116	Ballycar Road, Newmarketonfergus	Funeral Home	€34.17	€23
1209976	Francis St., Ennis	Funeral Home	€34.17	€25
2175187	Ard na Gréine, Shannon	Funeral Home	€34.17	€20

- 8.6 Mr. Devlin proposed that the correct NAV was €20 as calculated below;

Description	Area SQ.M.	NAV € Sq.m)	NAV €
Funeral parlour	90.74	34.17	3100.59
Garage	49.56	20.50	1015.98
		Total	€4116,56

NAV @ 0.5% = €20.58 Rateable Valuation say €20.

## 9. FINDINGS AND CONCLUSIONS

- 9.1 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 Clare County Council.
- 9.2 It is well established that in a rating appeal the onus of proof lies on the Appellant to show that the NAV is incorrect.

- 9.3 There was no disagreement between the Applicant and Respondent regarding the nature, condition or size of the subject property.
- 9.4 The Tribunal agrees with the Respondent that the Applicant failed to offer any evidence to support their opinion of NAV at €8.89.
- 9.5 The Tribunal accepts the evidence provided by the Applicant that the property is under utilised and that as a result the trading income must be affected, however it is clear from the evidence provided by the Respondent that the NAV for Funeral Homes are assessed on their respective floor areas and not the level of trade within same funeral homes. The Applicant had failed to prove that the approach undertaken by the Respondent was incorrect or that the subject property was not valued in line with similarly circumstanced properties.
- 9.6 The Respondent provided clear evidence of a uniformity of approach to funeral homes within the local authority area and demonstrated to the Tribunal that the subject property had been valued in line with comparable funeral homes.

#### **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.