

**Appeal No: VA23/5/0345**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**REGIONAL FOODS LIMITED  
t/a SIMPSONS SUPERMARKET**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2004362, Industrial Uses at 5A 6A Tullnaree, (aka Tul na Rí) Carndonagh, County Donegal ('the Property').

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 1<sup>ST</sup> DAY OF SEPTEMBER 2025**

**BEFORE**

Fergus Keogh MSCSI MRICS

**Member**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 10<sup>th</sup> day of October 2023 and dated 11th September 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 €15,460.

- 1.2 The grounds of appeal as set out in the Notice of Appeal by the Appellant’s agent and quoted below 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.

The agent stated that the valuation is incorrect because;

*(a) ‘Property has been vacant for the past 25years and is in a very poor state of repair and it is unsafe to walk through it there is no office space*

The agent stated that details stated in the relevant Valuation List are incorrect because;

*(b) ‘there is no office space’*

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0 (Zero Euro).

## **2. RE-VALUATION HISTORY**

- 2.1 This is a Revaluation appeal arising from the Donegal County Council revaluation which was undertaken as a result of the Donegal County Council Valuation Order 2022, that was signed by the Commissioner of Valuation on 6<sup>th</sup> September 2022 and is for the Valuation List published on 22<sup>nd</sup> September 2023.
- 2.2 The functions of the Commissioner of Valuation are now performed under the authority of Tailte Éireann with effect from 1<sup>st</sup> March 2023 (S.I. No.58/2023 - Tailte Act 2022 (Commencement) Order 2023).
- 2.3 On the 23<sup>rd</sup> 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 €15,460.

- 2.4 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 manager did not consider it appropriate to provide for a lower valuation.
- 2.5 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September 2023 stating a valuation of €15,460.
- 2.6 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1<sup>st</sup> day of 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 this appeal Mr. Joseph G Carlin FCCA Dip. Insolvency of JG Carlin & Co. Limited, Chartered Certified Accountants, Statutory Auditors & Tax Advisors represented the Appellant. Mr. Oliver Parkinson, Associate SCSi, M.Sc. Real Estate. B.A (Hons) Acc, of Tailte Éireann represented the Respondent, ('the Parties'). 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 Tribunal finds the following undisputed facts.
- 4.2 The subject Property is located in Carndonagh County Donegal. It is situated on the Merville Road, a continuation of Pound Street, approximately 1 km from the town centre.
- 4.3 The subject Property comprises an industrial building. It is of traditional construction detail with block walls and a combination of a felt covered flat roof to the front section and single skin metal deck clad pitched roof to the rear. There is a forecourt area to the front.

The Property is situated to the rear of a commercial enterprise which includes a supermarket, bar / restaurant and nightclub.

- 4.4 The Property extends in total to an area of 1,031.13 m<sup>2</sup> and comprises of an office area of 220.18 m<sup>2</sup> and a factory area of 810.95 m<sup>2</sup>. External photographs included in Mr. Parkinson's précis and taken in August 2023 and September 2024 indicate that building is in a state of general neglect.
- 4.5 Internal photographs taken on the same dates indicate that the Property is unkempt and used for storage purposes of discarded items including shop-fitting / confectionary stands and bailed cardboard. A photograph of the office indicates occupation and recent use with the presence of a kettle and food items. The external area / yard is overgrown. Access to the Property is through the supermarket car park. The forecourt area has a hand-wash car washing enterprise.
- 4.6 Originally constructed in the 1960's the Property has been used for a variety of purposes including a dancehall., knitwear factory and for furniture sales.

## **5. ISSUES**

- 5.1 The matter in dispute in this appeal is one of the quantum of the valuation to be applied to the Property. In the Notice of Appeal the Appellant sought a zero valuation based on the condition of the Property and stated that it had been vacant for 25 years and was in a very poor state of repair and was unsafe to walk through. In correspondence dated 16th January 2025 the Agent for the Appellant contended that the valuation should not exceed €1,500.

## **6. RELEVANT STATUTORY PROVISIONS:**

- 6.1 All references hereinafter 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 and other statutes.

6.2 In Revaluation type appeals, as in this appeal, sec. 37 of the Act provides that the Valuation Tribunal must reach a determination having regard to the provisions of section 19(5) inserted by section 7 of the of the Valuation (Amendment) Act 2015 as follows:

*“The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)*

*(a) correctness of value, and*

*(b) equity and uniformity of value between properties on that valuation list,*

*and so that (as regards the matters referred to in paragraph (b) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.”*

6.3 The net annual value of the Property (‘the NAV’) 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.”*

6.4 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. Carlin in the Notice of Appeal sought a zero valuation assessment stating that the Property had been vacant for 25 years, was in a very poor state of repair, was unsafe to walk through and that it did not contain any offices as referenced in the Respondent’s valuation assessment.

7.2 In this appeal Mr. Carlin submitted a number of emails and correspondence dated 16<sup>th</sup> January 2025 which he said was in response to Mr. Parkinson’s evidence. In this correspondence he provided some historical background to the Property advising that it was constructed in the 1960’s and that it had been used by previous occupiers for a variety of uses including as a dancehall in the 1980’s, as a knitwear factory up to the mid 1990’s and latterly following a number of years vacancy as a furniture sales outlet. He said that the furniture company had ceased trading and on vacating the Property left behind left behind a large amount of cardboard and furniture wrappings.

Mr. Carlin said that the Appellant purchased the Property in approximately 2006 in order to extinguish a right-of way which the Property had over the supermarket car park area for access purposes. Mr. Carlin attached a number of photographs which he said indicated that that the Property was unusable at that point in time and said that that there was no electricity in the building.

- 7.3 Mr. Carlin advised that of the rent paid by the car-wash enterprise which operated from the area to the front of the building. Details of this rent is set-out in Appendix 1 (N/A to public).
- 7.4 Mr. Carlin advised that while the adjacent supermarket had used the Property for the storage of excess loose fitting cardboard displays that it had not accessed the Property for a number of years due to the dangerous nature of the floor. Mr. Carlin did not submit a condition report in support of his statement that the floor was in a dangerous condition. He said that there was a small open area to the side of the Property where bales of cardboard were left pending collection.
- 7.5 Mr. Carlin commented on the two comparison properties referenced in Mr. Parkinson's précis. He said that Mr. Parkinson's NAV Comparison Number 1 was located on the outskirts of Buncrana and was not comparable to the subject Property as it was a fully operational manufacturing facility. He said that Mr. Parkinson's NAV Comparison Number 2 was located at Bridge Street Carndonagh and that it was situated in a much more central location in comparison the subject Property which he said was located on a side / minor road since the by-pass road from the Malin Road to the Moville Road had been completed.
- 7.6 Subject to the foregoing Mr. Carlin said that the NAV of the property should not exceed €1,500. Mr. Carlin did not submit any valuation evidence in respect of the Property in support of the contended valuation.

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

- 8.1 Mr. Parkinson contended for a valuation of NAV€15,460 which was the valuation assessment of the Property as it appeared on the Valuation List.

8.2 In his précis, Mr. Parkinson described the location, the size and the construction detail of the Property which he supported with internal and external photographs, a block plan and a location map. He referred to and described the 2023 *Reval* process and the relevant statutory provisions of the Act as they applied. He advised of the representations made by the Appellant and the considerations made by the Respondent to these representations which resulted in the confirmation of the Valuation List Assessment of NAV€15,460.

8.3 In support of his opinion of value and as evidence of equity and uniformity in the application of the Respondent’s valuation scheme, Mr. Parkinson’s précis contained details of two NAV Comparison properties details of which are set-out below. External photographs and location maps were provided for each comparison property and a map indicating the location of the comparisons relative to the subject Property.

(i) NAV Comparison Number 1 - PN2004405

Property Number	2004405
Occupier	Crana Engineering Ltd
Address	Ballymagen, Buncrana, Co. Donegal
Total Floor Area	1,670.26m <sup>2</sup>
NAV	€27,700

Level	Description	Size m <sup>2</sup>	€ NAV per m <sup>2</sup>
0	Offices	66.91	€15
0	Steel Container	12.88	€15
0	Store (open sided)	157.92	€7.50
0	Store	6.97	€15
0	Workshop	1,021.84	€15
0	Workshop (Modern)	416.62	€18
0	Yard (Concrete)	1,420.00	€1.50
0	Yard (Hardcore)	312.00	€1.50
	<b>Total</b>	<b>1,670</b>	<b>€27,700</b>

In commentary Mr. Parkinson said that NAV Comparison Number 1 was an engineering business located approximately 2 km from Bunrana on Elm Park Road. The building comprised of an engineering business consisting of a workshop with ancillary office accommodation and a yard. He said that it was larger in size than the subject Property but similar in construction detail and location. No Representations were received by the Respondent and an appeal was not made to the Valuation Tribunal in respect of its valuation assessment.

(ii) NAV Comparison Number 2 - PN2004162

Property Number	2004162
Occupier	Vacant
Address	Bridge St, Carndonagh Co. Donegal
Total Floor Area	1014.84 m <sup>2</sup>
NAV	€15,220

Level	Description	Size m <sup>2</sup>	€ NAV per m <sup>2</sup>
0	Store	1014.84	€15
	<b>Total (rounded)</b>	1,014.84	<b>€15,220</b>

In commentary Mr. Parkinson said that Comparison Number 2 was located near to the subject Property and comprised of an industrial building that was currently vacant and valued as an industrial store. It was similar in size and construction detail to the subject Property. No Representations were received by the Respondent and an appeal was not made to the Valuation Tribunal in respect of its valuation assessment.

(iii) Summary Chart of NAV Comparisons

<b>KRT No.</b>	<b>Address</b>	<b>NAV € per m<sup>2</sup></b>	<b>€ NAV</b>
PN2004405	Ballymagen , Buncrana, Co. Donegal.	€15	€27,700
PN2004162	Bridge Street, Carndonagh, Co. Donegal.	€15	€15,220

8.4 In his précis Mr. Parkinson referring to Relevant Authorities and referenced *Dalton vs Commissioner of Valuation VA 17/5/542*. He said that within the legal submission made under the London County Council v Erith Churchwardens [1893] AC 562 where Hershel J stated, ‘for a property to escape rating, it’s occupation must have no value at all to anyone. This is a very high bar for an occupier to overcome’. He said that the subject Property was in occupation and use and giving one occupant value.

8.5 Subject to the foregoing Mr. Parkinson contended for a valuation of €15,640 as follows;

<b>Use</b>	<b>Floor Areas m<sup>2</sup></b>	<b>NAV per m<sup>2</sup></b>	<b>NAV</b>
Office	220.18	€15	€3,302.70
Warehouse	810.95	€15	€12,164.25
Total NAV			€15,466.95
<b>NAV, Say</b>			<b>€15,460.00</b>

## 9. SUBMISSIONS

9.1 The Parties did not make 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 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 Donegal County Council.

10.2 The Property is to be valued in accordance with Sections 48 and 19 (5) of the Valuation Act 2001, as amended. The requirement in accordance with section 19(5) is to arrive at a Net Annual Value (NAV) and achieve both, insofar as is reasonably practicable,

(a) correctness of value and

(b) equity and uniformity of value between properties on that valuation list.

10.3 The Tribunal relies upon and decides on appeals based on the evidence placed before it. It is a well-established principle that the onus rests with the Appellant to prove his or her case and provide evidence to the Tribunal that the Respondent's valuation of the property in question is incorrect and should be amended. It follows that the Tribunal must consider the nature of the evidence submitted to determine whether it supports the argument advanced on behalf of the Appellant.

The précis, appendices and commentaries submitted by Mr. Carlin and by Mr. Parkinson have all been considered by the Tribunal in arriving at this Determination, which can only set out a summary of the evidence placed before the Tribunal. The fact that the Tribunal does not make specific reference to any particular document, argument, submission or piece of evidence does not indicate that it has not been taken into account.

10.4 Mr. Carlin's various submissions were not made in the format as required by the Tribunal and as set out in the Tribunal Rules, a copy of which had been provided to Mr. Carlin. The Tribunal found his submissions to be lacking in detail and his comments to be unsupported

and contradictory. In the Notice of Appeal a zero valuation assessment was sought however in subsequent correspondence he stated that the assessment should not exceed €1,500. In the Notice of Appeal Mr. Carlin stated that the subject Property had been vacant for 25 years though acknowledged that the neighbouring supermarket stored items there. In subsequent correspondence he stated that the Property was derelict and that the floor was in a dangerous condition. No evidence or condition reports were submitted in support of the statement that the Property was derelict or that the floor was in a dangerous condition.

- 10.5 Photographic evidence submitted by Mr. Carlin indicated that the Property was being used for the storage of items and he confirmed that correspondence that some of these items originated from the adjacent supermarket. The Tribunal notes that photographs submitted by Mr. Parkinson indicated recent use of the office section of the Property. Photographs submitted by Mr. Parkinson also indicated that an external area to the front of the Property was being used as a car wash facility, the commercial terms of which were confirmed by Mr. Carlin. The Tribunal is satisfied that use is being made of the Property.
- 10.6 Mr. Carlin contended that the valuation of the Property should not exceed €1,500 however no comparative rental evidence was submitted in support of this argument.
- 10.7 Mr. Parkinson submitted details of two NAV Comparisons which he said supported equity and uniformity of the Respondents scheme of valuation. Each comparison property was valued at €15 per m<sup>2</sup> the same rate as applied in the valuation of the subject Property. In the absence of contradictory valuation evidence from the Appellant the Tribunal accepts Mr. Parkinson's opinion of value of the subject Property.

**DETERMINATION:**

Accordingly, for the above reasons, The Tribunal disallows the appeal and confirms the decision of the Respondent and its valuation of the Property at NAV €15,460.

**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.