

Appeal No: VA23/5/0957

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

IRISH TABLE TOP GROUP

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 335177, Retail (Shops) at Unit 1 Marley Craft Courtyard, Grange Road, Dublin 16

B E F O R E

John Stewart - FSCSI, FRICS, MCI Arb

Gerard O'Callaghan - MRICS, MSCSI

Mema Byrne - BL

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF OCTOBER, 2024**

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 **€4,400**.

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) The Valuation is Incorrect as detailed in our emailed submission. "

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of **€2,200**.

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 Property was sent to the Appellant indicating a valuation of €4,400.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €4,400.

2.4 The date by reference to which the value of the 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 6th day of June 2024. At the hearing, the Appellant Mr Eamonn Cunningham appeared in person and the Respondent was represented by Ms Ita McNally BSc(hons), Dip Arch. of Tailte Éireann (Valuation Office).

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. At the oral hearing, each witness, having taken the oath, adopted their précis as their evidence-in-chief in addition to giving oral evidence.

4. FACTS

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

4.2 The subject property is situated in Marlay Craft Courtyard which is located close to the perimeter of Marlay Park adjacent to the R133 in Ballinteer, Dublin 16.

4.3 Marlay Park is a public park extending to circa 300 acres and is owned and administered by Dún Laoghaire/ Rathdown County Council.

4.4 Marlay Craft Courtyard is a protected structure situated in the former stables and outhouses of the adjoining Marlay House. The Courtyard is occupied by various traders, artists and designers working in the Arts and Crafts field.

4.5 Irish Table Top Group are long term occupiers having established their business in Marlay Park Courtyard in 1979. Irish Table Top Group also occupy unit 13 Marlay Craft Courtyard situated at first floor level above the subject property. No.13 is also subject to an Appeal to the Tribunal under reference VA 23/5/0953

4.6 The agreed ground floor area is 24.7 square meters.

5. ISSUES

5.1 The issue to be determined here is one of quantum. The Appellant in its appeal stated that the valuation is incorrect.

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 The Appellant, Mr. Eamonn Cunningham of Irish Table Top Group began by taking the oath and adopting his Précis as his evidence in chief.

7.2 Mr. Cunningham stated that the increase in the NAV from €1,650 to €4,400 as set out in the Valuation Certificate is excessive.

7.3 The Appellant stated that the Property should not be described as a retail shop. The business is a design agency, and the Property is a showroom for the various products and to facilitate customer feedback. Less than 35% of the turnover of the business is generated through direct sales to the public.

7.4 Mr. Cunningham stated that the business has experienced decline in trading performance in recent years and provided an Accountant’s statement from the Irish Table Top Group which showed decreasing turnover from the years 2020 to 2023 inclusive.

7.5 Mr. Cunningham asked that the Tribunal consider the following items;

1. The absence of signage promoting the business or Marlay Craft Courtyard or Irish Table Top in the surrounding roads or in Marlay Park carpark.
2. The business is forced to close whilst concerts take place in the Park resulting in the loss of over 12 days trading with no compensation payable.

3. There is no wheelchair access or running water in the unit and the common areas are poorly maintained.
4. Opening times are restricted as the park closes at 4:30pm over the winter months which negatively impacts sales over the Christmas and New Year periods.
5. There are no letter boxes, and some couriers refuse to service the business due to vehicular access restrictions within the park.
6. The windows were in a poor state of repair which reduces the value of the Property.
7. The Property is occupied on a lapsed lease and despite the Appellant seeking a new lease, Dún Laoghaire Rathdown County Council have offered none.
8. Finally, the Tenant stated that the business had been badly affected during redevelopment works undertaken in Marlay Park between 2015 and 2018.

7.6 Mr. Cunningham stated that the Landlord, Dún Laoghaire Rathdown County Council, have not been proactive in promoting the Marlay Craft Courtyard and that they have removed the link from the Council website and have failed to provide signage from the Public Carpark directing patrons to the Courtyard.

7.7 Mr. Cunningham has stated that there has been a high rate of vacancy within the Courtyard which negatively affected the value of the Property. He stated that at present there are 6 units vacant whilst other businesses are required to reduce opening hours due to poor trading. Mr. Cunningham stated that 12 out of the 23 units within the Marlay Craft Courtyard are not occupied daily.

7.8 Mr. Cunningham stated that there is currently poor security for the Property with no CCTV or security lighting in the vicinity of the subject property.

7.9 Mr. Cunningham stated that the maintenance of the common areas and services within the Courtyard is very poor and cited the absence of wheelchair access, cleaning, water supplies to the units and absence of hot water in the communal toilets as evidence of this.

7.10 Cross-examination of Mr. Cunningham. The level of vacancy was questioned by the Respondent and clarity was sought by the Tribunal on the level of vacancy. When questioned on the occupancy of the various other units and specifically the list of occupiers cited in the respondent's precis, Mr. Cunningham confirmed that all the units listed as rental comparisons in the Respondent's Precis were occupied and that level of vacancy may have been overstated in his evidence.

8. RESPONDENT'S CASE

8.1 The Respondent was represented by Ms. Ita McNally of Tailte Éireann (Valuation Office) and she began by taking the oath and adapting her Precis as evidence in chief.

8.2 Ms. McNally began by describing the Property and provided various photographs of the exterior and interior of the Property. Ms. McNally described the Property as being in good condition after been fully refurbished in 2017/18 with the large front windows replaced in 2023.

8.3 Ms. McNally provided details of the Tenure of the Property and confirmed that the Property is occupied in combination with Unit 13 above (Property No. 335175). The combined monthly rent for both units is €3,769.20 per annum. Ms. McNally stated that she was advised by the Appellant that the property has been held on a lapsed lease since 2005 and that the current rent was set in 2003 and has not been reviewed since.

8.4 Ms. McNally stated that the Appellant's precis contained no comparable rental or NAV comparisons. She stated that the Appellants are one of four tenants who have been in occupation of Marlay Craft Courtyard for over 40 years. These four occupiers were relocated to the southern section of the Courtyard to facilitate refurbishment in 2015 and that the rents for these units are lower than the units on the northern section of the Courtyard which are the subject of more recent lettings.

8.5 Ms. McNally stated that the Property has the benefit of two large arched windows and has been fitted internally with shop display units. The unit has not been zoned as a shop but valued at an overall level of €200 per sq. m.

8.6 One Key Rental Transaction was provided in support of the Respondent's opinion of NAV. This was Unit 5 Marlay Craft Courtyard (PN 335173) with NER of €200 per sq. m for the Ground Floor Shop and €128 per sq. m for the first floor. Details of this comparison are attached in Appendix 1 (N/A to public) and other rental information relating to 6 other units in Marlay Craft Courtyard are set out in Appendix 2 (N/A to public). The five ground floor areas had NER's ranging from €230 per sq. m to €361 per sq. m.

8.7 Three NAV comparisons were provided relating to Units to 5, 6 and 12 Marlay Craft Courtyard with each having an NAV of €200 per sq. m.

8.8 Ms. McNally stated that the matters regarding security, repair, signage, opening hours etc were considered before finalising an NAV of €200 per sq. m.

8.8 In conclusion, Ms. McNally requested that the Valuation of €4,940 ($€200 \times 24.7 = €4,940$) be entered into the Valuation List as representing the Net Annual Value for the subject property based on a corrected floor area following her site visit. The Appellant had failed to offer any evidence in support of their proposed NAV of €2,200.

9. SUBMISSIONS

9.1 There were no legal submissions.

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. The Tribunal finds that in this Appeal, as in all Appeals before the Tribunal, that the onus of proof rests with the Appellant.

10.3 The Tribunal noted the evidence of the Respondent in stating that matters relating to opening hours, access, signage etc. brought forward by the Applicant at representation stage had been considered by The Respondent. These issues were common to the other occupiers on the Courtyard.

10.4 In this case, the Tribunal finds that the Appellant has failed to demonstrate that the Respondent's valuation is incorrect having provided no evidence of rental transactions or Net Annual Value Comparisons to support their case.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent and that the Valuation of €4,940 be entered into the Valuation List as representing the Net Annual Value for the subject property.

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.