

Appeal No: VA23/5/0051

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Mc Intyre's Saloon Bar

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2003197, Public House at 4 The Mall, The Mall Ballyshannon, County Donegal.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF NOVEMBER 2025**

BEFORE

Suzy Quirke MSCSI, MRICS, Dip. Arb. Law

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 27th day of 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 €7,500.

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*
(b) Details stated in the relevant Valuation List are incorrect

this public house although it has been licensed continually it has been closed since Covid started except for ten days and has not earned any money

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €500.

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 €7,500.

2.2 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €7,500.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 01st 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 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 apply in this case.

4.2 The property is located on The Mall in Ballyshannon and 25 m west of the junction of The Mall and Main Street. Ballyshannon is a small town (pop. Approx. 2,246 in 2022 census) in the

south west of County Donegal. It is approximately 22 km north to Donegal town and 64 km south to Sligo. The subject property is situated in a central location in the town.

4.3 The property comprises a traditional Ground Floor drinks only pub in a three-storey terraced building. The pub comprises two adjoining rooms, a bar on one side and a covered smoking shelter in a rear yard. Toilet accommodation and an office/store are located on the upper floors.

4.4 The Ground Floor area extends to 44.78 sq, m.

5. ISSUES

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 The Appellant is asserting that the valuation is excessive as the pub remains closed since the onset of Covid-19 and opens once a month for a few hours for a traditional Irish music session, and is not generating any material income.

7.2 The Appellant asserts that the NAV of the property should be €500. No valuation rationale or comparable evidence have been provided to support this valuation other than to state that the pub has been open on a total of 10 occasions since the onset of Covid-19 for a few hours on each occasion.

8. RESPONDENT'S CASE

8.1 The Respondent states that the fact that the pub is closed is not relevant as the appropriate method of valuation in licenced premises is by an application of a percentage to the Fair Maintainable Trade. FMT is what a reasonably efficient operator might expect the business to generate in the property. Under the scheme in Donegal County Council 7% is taken on drinks sales of FMT to derive the valuation. The Respondent states that in arriving at the valuation of €7,500, the scheme adopts a valuation of 7% on FMT which equates to €107,250.

8.2 The Respondent's Representative states the sales derived from the premises details of which were submitted by the Appellant, was a result of the Appellant's choice not to open the premises other than very infrequently and that it did not represent Fair Maintainable Trade.

8.3 The Respondent's Representative states that at an NAV of €7,500 equates to a weekly rent of €144 and that there are several similar properties in Ballyshannon valued at this level or higher and that the valuation is justified. The Respondent sets out that the emerging tone is almost fully established and this is the only pub valuation under appeal in Ballyshannon.

8.4 The Respondent submitted two Key Rental Transactions neither or which were located in Ballyshannon and the second of which was not comparable as it was considerably larger and had a good food trade.

8.5 The Respondent referred to the following NAV comparisons

NAV 1

Property number	2003207
Occupier	Frank Dorrian Limited t/a The Thatch
Address	Bishop Street, Ballyshannon
Total floor area	45.5 sq.m
NAV	€7,500

FMT	% applied as per scheme	NAV
Drinks sales €107,250	7%	€7,500

This property is very similar to the subject. Similar size and traditional, drinks only pub. The location is slightly inferior to the subject being somewhat removed from the town centre. Trading information was supplied and there was no Appeal to the Valuation Tribunal.

NAV 2

Property number	2003115
Occupier	Max Bar
Address	Market Street, Ballyshannon
Total floor area	60.5 sq.m
NAV	€12,250

The property is similar in size but in a slightly inferior location. The property has the benefit of a beer garden to the rear. Trading information was provided and no representations or appeal was made in respect of the valuation.

NAV 3

Property number	2182949
Occupier	The Lantern Bar
Address	Allingham Road, Ballyshannon
Total floor area	73.16 sq.m
NAV	€7,500

This property is in an inferior location. It is larger than the subject and is basic in specification. The valuation was appealed to the Tribunal Appeal and recently agreed before the hearing. The subject property is superior in many ways to the above property and can not reasonably be valued below this property.

8.6 The Respondent contends that the property is the last remaining valuation under dispute in Ballyshannon and that it is in line with two other similar pubs.

9. SUBMISSIONS

No legal submissions have been made.

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 Donegal County Council.

10.2 The Tribunal finds the Appellant's contention that the valuation should reflect the fact that the premises was closed other than for very occasional days to be flawed. Section 48 (3) of the Valuation Act 2001 provides for the estimate of value to be arrived at for a property as being what a hypothetical tenant would pay by way of rent. In the case of licenced premises the long established method of arriving at NAV is the receipts and expenditure method where the local authority applies a percentage to receipts from drink sales and food sales. In case of Donegal County Council the scheme adopts 7% on the receipts and expenditure from drink sales. Fair

Maintainable Trade is estimated at what a reasonably efficient operator might expect to achieve out of the property the subject of the valuation. Where trading figures are provided the Respondent's role is to consider if a Fair Maintainable Trade is equivalent to the actual figures and in the absence of trading figures the Respondent will estimate what Fair Maintainable Trade might be generated by the property.

10.3 The property is valued at NAV €7,500 which implies an FMT of €107,250 at 7% on drinks only sales. The valuation of €7,500 implies a weekly rent of €144. This has been compared in the Respondent's submission of KRT's in the submission. The Tribunal finds that the KRTs supplied are not comparable with the subject property being in larger, busier towns and being significantly larger premises.

10.4 The Tribunal has considered NAV Comparison 1 (Frank Dorrian Limited, t/a The Thatch) to be very comparable to the subject. They are both small pubs of less than 50 sq.m and both have a drinks only trade and traditional interior. Comparison 1 is in a slightly less central location but both are town centre. On the basis of an NAV of €7,500 this assumes FMT of €107,250 if applying the 7% on drinks sales in accordance with the valuation scheme.

10.5 The Tribunal has also considered The Respondent's Comparison 2. This pub known as Max Bar is also a small, drinks only pub albeit in a slightly inferior location, it does have the benefit of a small beer garden to the rear. Trading information was provided and no appeal was made to the Tribunal.

10.6 The Tribunal notes NAV Comparison 3 submitted by the Respondent. This bar is located outside the town on the other side of the River Erne and is an inferior location. It is of basic construction and specification but has the benefit of car parking. It is also slightly larger than the subject property. It was the subject of a Tribunal Appeal and the NAV was agreed prior to the hearing. The Respondent contends that the subject property is a superior premises and cannot be valued at a lower NAV than this comparison.

10.7 Section 19 (5) of the Act requires the NAV to ‘achieve both (insofar as is reasonably practicable) a) correctness of value and b) equity and uniformity of value between properties on that valuation list’. The Respondent contends that the property is valued in line with other similar pubs in Ballyshannon. The subject property is the only remaining valuation in dispute and the tone of the list has been established.

10.8 The Tribunal finds that the Respondent’s evidence of Key Rental Transactions is of limited assistance in arriving at an NAV as neither is located in Ballyshannon and the second in particular relates to a much larger premises with a food trade.

10.9 In arriving at the NAV for the subject the Tribunal has taken account of the valuations of NAV Comparisons 1 and 3 in particular. The subject is directly comparable to Comparison No 1 in terms of size and character. If anything the subject is slightly larger and in a slightly superior location to the subject.

10.10 The Respondent states that NAV Comparison 3 is in an inferior location and of a basic specification and fit-out and has been agreed at €7,500. The Tribunal is in accordance with the Respondent’s claim that the subject cannot be valued at a lower NAV than that of NAV Comparison 3, The Lantern Bar. The Tribunal accordingly finds that a valuation of €7,500 for the subject property achieves a) correctness of value and b) equity and unanimity of value between properties on the valuation list.

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.