

Appeal No: VA23/5/0662

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

THE BARBER

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of

Property No. 5017979, Barber shop at Kiosk 4, Manor West Retail Centre, Manor, Tralee,
County Kerry.

B E F O R E

Eoin McDermott - FSCSI, FRICS

Deputy Chairperson

Paul McElearney - FRICS, FSCSI, FCI Arb

Member

Avril Sheridan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 5TH DAY OF DECEMBER 2025

1. THE APPEAL

1.1 By Notice of Appeal received on 17th 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 €19,760.

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:

“It is too high”

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €900.

2. REVALUATION HISTORY

- 2.1 On 23rd 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 €19,760.
- 2.2 A Final Valuation Certificate issued on 15th September 2023 stating a valuation of €19,760.
- 2.3 The date by reference to which the value of the property, the subject of this appeal, was determined is 1st February 2022.

3. THE HEARING

- 3.1 The Appeal proceeded by way of an oral hearing held remotely, on 20th November 2025. At the hearing the Appellant was represented by Aoife Mc Ellistrim, the former owner of the property, and the Respondent was represented by Ita McNally BSc (Hons), MSc RE of Tailte Éireann.
- 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. On the morning of the hearing the Appellant submitted a further document, primarily repeating the points made in the first submission and raising one fresh issue regarding the application of an addition of €5,000 applicable to all kiosk units in the Local Authority area. The Tribunal offered the Respondent the opportunity to seek an adjournment to consider, and if necessary, respond to the additional point made but Ms. McNally confirmed that she was happy to proceed with the hearing.
- 3.3 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 This property is a kiosk located in the middle of the Manor West Shopping Centre in Tralee, Co Kerry. The shopping centre is located alongside a retail park on the outskirts of Tralee approximately 2.4km from the centre of the town. The location within the mall is very central and has good footfall. The subject property is located directly outside the Tesco and Claires Accessories shops.

4.3 The subject property consists of a kiosk type retail unit. It is a timber framed structure with internal joinery, one basin and shelves constructed on the inside of the walls. There is no ceiling or floor to the structure but there is a lighting track running across the top of each of the salon chair stations. The property was constructed by the Appellant themselves in 2012, and they lease the floor space from the shopping centre.

4.4 The floor areas, which are agreed, are as follows: -

	Floor	Area (M2)
Kiosk	Ground	18.58
Total		18.58

4.5 The property is held on a three year nine-month lease which has been regularly renewed since 2012, the last renewal being in February 2024. The annual rent, unchanged from 2012 is €15,869.64 (exclusive of VAT).

5. ISSUES

The 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.”

6.3 Section 19 (5) of the Act provides:

“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 ...”

7. APPELLANT'S CASE

7.1 Ms. McEllistrim opened her case by noting that the floor area contained in the Valuation Certificate was incorrect and that the correct area was 18.58 sq.m. instead of the 19.69 sq.m. contained in the certificate.

7.2 Ms. McEllistrim noted that the proposed NAV for the property was based on a valuation of €750 per sq.m. She pointed out that while the NAV was in theory supposed to equate to the market rent of the property, the proposed NAV was in fact 24.5% higher than the rent being paid as at the valuation date.

7.3 Ms. McEllistrim put forward three rental comparisons which she said showed that the proposed NAV was too high. These are shown in Appendix A (N/A to public) but brief details are as follows.

Property	Area (sq.m.)	Date	Rent per sq.m.	Comment
Kiosk, Crescent SC, Limerick	9.29	2018	€542	20-year lease from October 2003, reviewed in October 2018
Kiosk, Crescent SC, Limerick	18.58	2021	€323	14-year lease from January 2011, reviewed in January 2011.
Kiosk, The Square, Market Cross, Kilkenny	22.95	2021	€523	10-year lease from February 2016, reviewed in February 2021.

Ms. McEllistrim stated that the shopping centres quoted above were larger and had higher levels of footfall than the subject property. She contended that the valuation of the subject property should be based on a rental level of €538 per sq.m.

7.4 Ms. McEllistrim queried why €5,000 was added to the NAV of her unit, over and above the NAV calculated by multiplying the rental level per sq.m. by the area. She sought the removal of this figure.

7.5 Ms. McEllistrim sought a valuation of €9,990, calculated as follows: -

	Floor	Area (M2)	€ per sq.m.	NAV
Kiosk	Ground	18.58	€538	€9,996.04
		say		€9,990

7.6 In response to cross examination from Ms. McNally for the Respondent, Ms. McEllistrim confirmed that she no longer occupied the property, having left the business on 1st June 2025. She confirmed the lease terms as set out in paragraph 4.5 above, noting that while the rent had remained static, the service charge and insurance costs had increased. She agreed that there were five kiosks in the shopping centre. She accepted that her rental comparisons were not located in the Kerry County Council area.

8. RESPONDENT'S CASE

8.1 Ms. McNally opened her case by giving a brief description of the Subject Property and its location, using maps and photographs contained in her précis. She noted that the floor area contained in the original valuation certificate was incorrect and that the Respondent now accepted the area put forward by the Appellant, with a consequent alteration to the value as contained in the valuation certificate.

8.2 Ms. McNally set out how the valuation had been arrived at, noting that there 10 kiosks in the Local Authority area and that all had been valued on the same basis, namely €750 per sq.m. plus €5,000. She explained that the rationale behind the €5,000 figure was that the kiosks varied significantly in size and that applying a standard rate per sq.m. would undervalue the smaller units. Therefore, a fixed fee has been applied to all kiosk units in addition to the standard rate per sq.m., effectively reducing the overall value per sq.m. of larger kiosk units compared to smaller ones. This was done nationally, not just in County Kerry.

8.3 Ms. McNally put forward 2 rental transactions in evidence, which are shown in Appendix B (N/A to public). The second comparison is the Subject Property. She also put forward four NAV comparisons as follows: -

Property	Area (sq.m.)	Rent per sq.m.	NAV
Kiosk, Manor West SC, Tralee	7.17	€750 per sq.m. & €5,000	€10,370
Kiosk, Manor West SC, Tralee	8.32	€750 per sq.m. & €5,000	€11,240
Kiosk, Manor West SC, Tralee	18.58	€750 per sq.m. & €5,000	€18,930
Kiosk, Killarney Outlet Centre	9	€750 per sq.m. & €5,000	€11,750

8.4 Ms. McNally requested that the Tribunal amend the valuation appearing in the list to €18,900, calculated as follows: -

	Floor	Area (M2)	€ per sq.m.	NAV
Kiosk	Ground	18.58	€750	€13,935
Kiosk	Ground	1	€5,000	€5,000
				€18,935
		say		€18,900

8.5 In response to cross examination from Ms. McEllistrim, Ms. McNally explained that the rental evidence put forward by the Appellant could not be considered as it was from a different rating authority, whereas the rental evidence in this case was compiled using information from Kerry County Council only. She accepted the difficulties that had been caused by Covid but noted that the rent on the property was unchanged since 2012.

8.6 In response to queries from the Tribunal, Ms. McNally confirmed that two kiosks had been dismantled and removed from the Shopping Centre. She confirmed that the Subject Property had water and drainage, unlike the other kiosk units. She further corrected a small transcription error in respect of her rental transaction 1, reducing the area from the 12.15 sq.m provided to 11.15 sq.m. Finally, she confirmed that the Zone A rates in the centre were €480 per sq.m.

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 Kerry County Council.

10.2 The Tribunal has found on several occasions that the onus of proof rests with the Appellant in an appeal (See *Proudlane Ltd. t/a Plaza Hotel (VA00/2/032)* and *AIB Group PLC v Commissioner for Valuation (VA20/4/0053)*). The position was expanded on in Tribunal decision *FGM Properties v Commissioner for Valuation (VA19/5/1091)* wherein it was held: “*The onus of proof rests on the Appellant to demonstrate, through cogent evidence that the Respondent has erred.*”

10.3 Arising from these decisions, in order to succeed in their appeal, an Appellant must demonstrate, through cogent evidence, that the Respondent has erred in their valuation of the property under appeal. In that respect, the Appellant was obliged to satisfy the Tribunal, through evidence, that the Respondent’s valuation was incorrect and failed to meet the requirements of correctness of value, together with equity and uniformity of value between properties on the valuation list required under S. 19 (5).

10.4 The Appellant advanced the appeal on four main grounds. Firstly, that the area was incorrect. Secondly, that the NAV was 24.5% higher than the passing rent. Thirdly, that the NAV per sq.m. was higher than rents being charged in the comparisons she put forward and finally, that there was no rational for the €5,000 charge for kiosk units and it should be removed.

- 10.5 In relation to the first ground of appeal, the Tribunal notes that the Respondent has accepted the area put forward by the Appellant and that this is now agreed between the parties
- 10.6 In relation to the second ground of appeal, the Tribunal notes that the rent on the subject property has remained unchanged since 2012, despite the lease having been renewed on three occasions since. The Tribunal also notes the rental evidence put forward by the Respondent, showing a letting of a nearby kiosk at a higher level than that passing on the subject property. The rent on the comparison is almost the same as the rent on the subject property, despite the subject property being some 60% larger than the comparison. The Tribunal prefers the Respondents evidence on this point.
- 10.7 In relation to the third ground of appeal, the Tribunal is unable to attach any weight to the Appellants claim as there was insufficient evidence to support it. No detail was provided on respective footfall levels in the various centres quoted, nor was any information provided on the rental levels pertaining to standard retail units in those centres. Even if this information had been provided the Appellant would have faced a high bar in convincing the Tribunal that rental evidence from other parts of the country would carry more weight than rental evidence from the Local Authority area.
- 10.8 In relation to the fourth ground of appeal, the Tribunal accepts the evidence put forward by the Respondent that the €5,000 addition evens out the distinctions with smaller and larger kiosks and notes that this approach has been applied on a nationwide basis.
- 10.9 The Tribunal has considered the evidence of the Respondent and finds that it meets the requirements of correctness, equity and uniformity as set out in S. 19 (5) of the Act.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to **€18,900**, calculated as follows: -

	Floor	Area (M2)	€ per sq.m.	NAV
Kiosk	Ground	18.58	€750	€13,935
Kiosk	Ground	1	€5,000	€5,000
				€18,935
		say		€18,900

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.