

**Appeal No: VA23/5/0771**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**JAMES AND BERNADETTE CORMICAN**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 1152904, Unit 5, Westside Business Centre, County Galway.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 4<sup>TH</sup> DAY OF DECEMBER, 2025**

**BEFORE**

**Suzy Quirke MSCSI, MRICS, Dip. Arb. Law.**

**Member**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 17<sup>th</sup> 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 €18,630.

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. The value is overstated, due to overstatement of floor area. The Property Value and the Floor Area of Unit 5 is Overstated. Unit 5 floor area is overstated by what appears to be an error of including a portion of the Adjoining Unit 4. This error is double counting and wrong. The room in Unit 4 cannot be included in unit 5 also (duplication). See attached documents in NOA.*"

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of € 17,657.

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

2.1 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 €23,600.

2.2 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 of the Property was reduced to €18,630.

2.3 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September, 2023 stating a valuation of €18,630.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1<sup>st</sup> 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.

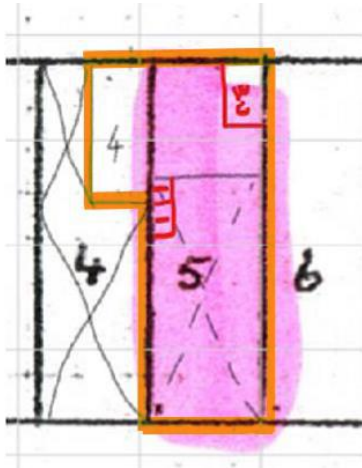
## **4. FACTS**

4.1 The parties are agreed as to the following facts.

4.2 The property comprises a retail unit within Westside Business Centre, a development of 14 retail units built in the 1990s and located off the Seamus Quirke Road on the outskirts of Galway city.

4.3 The unit is mid-terrace and comprises a single-storey retail unit. A mezzanine provides storage accommodation. Westside Business Centre provides surface car parking for customers and the unit has a rear access for trade and supplier deliveries.

4.4 The floor areas are in dispute. The tenant in Unit 5, for a number of years, also enjoyed the use of a section to the rear of Unit 4 which was accessed through a door to the rear of Unit 5 and hereafter known as the 'back room'. As of 31 December 2024 this section is no longer used by the tenant in Unit 5 and that ope which provided access to it has been blocked up. The plan below shows Unit 5 and the 'back room' part of Unit 4 which was formerly included in the use of Unit 5 by the tenant.



4.5 Unit 5 was let to a Ms Elizabeth Naughton under a 4 year 9 month lease commencing in 2005. Her demise included the 'back room' to the rear of Unit 4 for a period of 11 years. Her original lease expired in 2010 and she now has a yearly rolling arrangement at a rent of €1,500 per month in respect of Unit 5 and an additional rent of €400 per month in respect of the 'back room' rear section of Unit 4.

## 5. ISSUES

5.1 The sole issue to be considered is the rateable occupation of a portion of the property.

## 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 states that the Net Annual Value is overstated due to an overstatement of floor areas. The Appellant states that the floor area of Unit 5 includes a portion of the adjoining Unit 4 and that this results in double counting as the entire of Unit 4 is included when the NAV was assessed and no allowance has been made for the ‘back room’ which is now also being included under the valuation of Unit 5.
- 7.2 The Appellant holds that there was no double counting at the proposed valuation cert stage issued on 23 September 2022 but the error occurred in the final valuation cert issued on 15 September 2023. The Tenant had made representations (14 November 2022) seeking the mezzanine accommodation (98 sq m) to be excluded from the floor areas for the Unit 5 as it was suitable only for storage and was not in use. The mezzanine use was changed at representations stage from shop to store and the valuation reduced from €75 per sq m to €65 per sq m.
- 7.3 The property was inspected at the reps stage and Unit 5 was found to include an area extending to 15.26 sq m to the rear of Unit 4 which was occupied by the tenant of Unit 5 and in use together with Unit 5 as a hair salon. The section to the rear of Unit 4 in use by the tenant of Unit 5 was only accessed through an ope to the rear of Units 4 and 5. No other access to this ‘back room’ section was available.
- 7.4 The Appellants state that reps letter for Unit 5 signed by the tenant, Ms Elizabeth Naughton, on 26 October 2022 only made representations in respect of Unit 5 and did not include a request to add a part of Unit 4 into Unit 5.

7.5 The Appellants hold that the proposed valuation cert for Unit 5 dated 23 September 2022 did not include any part of Unit 4. However the valuation certificate for Unit 5 dated 15 September 2023 did and it incorrectly included the area of 15.26 sq m which had already been included as part of Unit 4. They hold that the inclusion of the ‘back room’ in Unit 4 and its inclusion in Unit 5 results in duplication of the rates liability. They are seeking to have this area to the rear of Unit 4 excluded from the valuation of Unit 5 in order to avoid this double counting.

7.6 The Appellant’s opinion of value is €17,657 on notice of appeal.

## **8. RESPONDENT’S CASE**

8.1 The Respondent’s Representative set out in his precis that he visited Unit 5 on 24 April 2024 and this inspection included the area to the rear of Unit 4. He established that there was no internal or external access to this section other than internally through the main salon in Unit 5.

8.2 The Respondent confirmed that the rear section of Unit 4 extended to 21.7 sq m and had been incorrectly included in the valuation of Unit 4 (PN 1152903). Unit 4 was not appealed and is in the list with an NAV of €15,320. Its valuation can not be amended at this stage.

8.3 The Respondent set out that the Appellant was not seeking to appeal the valuation on the grounds that the valuation levels applied were incorrect but on a matter of fact, that being that the floor areas of Unit 5 are incorrect.

8.4 The Respondent set out a number of NAV Comparisons the most relevant in terms of their size and location in similarity to the subject, being set out below.

### **NAV Comparison 2**

<b>Property Number</b>	1152902
<b>Occupier</b>	Connacht Blinds Limited
<b>Address</b>	Unit 3 Westside Business Centre

<b>Total Floor Area</b>	118.13 sq m
<b>NAV</b>	€15,320

<b>Level</b>	<b>Description</b>	<b>Size sq m</b>	<b>NAV psm</b>
0	Retail Zone A	35.69	€240
0	Retail Zone B	35.69	€120
0	Retail Zone C	35.69	€60
0	Retail Zone Remainder	11.06	€30
	<b>Total</b>	<b>118.13</b>	<b>€15,320</b>

This unit is one removed from the subject and is alike in every respect. No representations were made nor was the valuation appealed.

8.5 The Respondent set out the valuation of Unit 6 Westside Business Centre as follows –

### NAV Comparison 3

<b>Property Number</b>	1152905
<b>Occupier</b>	Westo Food Industries Limited
<b>Address</b>	Unit 6 Westside Business Centre
<b>Total Floor Area</b>	118.13 sq m
<b>NAV</b>	€15,320

<b>Level</b>	<b>Description</b>	<b>Size sq m</b>	<b>NAV psm</b>
0	Retail Zone A	35.69	€240
0	Retail Zone B	35.69	€120
0	Retail Zone C	35.69	€60
0	Retail Zone Remainder	11.06	€30
	<b>Total</b>	<b>118.13</b>	<b>€15,320</b>

This unit is immediately adjacent to the subject and is alike in every respect. No representations were made nor was the valuation appealed.

8.6 The Respondent stated that their opinion of the correct NAV for the property was €18,630 and arrived at as follows –

Description	Size sq m	NAV psm	NAV
Retail Zone A	35.69	€240	€8,565.60
Retail Zone B	35.69	€120	€4,282.80
Retail Zone C	50.95	€60	€3,057.00
Retail Zone Remainder	13.12	€30	€393.60
Mezzanine store	97.33	€24	€2,335.92
<b>Total</b>			€18,634.92 <b>€18,630</b>

## 9. SUBMISSIONS

9.1 The Respondent states that it is statutorily obliged pursuant to Section 48 (3) of the Valuation Act 2001 to value the property by reference to its ‘actual state’. The Respondent therefore holds that Unit 5’s actual state includes the rear room in Unit 4. They say that at the date of issue of the Valuation Certificate and the date of inspection, the tenant was in rateable occupation of the rear room and that the only way it could be accessed was through Unit 5. Tailte Eireann say they were therefore statutorily obliged to include this area in their valuation of Unit 5.

9.2 The rateable valuation of a property is determined in accordance with the methodology provided for in Section 48(1) and (3) of the Act, which provide as follows:

*“48.—(1) 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.*

*(2)...*

*(3) 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 expected to let from year to year, on the assumption that the probable average 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”,*

9.3 The size of a property forms part of its ‘actual state’. With no other point of ingress or egress other than through Unit 5 the ‘back room’ in Unit 4 forms part of Unit 5 and its size of 21.7 sq m is correctly included in the floor areas of Unit 5.

## **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 Galway County Council.

10.2 The Tribunal finds that the Appellant makes a strong argument for the exclusion of the ‘back room’ from the floor areas of Unit 5 in order to avoid the double counting that results. However the Tribunal finds that the Respondent’s hands are tied in that this ‘back room’ did indeed form a part of Unit 5 on inspection and on issuance of the valuation certificates. This is a fact which has been submitted in evidence by both parties and is not in dispute. The fact that it was not included at the draft certificate stage as stated by the Appellants is of no significance. As at 15 September 2023, the date on which the final valuation certificate was issued, this area formed a part of Unit 5 and therefore, statutorily, it has to be included.

10.3 The Tribunal finds that the valuation of Unit 4, the floor areas of which also include this ‘back room’, was not appealed and the exclusion of the ‘back room’ in the floor areas of Unit 4 would have rectified the duplication problem. However the valuation of Unit 4 (PN 1152903) was not appealed and the NAV of €15,320 is in the valuation list and is therefore deemed to be correct in accordance with Section 63 (1) of the Valuation Act 2001.

10.4 The Tribunal notes the handing back of the rear room as at 31 December 2024 and the cessation of its use by the tenant of Unit 5. For valuation purposes this does not operate to cancel its inclusion retrospectively. The Respondent, statutorily, cannot ‘reverse out of Unit 5 the duplicated area’ as suggested by the Appellants.

10.5 However it is open to the Appellants to apply to Tailte Eireann for a Revision pursuant to Section 28 (4) of the Act on the basis that a Material Change of Circumstances in the form of a 'structural alteration' has occurred to the property.

10.6 The Tribunal notes that the Appellants have accepted the valuation figures based on an NAV of Zone A €240 per sq m. Accordingly the Tribunal accepts the Respondent's NAV of €18,630 is confirmed by the Tribunal.

10.7 The Tribunal notes the Appellants' use of 15.26 sq m and 17.32 sq m variously in their submissions to relate to the floor area of the 'back room'. The Respondent has used the figure of 21.7 sq m throughout and accordingly the Tribunal has accepted the floor area of the 'back room' as 21.7 sq m.

**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.