

Appeal No: VA23/5/0870

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Aviva Life & Pensions DAC

APPELLANT

and

Tailte Éireann

RESPONDENT

In relation to the valuation of

Property No. 519604, Retail (Shop) at Unit 2, Blackrock Shopping Centre, Blackrock, County Dublin.

B E F O R E

Majella Twomey – BL

Deputy Chairperson

Caroline Murphy – BL

Member

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

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 the 17th 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 €40,300.

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:

1. The valuation is excessive and inequitable owing to prevailing rents in the Blackrock Shopping Centre. Bricks and Mortar retail remains a challenge to fill in a post-covid environment. At the time of writing there are 6 units available in the centre and those which have let most recently have substantial tenant inducements. A full schedule of rents is available and will be provided to the Commissioner for analysis.

2. Fundamentally, the appellants agree with the Commissioner's approach to divide the centre by level and value with a discount on the Main Street level (bottom), versus the front car park level (top). However, the rate per metre applied on each floor is excessive. The appellants believe that a level of €650/m² should apply on the top level, whilst a level of €550/m² should apply on the bottom. This must be further adjusted for size, in that units of under 30m² ITZA should be loaded by 10%, and those over 100m² ITZA should be discounted by 10%. At present, the schematic is the most out of line with the rents on the largest units.

3. In the alternative, the largest units can be valued on an overall basis and the ITZA level adjusted accordingly for the remainder.

1.3 The Appellant seeks a remedy that the NAV be reduced in line with its actual potential rental value and the emerging tone of the list.

2. REVALUATION HISTORY

2.1 On the 25th day of May, 2023 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 €40,300.

2.2 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €40,300.

2.3 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.

2.4 The functions of the Commissioner of Valuation are now performed under the authority of Tailte Éireann with effect from 1st March 2023 (S.I. No.58/2023 - Tailte Act 2022 (Commencement) Order 2023).

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 25th day of June, 2025. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real Estate), Ba. (Mod) of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Claire Callan of Tailte Eireann.

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 his evidence-in-chief in addition to giving oral evidence.

4. PRELIMINARY MATTER

4.1 Mr. Halpin addressed the matter of the subject of the appeal around which there was some confusion. He stated that the Appellants appealed PN 519604 as Units 1-2 Blackrock Shopping Centre. He stated that the Commissioner had assessed Unit 1 (PN 519603) separately but mapped it incorrectly in a different part of the shopping centre. Ms. Callan, stated that it was actually Unit 2 (PN 519604) that had been incorrectly mapped.

4.2 Mr Halpin stated that the Appellants had believed themselves to be appealing the entire, that is Units 1-2 under PN 519604. He said that the entire property was held under a lease by a single occupant. He said that the Tribunal could proceed with the entire property, Units 1 and 2, on the basis that listing PN 519603 be deleted or it could proceed on the basis of the appeal of Unit 2 alone. He stated that all 37 units in Blackrock Shopping Centre were mapped together but that one had been incorrectly mapped elsewhere. Mr Halpin stated that it was a single unit artificially divided in two listings and potentially valued at differing rates which made a mockery of the valuation.

4.3 Ms Callan, said that because the revaluation of Unit 1 (PN 519603) was not appealed it is an accepted tone of the list. She said the occupier received sufficient certificates to enable them to see the issue at hand, make representations and potentially instruct Mr. Halpin to appeal the certificate.

4.4 Having heard from the parties the Tribunal determined it was confined to dealing with the appeal before it which was for Unit 2 (PN 519604) only and that Unit 1 (PN 519603) had been revalued but had not been appealed to the Tribunal. The Tribunal found that it does not have powers to delete PN 519603 and deal with both units under PN 519604 as suggested by Mr Halpin. The Tribunal found that the floor areas and maps of each unit were on notice to the parties and proceeded to hear the appeal by the parties in respect of Unit 2 (PN 519604).

5. FACTS

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

5.1 The Property comprises a Ground Floor retail unit, Unit 2, in Blackrock Shopping Centre.

5.2 The unit fronts onto Rock Hill, Blackrock and does not enjoy access from within Blackrock Shopping Centre, having external access only.

5.3 The unit is one of two adjoining units occupied by the same occupier fitted out internally as a retail unit with a servery deli area, glazed display units and a small number of seats within the unit. The units enjoy some outdoor seating on the footpath to the front. There is an entrance into each unit from the street.

5.4 Blackrock Shopping Centre is arranged over the Ground Floor with access from Main Street, Blackrock and First Floor which is accessed from the centre's car park and Rock Hill. The first Floor enjoys heavier footfall than the Ground Floor as the majority of shoppers enter the centre from the car park.

5.5 Units 1-2 were let on a 15 year lease from 4 November 2021 with 5 yearly rent reviews and a tenant break option in Year 6. The rent is stepped as follows –

- 9 months' rent free
- Year 1 €24,000 pa
- Year 2 €32,000 pa
- Year 3 €37,000 pa
- Year 4 €42,000 pa

5.6 The agreed floor areas of Unit 2 are as follows -

Zone A	35.5 sq m
Zone B	24.05 sq m

6. ISSUES

6.1 The issue in this Appeal is quantum.

7. RELEVANT STATUTORY PROVISIONS:

7.1 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.”

7.2 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.”

7.3 Section 19 (5) of the Valuation Act 2001 (revised) sets out as follows -

The valuation list 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.....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....

8. APPELLANT'S CASE

8.1 Mr. Halpin adopted his precis of evidence save where it referred to both Units 1 and 2, as the appeal proceeded in respect of Unit 2 only as set out in the Preliminary Matter.

8.2 Mr Halpin set out that the valuation must be consonant with the rent and that the valuation of Unit 1 has been determined at €16,770. He said the average rent of Unit 1 and 2 to the first rent review was €33,100 pa, and that taking the valuation of Unit 1 of €16,770 left the remainder value for Unit 2 of €16,330. He said that this equates to Zone A €345 psm and Zone A of Unit 2 being 35.5 sq m at is.

8.3 Mr Halpin stated that the case was all about rent. He set out that the NAVs in 30 units in Blackrock Shopping Centre were agreed. He said that the 'Street or Ground Floor' level units were valued at €550 psm Zone A and those on the 'First Floor or Car park' level were valued at €700 psm Zone A. He said that the way in which most people entered the Shopping Centre was via the car park. He said that the NAVs arose correctly from the rents and that the rents were 'obeyed' in the revaluation and that was the correct way to assess the units.

8.4 He said that when you come to assess the rents on the 'external' units – Unit 2 is accessed from outside the Shopping Centre only and is located on the outside of the centre itself. He suggested that the Commissioner was no longer interested in what the actual rent was but was using rents paid on Blackrock Main Street to assess the NAV of Unit 2. He said that this effectively meant that Aviva, the landlord, and Savills, their agent had completely underlet Units 1 and 2. He said

that they were ‘new, market rents’ with a willing lessor, willing lessee and that the lease commenced in November 2021, a mere three months from 1 February 2022, the valuation date. He said that the Commissioner was trying to use Main Street rents when it was unnecessary as they already have actual rents signed close to the valuation date.

8.5 Mr Halpin then turned to Comparison 5 in his precis, the Lloyd’s Pharmacy unit, the only unit with dual frontage and access from outside and inside the Shopping Centre. He said that the tenant in this case had chosen to orientate the unit onto the mall (within the Shopping Centre) and not allow access from the street. He stated that the windows and doors onto the street are actually blanked out. He said that the Commissioner was trying to make the case that the subject property was a ‘street’ unit but if this were true and the street access was so much more valuable, then Lloyd’s Pharmacy would also be orientated onto the street which it is not. Mr Halpin holds that the unit is not more valuable than the units in the mall which are valued at Zone A €550 on the Ground Floor or street level.

8.6 Mr Halpin concludes by contending for a valuation of Unit 2 as follows –

Zone A 35.5 sq m @ €345 psm +

Zone B 24.05 sq m @ €172.50 psm = €16,470.

Combined with the NAV for Unit 1 which has been agreed at €16,770 gives a total NAV for the two units of €33,200. This figure aligns with the average rent to rent review for the entire, Units 1 and 2, of €33,100 pa.

Cross examination

8.7 In cross examination Ms. Callan put it to Mr Halpin that all of his comparisons were located within the Shopping Centre. In response, Mr. Halpin argued that it is the Commissioner who has chosen to define the subject as Main Street and that it can be treated as being part of the Shopping Centre and the fact that they are only accessed from the Main Street does not mean that they are strictly speaking not part of the Shopping Centre. She suggested that Comparison 1 Blackrock Dental in Mr Halpin’s precis is under appeal. Mr Halpin contended that the rent can be relied on and noted the incentives required at the time to entice a tenant to sign a lease on the unit.

8.8 Ms Callan asked Mr Halpin to confirm that he accepted Zone A Main Street, Blackrock was set at €850 psm. He said that he accepted this level and had no wish to upset the emerging tone of the list. Ms Callan asked Mr Halpin why, if the entrance to Unit 2 is from the Main Street, the valuation can be anything other than Zone A €850 psm. Mr Halpin disagreed, stating that just because the entrance to a shopping centre unit was from the Main Street, did not automatically mean they should be assessed at €850 psm Zone A in line with the Main Street units which did not form part of the shopping centre.

8.9 In summing up Mr Halpin said that rent was fundamental. He said that the unit was let at an average rent to rent review of €33,100 but the Commissioner is seeking an NAV of €57,000 based on rental levels on the Main Street. He said that Savills, on behalf of the Landlord, would not have accepted a rent of 40% less than they might have let the unit for.

He said that Tailte Eireann had provided KRTs based on lease renewals while the valuations settled in the Shopping Centre had been based on new lettings and that none of the lease renewals agreed in the Shopping Centre had been taken into account. He said the shopping centre was settled by concentrating on new lettings.

He submitted that it was noted that the Commissioner was not using either of the rents in Units 1 – 2 or Units 3 – 6 to define the rental levels on Main Street but at the same time, was saying that they were located on Main Street. He said that there must have been a ‘fresh’ letting on Main Street, close to the valuation date of 1 February 2022, but either the evidence did not suit their case or they were not aware of it.

He said that the reason the occupants on Main St had not appealed was because their rates bill was due to reduce. He said that it was Blackrock Shopping Centre Landlord, Aviva, and not the tenants, who appealed the valuation certificates relating to the centre because they could see that the NAVs did not align with the rents being paid. They appealed and the Zone A was successfully reduced from €850 to €700 in respect of the First Floor (car park level).

Mr Halpin concluded by saying that in a hierarchy of evidence lease renewals were of considerably less value than new lettings.

9. RESPONDENT'S CASE

9.1 Ms Callan adopted her precis as her evidence in chief.

9.2 She set out that in respect of KRT 1 in her precis no representations had been received nor was the valuation certificate appealed. She set out that KRT 2 was located within 50 m of the subject and also not appealed, nor had representations been made.

9.3 She further set out that NAV Comparison 1 in her precis, Unit 1, Blackrock Shopping Centre, PN 519603, the adjoining unit to the subject and occupied by the same tenant, had not been appealed on foot of a valuation of Zone A €850 psm.

9.4 She said that she had provided a number of comparisons which supported a valuation of Zone A at €850 psm and that this was the well-established tone of Main Street, Blackrock.

9.5 Ms Callan said that under Section 19 (5) of the Valuation (Amendment) Act 2015, the Commissioner was obliged to be fair and equitable to all ratepayers and she could not diverge from the established tone. She said that of 51 units on Main Street, only two had been appealed, the subject and Units 3-6 Blackrock Shopping Centre. She said this equated to an appeal rate of 1.96%.

Cross examination

9.6 In cross examination, Mr Halpin asked Ms Callan why, if adopting a valuation of Zone A €850 psm on Units 1 and 2, Blackrock Shopping Centre which resulted in an NAV of €57,070, is the only landlord in receipt of an average rent of €33,400 pa. In response, Ms Callan said that that was a matter for the Landlord and Tenant and that singling out two units would result in a breach of Section 19 (5) of the Valuation Act 2001.

9.7 Mr Halpin suggested that valuations of €850 psm, had been sought for the First Floor units in the Shopping Centre, but that the Landlord appealed the valuations and all were agreed at the

reduced level of €700 psm. He suggested that this came about partly as a result of his access to a detailed tenancy schedule and information on rents being paid. He said that the Tenants had not appealed the original valuation but the Landlord, Aviva, had.

9.8 Mr Halpin then questioned Ms Callan about the KRTs provided in her submission. He held that in each case the lease commencement was close to the valuation date but that these were in fact lease renewals and not 'fresh' leases. He suggested that the tenancies were not drawing from the open market in the same way as a unit to let seeking a willing lessor, willing lessee. Ms Callan countered that there was a very well-established tone and that the occupiers had largely not appealed the valuations and that the rates bill actually went down by 5-10% in most cases and that the occupiers were accepting of the revaluation. She said that Dun Laoghaire Rathdown had held clinics to explain the process and that it was fully transparent. She said that tenants understood the correlation between rent and rates.

9.9 In summing up Ms Callan said that the subject unit had no access to the Shopping Centre and that it was, therefore, clearly a Main Street retail unit. She reiterated that there were 51 units on Main Street and that there was a very well-established tone of €850 psm for Zone A. She said that to amend the NAV she would be in breach of Section 19 (5) of the Valuation (Amendment) Act 2015.

10. SUBMISSIONS

10.1 No legal submissions were made by the parties.

10. FINDINGS AND CONCLUSIONS

11.1 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.

11.2 The onus lies on the Appellant to prove his case and show that the NAV as determined by the Respondent is incorrect. The Appellant has placed significant emphasis on the unit being more

correctly part of the Shopping Centre, albeit without access from within the shopping centre, and not on the Main Street as contended by the Respondent.

11.3 The Appellant accepts the tone of the Main Street at €850 psm.

11.4 The Appellant's original valuation of the unit, when he believed he was appealing both Units 1 and 2, used a valuation of Zone A €550 psm, the accepted value of the units within the centre at Ground Floor or street level. On finding that Unit 1 (PN 519603) had, in fact, been valued and the NAV settled using Zone A €850 psm, the Appellant has now attempted to work backwards in order to 'balance' the 'excessive' valuation of Unit 1 with a 'remainder' valuation of Unit 2 in order to come out at a NAV approximating the average rent to rent review of €33,100 pa payable on the entire Units 1 and 2. The Tribunal rejects this methodology as it would result in two adjoining units being valued at two entirely differing Zone A valuations.

11.5 The Tribunal finds that the date of the valuation is relevant, at 1 February 2022. The Tribunal accepts Mr Halpin's contention that the lease terms agreed were the best available at the time. The Tribunal considers that the rent-free periods, stepped rents and similar incentives were in part a reflection of the Covid-19 pandemic. These 'front-loaded' incentives have acted to substantially reduce the average rent to the first rent review.

11.6 The Tribunal has noted the Respondent's contention that the actual rent for a particular property may be material in deriving an estimate of NAV in the context of Sections 48 and 19 (5) of the Valuation Act 2001. However, it is what a hypothetical tenant would pay and not what any particular tenant is paying that the Tribunal must assess.

11.7 The onus is on the Appellant to show that the NAV as determined by the Respondent is incorrect. Mr Halpin's principle contentions are -

- 1) that the unit is not strictly speaking on the Main Street, but a shopping centre unit with no access from within the centre and
- 2) that the Tribunal must place greater weight on the rent being paid.

11.8 Unit 1 (PN 519603) has been valued using Zone A €850 psm and no Representations were made nor was the revaluation appealed. The Appellant has made the case that this is largely as a result of an oversight and that his client understood that PN 519604 to refer to both Units 1 and 2. He submitted that because PN 519604 was incorrectly mapped it did not come under the scrutiny of the other property numbers in Blackrock Shopping Centre and that this omission was highly unfortunate as the valuation of Unit 1 was now being used against the Appellant in the appeal of Unit 2.

11.9 While the Tribunal has some sympathy with the Appellant in this instance, the Respondent has stated that valuation certificates were issued in May 2023 and September 2023 and the Appellant had every opportunity to spot the error but failed to do so.

11.10 The Tribunal notes the Respondent’s assertion that an established tone of Zone A €850 psm has emerged from the revaluation of Blackrock Main Street and cites examples of the Respondent’s NAV Comparisons below –

NAV Comparison 2

Property Number	520000
Occupier	Monica Peters
Address	Rock Hill, Blackrock
Use	Retail
Total Floor area	51.12 sq.m
NAV	€32,000

Level	Description	Size SQM	NAV/SQM
0	Retail Zone A	36.21	€850
0	Store	14.91	€85

This shop is located 20 m from the subject property and is of a similar size. No representations were made and the valuation was not appealed.

NAV Comparison 3

Property Number	519986
Occupier	Deryn McKay
Address	13 Rock Hill, Blackrock
Use	Retail
Total Floor area	94.68 sq.m
NAV	€58,100

Level	Description	Size SQM	NAV/SQM
0	Retail Zone A	56.68	€850
0	Retail Zone B	15.15	€425
-1	Store	22.85	€155

This shop is located directly opposite the subject property. It is slightly larger than the subject. No representations were made and the valuation was not appealed.

NAV Comparison 5

Property Number	519981
Occupier	Tiffany Nails
Address	Rock Hill, Blackrock
Use	Retail
Total Floor area	41.58 sq.m
NAV	€28,500

Level	Description	Size SQM	NAV/SQM
0	Retail Zone A	25.62	€850
0	Retail Zone B	15.96	€425

This shop is located on the opposite side of the road within 20 metres of the subject. The retail area is similar to the subject. No representations were made and the valuation was not appealed.

11.11 The Tribunal is satisfied that the established tone on Main Street Blackrock is €850 psm, and that while the unit is part of the Shopping Centre it is also on Main Street, Blackrock. The unit is accessed from Blackrock Main Street and not from within the centre. The Tribunal finds that the access from Blackrock Main Street is a significant factor which must be taken into account.

11.12 The Tribunal finds that, in particular, it cannot look past the valuation of Unit 1, adjoining the subject and occupied by the same tenant and held under the same single lease, at Zone A €850 psm. In accordance with the following -

The Net Annual Value is established in accordance with section 48(1) and (3) and section 19 (5) of the Valuation (Amendment) Act 2015. The subject is valued 'relative to the value of other properties comparable to that property on that valuation list in the rating authority area' in accordance with correctness of value, equity and uniformity.

The Tribunal finds that Unit 1 (PN 519603) has been valued at a Zone A €850 psm, as well as the other units on Blackrock Main Street as set out above, and accordingly the adjoining unit must also be similarly valued.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

USE	AREA SQ M	Rate per sq m	NAV
Retail Zone A	35.50	€850	€30,175
Retail Zone B	24.05	€425	€10,221
			€40,396
			Say €40,300

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.