

**Appeal No: VA23/5/1016**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**NA h ACHTANNA LUACHÁLA, 2001-2015  
VALUATION ACTS, 2001-2015**

**MARTIN McGUIRE**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 2174155, Industrial Uses at McGuire Precast Concrete, Killybegs Road, Kilcar,  
County Donegal.

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 5<sup>TH</sup> DAY OF DECEMBER 2025**

**BEFORE**

**Orla Coyne - Solicitor**

**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 €7,110.
- 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*
  - (d) *Property Concerned ought to have been excluded in relevant Valuation List.*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

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

2.1 On the 25<sup>th</sup> 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 €7,110.

2.2 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September, 2023 stating a valuation of €7,11

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is the 1<sup>st</sup> 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 parties are agreed as to the following facts.

4.2 The property is located along the R263 road, Killbybegs Road, Kilcar, Co. Donegal, situated approximately 1.4km east of Kilcar village and 9.5km west of Killybegs Town. The Property is accessed via a hardcore narrow roadway off the R263 road.

4.3 The property comprises of a single storey detached industrial building in use as a workshop/store. The property is of basic specification with part brick and concrete walls, cladded roof and eaves height of 4.5m.

4.4 The Appellant is the owner of the property and is a freehold property.

4.5 The adjoining grounds to the property, the Respondent was advised are not owned by the Appellant and accordingly no adjoining agricultural lands belong to the Appellant or to the property.

4.6 The appellant states in his Appeal that the property is an agricultural type shed and is incorrectly classed as a workshop.

## **5. ISSUES**

5.1 The primary issue raised on this appeal turns on the question whether the property is entitled to be treated as exempt from rates pursuant to paragraph 16 and 15 (5) “farm buildings”.

5.2 The Tribunal must decide whether the property be removed from the Valuation List on the basis of agricultural use. A farm building is not rateable.

## **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 probably 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 believes that his opinion of value of the property is €0.

7.2 The Appellant believes that the property should be excluded from the relevant Valuation List, there is no electricity or Eircode for the property

7.3 The Appellant is the owner of the land on which the property is situated.

7.4 The Appellant applied for Planning Permission for the change of use of the shed from agricultural use to use for the storage of concrete products but the application did not proceed and was rejected as incomplete.

7.5 The Appellant stated that the use of the farm shed remains therefore as an agricultural shed and does not have any commercial user. Therefore the property is not subject to rates as it remains an agricultural property (farm shed) and is therefore exempt under the principle of agricultural remission.

7.6 It is an agricultural shed incorrectly classed as a workshop by the Rating Authority.

7.7 The Appellant cited the Supreme Court Decision of Brennan.

7.8 The Appellant did not offer examples of comparable evidence with KRT's or NAV comparisons or similar circumstance rateable property on the basis that the property is not subject to rates as it is an agricultural property (farm shed) and is exempt under the principle of agricultural remission.

7.9 The Appellant did not furnish any further information or Precis in respect of the property to the Tribunal for the purposes of determining the within Appeal.

## **8. RESPONDENT'S CASE**

8.1 The Respondent appointed Mr Jonathan Sharkey as it's Agent, to attend at the property, to inspect it and provide his expert opinion in respect of same.

8.2 The Mr Sharkey stated that the property meets the requirement of Schedule 3 Relevant Property.

8.3 The Floor area of 547.50 m<sup>2</sup> was agreed between the parties.

8.4 He further stated that having inspected the property there was no evidence of any agricultural use whatsoever and supported this contention in his précis by submitting photographs of the unit externally, the hardcore roadway to it together with photographs taken internally and the surrounding area. The photographs show that the property appears to have been split into 5 separate units and there is a separate access to each one.

8.5 Looking at the contents in the photographs contained within some of the units, it appears they are being used to store industrial items, furniture, insulation and other construction materials, oil tank, fence post, paints and construction materials, wood, cables, wooden doors and panels, insulating material, a sign for a commercial unit "For Let", and a boat.

8.6 Mr Sharkey stated that having spoken with the Appellant on site, the Appellant stated it was his intention to lease the units individually.

8.7 The Appellant also advised Mr Sharkey during the course of the inspection that the grounds and land surrounding the property did not belong to him and were not connected to the property. Mr Sharkey further stated that there are no adjoining agricultural lands belonging to the Appellant or connected to the property.

8.8 That the absence of an Eircode or electricity to the property does not render the property as being incapable of beneficial occupation.

8.9 The Respondent in his précis stated that there was no evidence of agricultural use whatsoever in relation to the property.

8.10 That on the date of the inspection the property was in use as a workshop/store for storing a variety of goods belonging to the Appellant.

8.11 That the property is in the process of being subdivided with an intention to lease out the units separately to potential commercial tenants in the future.

8.12 Citing the definition of “farm buildings” in Part 1 Section 3 of the Act as, “(a) buildings, parts of buildings, or other structures, occupied together with agricultural lands and used solely in connection with the carrying on of agricultural activities on that land” Mr Sharkey stated that the property is not being used for agricultural purposes, is not occupied together with other agricultural lands and does not meet the criteria as set out in Paragraph 5 of Schedule 4 of the Valuations Act, 2001 – 2020 to be considered a farm building.

8.13 The Respondent produced 4 NAV comparators (see Appendix 1, N/A to public) that produced a level of €13 per sq.m.. When applied to the Subject Property this arrived at a NAV of €7,110 as per the chart below

| Use                    | Floor | M2     | NAV(€)    |
|------------------------|-------|--------|-----------|
| Workshop               | 0     | 547.50 | €13       |
| Total                  |       | 547.50 | €7,117.50 |
| Total NAV<br>(Rounded) |       |        | €7,110    |

8.14 The Respondent requested that the Tribunal affirms the valuation of the Subject Property appearing on the relevant valuation list as representing it’s NAV.

## 9. SUBMISSIONS

9.1 A Legal Opinion from Mr David Dodd B.L. Counsel on behalf of the Respondent was submitted in evidence. In his Opinion Counsel set out the facts and background to the case.

Counsel stated the issue to be determined by the Tribunal is whether the property falls within the meaning of “farm buildings” as defined in the 2001 Act as amended. He contends on behalf of the Respondent that the property does not satisfy the requirements of the definition of “farm building” under the Act and is therefore not exempt. In support of this contention he looked at exemptions in the Act such as the exemption for “farm buildings” which are, he contended to be strictly construed, according to the Superior Courts.

In support of this contention he cited McMennamin J in **Nangles Nurseries V. Commissioners of Valuation [2008] IEHC 73** and the seven interpretative principles to be applied by the Tribunal to the interpretation of the Act and the exemptions under the Act. Judge McMennamin went on in the same case to summarise the principles which are applicable in the interpretation of the Act as follows:

- 1) while the Act of 2001 is not to be seen in precisely the same light as a penal or taxation statute, the same principles are applicable
- 2) the Act is to be strictly interpreted.
- 3) impositions are to be construed strictly in favour of the rate payer
- 4) exemptions or relieving provisions are to be interpreted strictly against the rate payer
- 5) ambiguities, if they are to be found in an exemption, are to be interpreted against the rate payer
- 6) if however there is a new imposition of liability, looseness or ambiguity is to be interpreted strictly to prevent the imposition of liability from being created unfairly by the use of oblique or slack language
- 7) in the case of ambiguity the court must have resort to the strict and literal interpretation of the Act, and by reference to other provisions of the statute or other statutes expressed to be considered with it.”

Counsel further stated that these principles have been applied in the Supreme Court in *Westlink Toll Bridge Ltd -v-Commissioner of Valuation &nor; Celtic Roads Group (Dundalk) ltd -v-Commissioner of Valuation &nor* [2013]IESC 43

Counsel then considered the definition of “*farm buildings*” under the Act at Section 3 (a) – (d) of which the following he regarded as most relevant to the property in question, “(a) *buildings, parts of buildings, or other structures, occupied together with agricultural lands and used solely in connection with the carrying on of agricultural activities on that land*”.

He also looked at the definition of “*agricultural land*” under the Act meaning “*land which is used as tillage, meadow or pasture ground or which is suitable only for such use* “

Counsel in his opinion stated that the property was not used for tillage, meadow, or pasture ground and is not suitable only for such use, is used as a warehouse store and workshop and is suitable for that use having been developed for that purpose.

Finally Counsel submitted on behalf of the Respondent;

- (a) The building is not occupied together with agricultural land as defined in the Act.
- (b) The buildings are not used solely in connection with the carrying on of agricultural activities on that land (and there are no such activities) or at all.
- (c) The use of the building is not in connection with the carrying on of agricultural activities, still less used solely in connection with agricultural activities.

Therefore the exemption fails for any number of reasons. Counsel elaborated on (c) and the word “solely” he contended means ‘singly, entirely or exclusively’ and emphasises the Oireachtas deems only those buildings used exclusively for the activities prescribed are exempt, where the expression solely is used. The buildings are not farm buildings and the appeal should be refused.

## 10. FINDINGS AND CONCLUSIONS

10.1 The Local Authority is Donegal County Council.

10.2 The Property is exempt if the following condition is satisfied, does the property fall within the meaning of “farm building” as defined in the 2001 Act as amended.

10.3 The Tribunal accepts the 7 interpretative principles as set out above in **Nangles Nurseries V. Commissioners of Valuation [2008] IEHC 73** and followed in other cases. In particular the following

(4) exemptions or relieving provisions are to be interpreted strictly against the rate payer  
and

(5) ambiguities, if they are to be found in an exemption are to be interpreted against the rate payer

Accordingly an exemption for farm buildings is to be strictly construed.

10.4 Under Section 3 of the 2001 Act, “farm buildings” means (a) buildings, parts of buildings or other structures, occupied together with agricultural land and used solely in connection with the carrying on of agricultural activities on that land.

10.5 The Appellant did not put forward any arguments as to how the property is occupied with agricultural land or used solely in connection with the carrying on of agricultural activities on that land.

10.6 Indeed, in the précis of the Respondent, it was said that on discussion with the Appellant, the Appellant informed the Agent that he was in the process of subdividing the property with the intention to lease out the units separately to potential commercial tenants in the future.

10.7 The land on which the property is situated is, while surrounded by other lands, these lands do not belong to the Appellant and are not connected with the property.

10.8 From the photographs produced, as seen in the Respondent’s précis, the property did not appear to be used for agricultural purposes and do not form part of any agricultural lands and was used for storing numerous goods not connected with agricultural activity. .

10.9 The property could not be regarded as a farm shed as stated in the Appellant’s submission.

10.10 The onus is on the Appellant to satisfy the Tribunal that the property satisfies the requirements imposed by Schedule 4 of the 2001 Act. If a property is not used with agricultural land which is defined as meaning “land which is used as tillage, meadow or pasture ground or which is suitable only for such use”. The fact that it may be in proximity to other lands there is no connection whatsoever with the property, the subject matter of the Tribunal. The Tribunal found very useful the photographs as submitted in the Respondent’s précis to show that there did not appear to be any agricultural use whatsoever connected with the property.

10.11 The Appellant's own admission is it is not occupied together with lands in the vicinity of the Property, the lands did not belong to him and were not connected to the property.

10.12 The Appellant has contended and sought to have the property excluded from the relevant valuation list as being exempt because it is an agricultural shed. The Tribunal finds the Appellant has furnished no evidence of this and does not come within the definition as set out above of "farm building"

## **DETERMINATION**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the NAV of €7,110 as stated in the Valuation Certificate.

## **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.