

**Appeal No: VA23/5/1248**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**THE GOURMET FOOD MARKET COMPANY LTD**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 5010089, Retail (Shops) at Unit 3 Harbour Square, Crofton Road, Dun Laoghaire, County Dublin.

**B E F O R E**

**Ms Úna Ní Chatháin - BL**

**Deputy Chairperson**

**Mr Ken Enright - Solicitor**

**Member**

**Mr Ray Finlay - FIPAV, MMIL, ACI Arb, TRV, PC**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 26<sup>TH</sup> DAY OF NOVEMBER 2025**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 19<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 €56,100.

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: “*The Valuation is Incorrect*”

*Valuation is significantly higher than annual net rent, which is €40,000 p/a.”*

1.3 The Appellant stated on the notice of appeal that the valuation of the Property ought to have been determined in the sum of €40,000, and in her evidence at the hearing the CEO stated that the valuation should be €34,550.

## **2. REVALUATION 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 €56,100.

2.2 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September 2023 stating a valuation of €56,100.

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> day of February, 2022.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 14<sup>th</sup> day of October, 2024. At the hearing the Appellant was represented by Ms Lorraine Heskin CEO. Also in attendance were Stephen Reilly, Managing Director, and Joanna Rosiak, Financial Controller. The Respondent was represented by Ms Triona McPartlan B.Sc, MSCSI, MRICS of Tailte Eireann. Mr Jonathan Starkey of Tailte Eireann attended in an observational capacity.

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 or affirmed, adopted her précis as her 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 The subject property is a mid-terrace ground floor retail unit in a five-storey mixed-use development on Crofton Road opposite the DART station. The development is a glass-fronted building comprised of retail units on the ground floor and offices and apartments above. The subject property is in use as a restaurant and is in excellent condition.

4.3 The floor areas are agreed as follows

	<b>Floor</b>	<b>M2</b>
<b>Retail</b>	0	193.97
<b>Store</b>	0	6.73
<b>Total</b>	-	200.7m2

## **5. ISSUES**

5.1 The sole issue in dispute between the parties was 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 Ms Heskin said that the valuation did not accurately reflect the true market value of the subject property, citing the most recent open market letting within Harbour Square on 20 November 2020 in support of her position (see Appendix, N/A to public). Ms Heskin stated that on that letting, a stepped rent had been agreed over the first five years of the term of the lease which averaged out at €32,200 per annum. This devalued at €246.35 psm Zone A. The annual net rent of Unit 3, the subject property, was €40,000 per annum. Ms Heskin proposed a valuation of €34,550 based on the rate of €246.35 psm.

7.2 When the lease on the subject property had been renewed, the subject property had been valued by an auctioneer who agreed it was worth a maximum of €40,000. For that reason, she had brought this appeal. It was a fact that the rent on the subject property was €40,000 per annum.

7.3 The hospitality business was challenging, in particular post-Covid and due to the cost-of-living crisis. The economically challenging period should be taken into account. The Appellant had been in business for 18 years paying bills and rates. Dun Laoghaire was a very challenging retail market. Sales had decreased 20%. The local authority should be supporting local businesses. They were crucial for community employment. Small government support schemes were contradicted by the rates increased. Over 700 hospitality businesses had closed and there was to be a march the day after the hearing in connection with that.

7.4 Ms Heskin had never objected to anything or asked for anything. The Appellant employed 300 people. Some staff had been employed at the restaurant in Dun Laoghaire since 2006. The rates increase was going to create a difficulty. She was seeking a postponement of the increase as there was only so much the business could absorb or pass on to the consumer.

7.5 In cross-examination, Ms Heskin confirmed that she had read the Appellant's evidence. She said she understood the comparisons. Rents were up and down and some people were paying ridiculous rents. It was her responsibility to open the door, pay VAT, PRSI and rates, staff, suppliers and bills.

7.6 In response to a question from the Tribunal, Ms Heskin confirmed that the rent had been €30,000 until last year. She had tried to buy the unit. The last landlord had been very supportive. A new landlord had bought the subject property, increased the rent, and made the tenant pay back rent. On 3 September 2015, the rent had been €30,000. In 2021 it was increased to €40,000.

7.7 In conclusion, Ms Heskin appealed to the Tribunal not to increase the rates as the business could not be compared to any other business.

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

8.1 Ms McPartlan stated that the only issue was quantum and after describing the property and its location, commented on the Appellant's case. She stated that the rent at the subject property was negotiated mid-Covid pandemic, in 2021, as was the rent at the most recent open market letting within Harbour Square, 20 November 2020. Ms McPartlan stated that the valuation of that property had not been appealed to the Tribunal and that it was valued at a Zone A level of €400. Ms McPartlan stated that the market was highly volatile during the Covid pandemic and that landlords were eager to retain tenants.

8.2 Ms MacPartlan relied on 3 Key Rental Transactions, which are outlined in full in the Appendix (N/A to public). The first, a unit of 335 sq. m., was similar in nature to the subject property, was let on 1 August 2019 on a 20-year lease at an annual rent of €105,000 and had an NAV of €81,700, at a NER for Zone A of €834.20 per sq.m. as compared with an NAV per sq.m. of €650. It had not been appealed to the Tribunal. The second Key Rental Transaction, a unit of 87.33 sq.m., was let on a 10-year lease on 1 September 2014 (reviewed on 1 September 2019) at an annual rent of €40,000 and had an NAV of €32,400. The Zone A NER was €530 per sq.m. as compared with an NAV of €450 per sq.m. Its location was slightly superior to the subject property and the NAV had not been appealed to the Tribunal. Key Rental Transaction 3, a unit of 51.62 sq.m., was let for 4

years 9 months on 1 December 2021 at an annual rent of €30,000 and had an NAV of €18,000. The Zone A NER per sq.m. was €595 as compared to the NAV per sq.m. of €400. It was located at a slight remove from the main thoroughfare, was valued at the same Zone A level as the subject property, the lease commenced two months before the valuation date, and it had not been appealed to the Tribunal.

8.3 Ms McPartlan also relied on 4 NAV Comparisons. NAV Comparison 1, PN5004455 was Unit 2 Harbour Square. Its floor area was 163.71 sq.m. and its NAV was €48,900 based on a Zone A rate of €400 per sq.m. It was in the same block as the subject property, was in use as a restaurant and had not been appealed to the Valuation Tribunal. NAV Comparison 2 was PN 2202461, Unit 4 Harbour Square was 204 sq.m. and had an NAV of €52,200 based on a Zone A rate of €400 per sq.m. Similarly, it was in the same block as the subject property, next door, and had not been appealed to the Valuation Tribunal. NAV Comparison 3, PN5004463, Unit 2 Royal Marine Road, was an old, converted unit, close to the property in a similar location and also in use as a restaurant. It was 207 sq.m. with an NAV of €36,800 based on a Zone A NAV of €500 per sq.m. and had not been appealed to the Valuation Tribunal. NAV Comparison 4, PN2165675, Units 1&2 the Pavilion, was 118 sq.m. with an NAV of €74,200 based on a Zone A NAV of €650 per sq.m. It was in a similar location to the subject property, was in use as a restaurant, and had not been appealed to the Tribunal.

8.4 Ms McPartlan set out the basis of her valuation as follows:

Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	STORE	6.73	€40.00	€269.20
0	RETAIL ZONE A	96.62	€400.00	€38,648.00
0	RETAIL ZONE B	75.17	€200.00	€15,034.00
0	RETAIL ZONE C	22.18	€100.00	€2,218.00
<b>Additional Items (€):</b>				€0.00
<b>Total (€):</b>				€56,169.20
<b>Rateable Valuation (€):</b>				€56,100.00

She stated that the rental evidence provided by the Appellant did not give a true reflection of the rental levels achieved in this area.

8.5 In response to a question from the Tribunal, Ms McPartlan confirmed that there were 4 units in Harbour Square. Units 2 and 4 were before the Tribunal as NAV comparisons and Unit 1 had been excluded as its valuation was under appeal. She confirmed that all 4 units had been valued at €400 per sq.m., including the unit the valuation of which was under appeal. In conclusion Ms McPartlan stated that the property had to be valued in accordance with the Act and asked the Tribunal to affirm the valuation.

## **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 Dun Laoghaire Rathdown.

10.2 The onus of proof in appeals before the Tribunal rests with the Appellant. This onus has not been discharged on this appeal. The Appellant did not adduce sufficient evidence to support the contention that the valuation of the subject property was incorrect. The thrust of the Appellant's submission was that the valuation exceeded the actual rent payable on the property. The rental comparisons adduced by the Appellant predated the valuation date and were negotiated during the Covid pandemic and are not, in the Tribunal's view, very persuasive.

10.3 In the Tribunal's estimation, the NAV comparisons adduced by the Respondent are the best evidence before the Tribunal. The NAV comparisons in the same development, NAV Comparisons 1 and 2, are valued at the same Zone A rate as the subject property. The Appellant did not rely on any comparators to contest the Zone A rate of €400 per sq. m. nor did it adduce any evidence to

support any special circumstances distinguishing the subject property from the other units in the development relied upon. The NAV comparisons located nearby, Units 3 and 4, were valued at higher rates – €500 Zone A and €650 Zone A respectively. The Appellant did not contest that those units were comparable, in similar locations and also in use as restaurants. The Appellant did not adduce any evidence of a lower Zone A rate in use for similar properties nearby.

10.4 Consequently, the Tribunal is satisfied based on the comparators adduced by the Respondent that the valuation of the subject property is in line with the valuations of nearby retail units.

**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.