

**Appeal No: VA23/5/0138**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**BAR ONE**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 1341823, Pub at Rush Street, Castlebar, County Mayo

**B E F O R E**

**Hugh Markey - FRICS FSCSI**

**Liam Daly - FRICS FSCSI**

**Mema Byrne - BL**

**Deputy Chairperson**

**Member**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 12<sup>TH</sup> DAY OF DECEMBER 2025**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 6<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 €80,200.

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:

1. The subject property's valuation is excessive and inequitable owing to its passing rent. The subject property is let at €600/week following Covid and has not exceeded €700/week in the past 5 years.

2. The main reason for the over-estimation of the subject's value is a fixation on turnover where the rent clearly shows this is down to the skill and goodwill of the occupier. The subject property

is by no means exceptionally sized (trading area just over 100m<sup>2</sup>). In this sense, it is readily comparable with other adjacent pubs such as PNs 1341700 and 1341705. The subject property does have the advantage of a commercial kitchen and hence is superior to the aforementioned adjacent pubs but it is a question of relativity and that is best defined by the actual rent.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €30,000.

## **2. REVALUATION HISTORY**

2.1 On the 13<sup>th</sup> day of April, 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 €80,200.

2.2 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September, 2023 stating a valuation of €80,200.

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 in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 31<sup>st</sup> day of January, 2025. At the hearing the Appellant was represented by Mr. David ES Halpin M.Sc. (Real Estate) Ba. (Mod) and the Respondent was represented by Mr. Vasile Goian BEng (Hons), MSCM 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. At the oral hearing, each witness, having taken the oath, adopted his précis as his 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 located on the Rush Street, close to the junction with Lucan Street and Main Street in the town of Castlebar

4.3 The subject property is a traditional ground floor pub in an end of terrace 3-storey property.

4.4 The floor areas have been agreed as follows:

	<b>Floor</b>	<b>M2</b>
<b>Bar</b>	0	112.1 m2
<b>Kitchen</b>	0	36.45 m2
<b>Total</b>	-	148.55m2

#### **5. ISSUES**

The sole matter at issue 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.”

## **7. APPELLANT'S CASE**

7.1 Mr. David Halpin, on behalf of the Appellant, began his evidence by explaining that the subject property is located at Rush Street, Castlebar, County Mayo. Rush Street was described by Mr. Halpin as a secondary location within the town.

7.2 Prior to discussing the question of value of the subject property, it was Mr. Halpin's opinion that it was first necessary to consider the relevant years of trading.

7.3 Mr Halpin highlighted what was, in his opinion, a fundamental issue in terms of the approach adopted by the Respondent for the relevant years of trading. Regarding the subject property, the adopting of the standard three years prior to the valuation date was, in his opinion, incorrect as trade in the years 2020 and 2021 was severely impacted by unprecedented events.

7.4 Mr Halpin explained how the Appellant was able to provide can provide turnover data for a 16 year period, showing that business peaked just before COVID-19 and has not recovered. Mr. Halpin maintained that, as of the valuation date of 1<sup>st</sup> February 2022, the hypothetical tenant would have been aware of the trade for 2022.

7.5 It was Mr. Halpin's opinion that the hypothetical tenant can approach the FMT in two ways, either use the years 2021 and 2022 and forecast an uplift (on the assumption market condition would unlikely be this bad again) or take the years prior to Covid (2018 and 2019) and apply a reduction to reflect market conditions. Either way, it was Mr. Halpin's opinion that both adjustments could be tied to the actual rent of the property and those in the surrounding area.

7.6 Mr. Halpin maintained it was unclear as to what approach the Respondent had adopted. He highlighted how this was particularly relevant as occupiers were served with section 45 notices (LP1) in 2019, in anticipation of the forthcoming revaluation in 2021. According to Mr. Halpin, these occupiers were not required to complete additional information following the delay of the revaluation. It was his opinion that while some occupiers may have provided additional details as part of their representations during October/November 2022, the vast majority did not.

7.7 Mr. Halpin went on to state that, in his opinion, a question arises under Section 19 (5) as to how an approach to FMT could be equitable or uniform at a time when the market was in substantial flux and the relevant occupiers were not asked to provide all of the information which may now be deemed relevant.

7.8 Mr. Halpin explained there are a total of twenty, what he considered “*town centre*” pubs in Castlebar, and excluding the subject (VA23/5/0138) and the former Bosh Bar (VA23/5/0608) both of which were under appeal, this left a representative sample of 18. Mr. Halpin introduced details relating to the 18 other public houses (See Appendix 1, N/A to public). Mr. Halpin outlined how, from the sample provided, in his opinion there was only one which could be regarded as an exceptional pub (Cox’s - €120,000 NAV). Therefore, Mr. Halpin contended, that a median value was a fairer test (as the current average was distorted by the inclusion of Cox’s). This, therefore, Mr Halpin claimed, could be interpreted as the Respondent suggesting that the subject is worth two and a half times the average and three times the median. Mr Halpin introduced a further table (included at Appendix 2, N/A to public), which he believed substantiated this in a clear manner for the Tribunal to consider.

7.9 To substantiate his position further, Mr. Halpin referenced four previous Tribunal decisions (Appendix 3, N/A to public). It was his opinion that these Tribunal decisions demonstrated that the question of relativity has to be fully explored and turnover should never be considered in isolation, particularly where food leads drink (the opposite of the usual relationship in a licensed premises). Mr Halpin also commented on the trading pattern of the subject premises over the intervening years (Appendix 4, N/A to public). Mr. Halpin concluded from this information that, based on the tone of the list and the rental information, one could only reach the value applied by the Respondent by the exclusion of all other relevant information. It was Mr. Halpin’s opinion that a fair Drink Fair Maintainable Trade (FMT) was €200,000. In considering food, he contended, as the business is food led, further adjustment is required, Mr. Halpin contended for €450,000 food turnover (€350,000 as FMT), with an adjustment of 20% from 2022 and an uplift of 10% versus 2021.

7.10 Mr Halpin introduced seven NAV comparables (Appendix 5, N/A to public) and provided the following commentary:

- Comparable 1: Mr. Halpin deemed Comparable 1 the best comparison. He maintained the property was a larger and better-equipped, however despite this, it has been vacant since the recession, and in his opinion the property's value had halved since 2012. Mr. Halpin stated it was unclear what trading information the Respondent had been supplied with; however, it was Mr. Halpin's opinion that lease rents had been considered in arriving at the final NAV of €19,750.00 for the property.
- Comparable 2 : Very similar to the subject property in trading area and location. Both have similar rental values.
- Comparable 3 : Located across the street from the subject. A drinks only business. The Appellant acknowledged that the subject is superior, as shown by its actual rent.
- Comparable 4 : The only other pub on this list with a first floor trading area. The Appellant acknowledged that the subject property is superior as shown by the rent but the Appellant disputed the Respondent's suggestion that the subject is four and a half times more valuable.
- Comparable 5 : Similar sized premises to that of the subject but with no commercial kitchen.
- Comparable 6 : One of four pubs side by side in Linenhall Street. This property is only one of these which traded through the last decade. The premises next door ceased trading in 2018 (only re-opening in March 2024), whilst two other premises were unoccupied since the early 2010s.
- Comparable 7 : This was the only rental evidence available within one year of the valuation date. The original lessee from 2021 renewed in 2024 at a slightly higher rent. The Appellant was not aware if this property is under appeal but noted that the open market rent is substantially lower than the NAV assessed.

7.11 Mr. Halpin concluded his evidence by proposing an NAV as follows:

Drink Sales €200,000 @ 7% = €14,000

Food Sales €350,000 @ 5% = €17,500

Total NAV €31,500

**7.12 Cross examination:** Mr. Goian questioned Mr. Halpin's use of 7% in calculating the FMT. Mr. Halpin replied by explaining if he were to use 8-9% on the drink sales of €200,000, it would result in a figure in excess of the rental value. Mr Halpin explained that he was not "wedded" to the 7%, it was in his opinion it was the most appropriate percentage to use to arrive at the proposed NAV.

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

8.1 Mr. Vasile Goian, on behalf of the Respondent, began his evidence by explaining that the subject property is a traditional ground floor pub in an end of terrace 3-storey property. There is a commercial kitchen in place of approx. 25.8 m<sup>2</sup> in size. The building is well maintained externally with attractive traditional signage. The subject is one of 24 pubs currently noted on the Valuation List in the town.

8.2 Mr. Goian stated the property was in excellent condition throughout. The trading areas were, Bar area at 112 sq. m. and Kitchen area at 36.45 sq. m. He said the floor area had been confirmed at the time of the inspection on 05/11/2024.

8.3 Mr. Goian explained that the main issue under appeal for the subject property was quantum. He described how the established method of valuation for licensed premises adopted by the Respondent is the application of a percentage to the Fair Maintainable Trade, following the analysis of market and trading information. The FMT adopted by the Respondent also takes into consideration the trading information on the property.

8.4 Mr. Goian then proceeded to address the evidence presented by the Appellant in their précis, He accepted that COVID and the associated postponement of the valuation date to February 2022 had presented issues in assessing trading information for valuation purposes. He explained that

typically, a property's FMT is assessed by reference to three year's audited accounts prior to the valuation date. However, due to the significant disruptions caused by the Covid-19 pandemic in 2020 and 2021 it was Mr. his opinion that it was prudent, in such unusual circumstances of Revaluation 23, to examine longer periods of trade.

8.5 The witness explained that at the valuation date of 1st February 2022, the hypothetical parties were fully aware that both the 2020 and 2021 trading figures were impacted. Mr. Goian explained how it was his opinion that it is well established in any R&E or shortened approach assessment that the actual accounts of a subject property are the starting point, but it can be recognised that actual trade at the valuation date may not in all cases be the best evidence of what is a fair and maintainable level of FMT. It was therefore the opinion of the Respondent that the hypothetical parties will consider 2019 or earlier trading figures which were unaffected by the pandemic as the starting point for negotiations and for the assessment of FMT for the property. It was therefore the Respondents opinion that figures for 2020 and 2021 should certainly not be ignored but should be treated with caution. It was also the Respondent opinion, that, to comprehensively understand the impact of the pandemic on the properties, a thorough examination of accounts for 2022 and 2023, where made available, was also deemed prudent before adopting an FMT.

8.6 Mr. Goian discussed how the Appellant had responded to the initial issue of the Section 45 Notice and returned trading information covering the years 2016-2019, with 2019 being a projection. Mr. Goian explained that while it was correct to say this was the only information the Respondent received specific to the subject property prior to the Appeal, it was examined with sufficient reference to information received from other properties, many of whom provided further trading information concerning the period around the valuation date. Mr. Goian highlighted that as it was with all occupiers in receipt of Proposed Valuation Certificates, the Appellant had ample opportunity to make Representations and provide further trading information in the years around the valuation date but elected not to do so.

8.7 He acknowledged that the FMT of the subject property has to be revised, however the FMT suggested by the Appellant was way below the trading figures and are not in line with the scheme applied.

8.8 Mr. Goian explained that Section 45 forms were issued to every licensed premises in Co. Mayo in 2019, including the subject property, in anticipation of a 2021 Revaluation. He recognised that the Appellant was correct in asserting that occupiers were not *required* to provide additional information following the postponement of the valuation order and date however, it was his opinion, that *all* occupiers had the opportunity to supply trading information on years closer to the amended valuation date during the Representations phase following issuance of Provisional Valuation Certificates, should they have so desired. He outlined how the Appellant had chosen not to take issue with the proposed NAV and did not make representations, therefore forgoing an opportunity to provide further information. Trading and other information received at Representations stage from other properties was duly considered and valuations adjusted where appropriate.

8.9 Mr. Goian went on to address the Appellant's queries "*under Section 19 (5), how an approach to FMT could be equitable or uniform when the market was in substantial flux and the relevant occupiers were not asked to provide all of the information which may now be deemed relevant*". His response to this was that all occupiers were and are obligated under the Act to respond to the Section 45 forms and furthermore, all occupiers had ample opportunity to make Representations and provide said information following receipt of Provisional Valuation Certificates. The witness explained that all evidence made available is assessed in arriving at a fair and maintainable trade for each property.

8.10 Mr. Goian explained there are 24 pubs (including the subject) in the town of Castlebar with 6 estimated valuations and 18 compliant valuations. Mr. Goian stated, out of the 24 pubs, only two appeals have been submitted. Mr. Goian described how the Chief Operations Officer had analysed the financial information provided and was of the opinion that the NAV of the subject property must be adjusted to €54,800.

8.11 Mr. Goian went on to provide commentary on the NAV's submitted by the Appellant. He explained how the Appellant had submitted six NAV comparisons which in the Appellant's opinion were the most relevant ones. He also referenced the Appellant's statement that *'the*

*Respondent's representative are not able to provide sizes in all cases and indeed sizes which may be on file are significantly out of date.*” He responded to this by stating it is an obligation of the occupier and/or the relevant local authority to inform the Respondent about any changes to the property, including the amendment in the floor areas of the property, and as the Appellant’s Agent never inspected the other six NAV comparisons, the information provided by the Respondent should be considered relevant.

8.12 Mr. Goian explained that the subject property was not the only property that had a drink – food ratio more than 1:1. PN 1341034 (Mulroy’s) had drink sales of €135,000pa while the food sales were €520,000pa. This is a ratio of 1:3.85. Mr. Goian highlighted how no appeal had been submitted in that case. The new proposed valuation of the subject property is €54,800 which devalues as drink sales of €220,000 and food sales of €800,000. This means a ratio of 1:3.63 which is lower than the ratio of PN 1341034 (Mulroy’s).

8.13 Mr. Goian described how the Appellant contended that a €200,000 Drinks FMT and €350,000

Food FMT was fair, and this would reflect an adjustment of 20% from 2022 and an uplift of 10% versus 2021. It was his opinion that the Appellant offered no justification for such a significant allowance, and it was contrary to the fact that the Appellant had admitted that there are two ways of analysing (years 2018, 2019 with a significant reduction, or 2021 and 2021 with an uplift). He contended that the Appellant was proposing a trading figure even lower than the Covid-19 years (2021,2022) and ignores the pre-Covid -19 (2018,2019) and post Covid -19 years (2022, 2023).

8.14 It was Mr. Goian’s opinion, that on analysis of the the information provided, that the current FMT applied to the subject is fair, it was below the trading years prior to Covid-19 and in line with the average from 2019, 2020 and 2021 where drink sales were €237,052 (average) and food sales €879,236. He detailed this further by explaining how the valuation scheme applied 9% to FMT for pubs located in Westport and Castlebar generating gross profits more than 56% as the primary towns/pub markets in the county, the 56% threshold was exceeded in all years above. The

valuation scheme had been accepted by 91.66% of pub operators in Castlebar town, based on the number of appeals to the Tribunal versus the total pubs in the town and of 90 % of the pub operators in Co. Mayo, based on the number of appeals to the Tribunal versus the total number of pubs in the county. It was, therefore, his opinion that the NAV on the valuation list of €80,200 should be amended to €54,800,

8.15 He introduced three key rental transactions (Appendix 6, N/A to public) and seven NAV comparables (Appendix 7, N/A to public) to support his opinion. In concluding his evidence, he again stated that, in his opinion, the NAV on the valuation list should be amended from €80,200 to €54,800 as set out in the table below:

	<b>FMT, €</b>	<b>% applied</b>	<b>NAV, €</b>
<b>Drink sales</b>	€220,000	9%	€19,800
<b>Food sales</b>	€800,000		
Less 100,000	€700,000	5%	€35,000
<b>Total NAV</b>			<b>€54,800</b>

Cross examination: The Appellant questioned the Respondent's claim of 75% compliance. It was Mr. Halpin's opinion that part of compliance is submitting details, however the Respondent received limited rental evidence, therefore without these, he asked how this could be considered compliant. Mr. Goian responded by explaining that they worked with the rental information that was relevant to the date. Mr. Halpin asked why would they (the hypothetical tenant) pay more for the subject property than others? Mr. Goian response was they would look at the trading information, to which Mr. Halpin countered that they would not have access to this, Mr. Goian did not elaborate.

## **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 Mayo County Council.

10.2 The Tribunal is tasked with the statutory duty of determining whether the Appellant has provided it with sufficient evidence as to demonstrate that the NAV placed on the property is appropriate or, on the other hand, the Appellant has met the burden of proof required to suggest the NAV should be altered.

10.3 The Tribunal was concerned that, despite signing a 'Statement of Truth' to the effect the evidence presented was his own, the Respondent's witness on several occasions referred to the opinion of the Respondent's Chief Operating Officer (COO). This called into question whether the witness was providing the Tribunal with his own opinion or merely supporting that of the COO.

10.4 Following on from the above, the Tribunal was also concerned that the Respondent chose not to introduce rental evidence from the town, rather relying on transactions from Ballina, Achill Island and Westport. This suggests a tendentious approach to the appeal. The Respondent will have had access to at least the same transactional evidence as the Appellant's valuer but, for whatever reason, chose not to disclose details to the Tribunal. The Tribunal found the evidence of rentals adduced by the Appellant to be of some assistance in 'placing' the Subject's NAV in the hierarchy of licensed premises in the town.

10.5 The application of percentages of FMT, if applied rigidly, can result in a result that is markedly unfair and not in compliance with the requirements of the Act for equity and fairness. Uniformity may be achieved by such an exercise but that is only one of the requirements. Equity may not be achieved by such an exercise, and this latter is of equal importance. The Tribunal acknowledges the challenges faced by public houses during COVID 19, and the difficulty ascertaining an accurate FMT after such an enormous distortion to the market.

10.6 There were three common comparables adduced by the Parties and these were of assistance to the Tribunal. It is of note that the Appellant was able to provide rental information for three of his comparables – evidence which would have been available to the Respondent.

10.7 The Appellant did not overly dispute the scheme of valuation adopted by the Respondent, merely suggesting an adjustment to the FMT and a different percentage to be applied to the drink FMT, an adjustment to which he suggested he ‘was not wedded’. In a similar fashion, the Respondent suggested that in the setting of the NAV *‘that the actual accounts of a subject property are the starting point, but it can be recognised that actual trade at the valuation date may not in all cases be the best evidence of what is a fair and maintainable level of FMT.’* It is clear, in the instant case, that the Respondent regarded the accounts as the start and end point; it did not take cognisance of rental information from the property or the town and merely baldly applied the ‘Scheme’.

10.8 The Tribunal finds that the NAV must be adjusted to take account of the ‘upside down nature’ of this business and this is best achieved, as was evidenced by the decisions of previous divisions of the Tribunal, by the application of an end adjustment.

It is clear the food turnover in the instant case is considerably more than that of drink. This is unusual and may be related to the longevity of the operator in the location.

The onus of proving that a valuation placed on a property by the Respondent lies with the Appellant: VA00/2/032 Proudlane Ltd. t/a Plaza Hotel and VA07/3/054 Construction William and O'Sullivan's Marine Ltd.

The Tribunal finds that the Appellant has discharged the onus of proof that the NAV as determined by the Respondent is incorrect and that the NAV should be adjusted to €37,360 in this instance, as set out below:

	FMT €	% Applied	NAV €
Drink Sales	220,000	9	19,800
Food Sales	800,000		
Less €100,000	7000,000	5	35,000
Total			54,800
End Adjustment		30	16,440
NAV			€37,360

**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 €37,360.

**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.