

Appeal No: VA23/5/1004

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

YELLOW SANDS PIL

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2165651, Office at Unit 17 First Floor Terryland House, Terryland Retail Park,
Headford Road, County Galway ('the Property').

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF MARCH 2026**

BEFORE

Killian O'Higgins - FSCSI, FRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 18th day of October, 2023 the Appellant (who is the owner, but not the occupier) 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 €4,550.

1.2 The grounds 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 and overestimated compared to comparable valuations of similar units in Terryland Retail Park;

(b) of its secondary location; and

(c) of its current condition

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €2,275 or €65psm.

2. RE-VALUATION HISTORY

2.1 On the 23rd 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 €4,550.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €4,550.

2.4 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.

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 Terryland House is a two-storey building located at Terryland Retail Park, on the east side of the Headford Road, in the section between Seán Mulroy Road and Bóthar na dTreabh, close to the Maldron Hotel, The location is approx. 2km north of Galway city centre.

4.3 The Property forms part of the first floor of Terryland House, described as a small business hub. Although variously described as ‘office/studio’ the Property’s use is for making signs, sharing the floor with approximately sixteen other small business occupiers. The Property is finished with plastered and painted walls and painted concrete floor. There is no ceiling and the underside of the corrugated roof, resting on purlins, is visible. There is no natural light, and artificial lighting is provided by suspended fluorescent lights. The Property is in good condition relative to its sign making use.

Access to the property from ground floor is via two stairways and lift. At ground level there is shared (free) carparking. The units at first floor are accessed off shared circulation corridors which also provide access to shared bathroom accommodation.

The agreed floor area is 35 sq. m.

5. ISSUES

5.1 Quantum is the only issue in dispute.

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 the property is leased at €89.61 per square metre (psm) whereas the Respondent has valued the property at €130psm. The property is in “warehouse condition” compared to other units which have “superior conditions” and accordingly attract higher valuations.

7.2 The Appellant quoted a response received from the Respondent "It is the Valuation approach, where properties have lifts, to value all floors at the same level which is consistently applied throughout the Revaluation process." The Appellant maintained that the passenger lift had no material impact on valuation, despite the Respondent suggesting otherwise.

7.3 The Appellant’s consultations with several estate agents, and most particularly its own experience over twenty-five years renting experience, suggested the valuation of the first floor, should not be increased because of the presence of a lift.

7.4 The Property in its warehouse condition should not carry the same valuation as the ground floor. If vacated the property would require a “*major upgrade to bring it up to modern standards.*”

7.5 Taken from the Ms. Bradshaw’s précis, Ms. Bradshaw stated that the Appellant relied on the following comparable evidence:

Property Number	Address	NAV	NAV (m2) €
1153271	6AB/1AB (Pt.) Gr & 1 st Floors Rear, Terryland Retail Park, Galway H91XYY5	40,000	65
1153274	6AB/1D Terryland Retail Park, Galway H91CH7W	44,800	65
2170600	Terryland Retail Park, Galway H91XA6F	7,650	90
2214152	Pt 1 st Floor, U8A, Terryland Retail Park, Headford Road, Galway H91XA6F	5,910	90
5009532	Unit 8, Terryland Retail Park, Headford Road, Galway H91D5KV	4,640	90
1153306	6AB/8B Terryland Retail Park, Galway H91Y8EV	11,140	90
1153280	Terryland Retail Park, Galway	12,820	90
1153277	First Floor Terryland Retail Park, Galway H91XRPO	1,280	90
2199606	First Floor Terryland Retail Park, Galway	2,590	90

7.6 The Appellant’s opinion of value was 35 sq. m x €65 = €2,275pa relying on what it stated were office and stores valuations associated with PN 1153271 and 1153274 (first two in the table above).

8. RESPONDENT’S CASE

8.1 Ms. Valerie Bradshaw, for the Respondent, provided a very helpful floor plan and photographic evidence of the internal area of the Property and the first floor generally, and the Property’s relationship with other first floor units. Photographs of the ground floor entrance and its relationship with the ground floor retail unit (Terryland Fruit & Veg) at Terryland House was also provided.

8.2 According to the Ms. Bradshaw information supplied by the Appellant suggested that the tenant had occupied the Property under an Agreement which commenced in 1996 (day and month not confirmed) and the “current annual rent” as it was described comprised a licence fee of €3,300 per annum (‘pa’), management fee of €1,008pa and rates of €462pa – total €4,770pa. No information was provided on the ‘date the current rent was fixed.’ The tenant is responsible for internal repairs and insurance.

8.3 However the Revaluation Reps Report provided in Ms. Bradshaw’s précis following representations received by the Appellant, confirmed a commencement date of the 1st day of November 2015 and the current rent, stated as €3,348pa, was fixed on that date. The Appellant stated an opinion of value at €2,275pa. It is noted that a copy invoice provided by the Appellant appears to confirm a Licence Fee of €3,330 as opposed to the €3,348 stated in the Revaluation Reps Report.

8.4 Ms. Bradshaw, for the Respondent critiqued the comparables offered by the Appellant as follows:

8.4.1 PN 1153271

Ground floor retail and first floor office in Terryland Retail Park. The NAV is based on Zone A €240psm on the ground floor and €65psm for the first-floor office. The office is 199.96psm (total floor area 375.87sq. m). Significantly larger than the subject property and the first floor is only accessible by stairs and does not have lift access.

8.4.2 PN 1153274

Ground floor retail unit with a first-floor office and store in Terryland Retail Park. The NAV is based on Zone A €240/sq. m on the ground floor and €65/sq. m for first floor office and store. The area of the first-floor office and store is 194.3sq. m (total area 475.65sq. m). Considerably larger than the subject property. The first floor is only accessible by stairs and does not have lift access.

8.4.3 PN 2170600

First floor unit of an end of terrace warehouse/industrial building in Terryland Retail Park. The first floor has been upgraded and converted into offices. The NAV is €90/sq.

m. The property is slightly larger than the subject property at 85sq.m. The first floor is only accessible by stairs and does not have lift access.

8.4.4 PN 2214152

First floor of a two-storey end of terrace building in use as offices, in Terryland Retail Park. The NAV is €90/sq. m. The property is similar in size to the subject property at 65.73sq.m. The first floor is only accessible by stairs and does not have lift access. The Appellant suggests that this was a Wedding Dress Shop.

8.4.5 PN 5009532

First-floor unit of a two-storey terraced, commercial building in Terryland Retail Park. The NAV is €90psm and the area is 51.65 sq. m. which is similar in size to the subject property. The first floor is in use as a barber shop and is accessible only via stairs and does not have lift access.

8.4.6 PN 1153306

First floor of a two-storey end of terrace commercial building in Terryland Retail Park. The NAV is €90psm. Considerably larger than the subject property at 123.81sq. m. The first floor is in use as a dance studio and is only accessible by stairs and does not have lift access.

8.4.7 PN 1153280

Mid-terraced first-floor art studio, located in Terryland Retail Park. The NAV is €90/sq. m. Substantially larger than the subject property at 142.52sq. m. and comprises of two classrooms, a small office and toilet. The first floor is only accessible by stairs and does not have lift access.

8.4.8 PN 1153277

Mid-terraced first-floor unit, over a shop located in Terryland Retail Park. The NAV is €90psm and the area is substantially smaller than the subject property at 14.3 sq. m. It is in use as a beauty salon and is accessible only by stairs and does not have lift access.

8.4.9 PN 2199606

Mid-terraced first-floor office, over a shop, located in Terryland Retail Park. The NAV is €90psm and the area is substantially smaller than the subject property at 28.81 sq. m. It is accessible only by stairs and does not have lift access.

8.5 Ms. Bradshaw asserted that the presence of a lift warrants an uplift in the NAV rate applied to first floor properties compared to those first floors without a lift – stated to be an approach adopted by Tailte Éireann throughout Galway city in order to achieve equity and uniformity under Section 19.5 of the Act. According to Ms. Bradshaw’s précis *“the best and closest comparables, are offices in the same building, on the same floor and nearly the same size, same date of construction, and the same type of construction.”* In this context Ms. Bradshaw stated that, in particular, her NAV comparisons 1, 2 and 3 reflected this approach.

8.6 Ms. Bradshaw relied on *Proudlane Ltd. v Commissioner of Valuation VA 00/2/032* in which the decision was that the onus of proof lay with the Appellant.

8.7 Ms Bradshaw offered the following comparisons summarised below.

Property Number	Address	NAV per sq.m	NAV
2094228	Unit 21D, Terryland House, Terryland Retail Park, Galway, H91RW64	€130	€9,920
2208370	Unit 19 (Local No 27) Terryland House, Terryland Retail Park, Galway, H91FPT3	€130	€9,620
2182821	Unit 20A, Terryland House, Terryland Retail Park, Galway, H91C5X5	€130	€6,650
2191440	Unit 20 Sandyford Business Centre, Bohermore, Galway, RPN8	€130	€12,300
2199603	90.92-97/5 Sandyford Business Centre, Bohermore, Galway, H91N2KX	€130	€13,150
2209999	Unit 16A Briarhill Business Park, Ballybritt, Galway FFH1	€130	€1,770
2213419	Block 8 Office 7, Galway Technology Park, Parkmore, Co. Galway	€135	€2,340
2213723	Block 8 Office 10, Galway Technology Park, Parkmore, Galway	€135	€4,970
2199594	Calbro Court, Tuam Road, Galway, H91YKH4	€130	€8,090

8.8 A single “Key Rental Transaction” was provided – see Appendix 1 (N/A to public):

8.9 In summing up Ms. Bradshaw stated that the licence fee arrangement was akin to a Full Repairing and Insuring Lease and devalues to €136.28 psm as opposed to the NAV assessed at €130psm. Ms. Bradshaw offered the view that a computer and desk present at inspection supported her view that the property was an “office/studio.”

8.10 The comparable properties offered by the Appellant were not in Terryland House but in Terryland Retail Park and only had access via stairs – no lift. Ms. Bradshaw was of the opinion that first floor properties with a lift were worth more than a first-floor properties without a lift and this was evidenced in the difference in passing rents between Terryland House and other units at Terryland Retail Park.

8.11 Ms. Bradshaw affirmed a NAV of 35 sq. m x €130 = €4,550

9. Appellant’s response to Respondents Précis

9.1 The Appellant maintained that the unit is in good condition and “...*in full use for the actual current use which is a warehouse/workshop.*”

9.2 The Appellant contends that the Licence Fee being paid is the most appropriate benchmark for the NAV, not that of a hypothetical tenant which produces a figure 50% greater than the level being paid by the occupier.

9.3 The Appellant set out the apportionment of a monthly payment of €400 as follows: €277.50 Licence Fee, €84.00 for a Management Fee and €38.50 for rates. The management fee covers works and services to internal and external common areas.

9.4 The condition of the property is such that significant expenditure would be required to bring the internal condition to the same level as that of neighbouring units or to an office standard. The unit is not comparable to other neighbouring units on the list - if the condition was similar the Appellant agreed that both income and NAV would be higher.

9.5 In twenty-five years the Appellant had not seen ground and first floors valued equally.

9.6 The Appellant provided photographic evidence of the internal areas of Ms. Bradshaw’s NAV 1 (PN 2094228) and NAV 2 (PN 2208370) providing evidence of a very good level of fit-out. The Appellant stated that it was obvious to a casual observer that these properties were not comparable to the Property, given the disparity in the fitout and internal condition. The

Appellant was not in a position to comment on the internal condition of the other NAV's offered by Ms. Bradshaw, for the Respondent.

10. SUBMISSIONS

10.1 There were no legal submissions.

11. 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 Galway City Council.

11.2 There is a fundamental difference between the parties as to how the Property is described, albeit the condition of the Property is obvious from the photographs. The Valuation Certificate categorises the property as 'office' and the property use as 'office over shop.' Ms. Bradshaw variously described the Property as 'first-floor office/studio over shop' (1.3 of her Précis), 'office/studio' (1.5 and 5.4). The Appellant described the property as 'warehouse condition' and use as 'warehouse/workshop' (response to Ms. Bradshaw's précis). The fact that the unit has no natural light alone challenges its description as an office, and even if it could be described as offices it is clearly not 'similarly circumstanced' to other offices or studios introduced by Ms. Bradshaw as comparable evidence.

11.3 An office is an environment where staff and public alike enjoy comfortable surroundings in conducting business and undertaking administrative tasks. The Property offers no such comforts. A workshop traditionally emphasizes hands-on craftsmanship, technical skill development, and practical production, often involving tools, machinery, and physical materials, while a studio represents a more conceptual, artistic environment focused on creative exploration and aesthetic development. It is hard to avoid the conclusion that the Property is anything other than a workshop given the nature of the business of the occupier as a signwriter and indeed the internal condition and contents of the Property as demonstrated by the photograph of the internal area of the Property provided by Ms. Bradshaw's précis. In any hierarchy of use between office, studio and workshop, workshop would occupy the lowest rental income generating position.

11.4 Ms. Bradshaw for the Respondent was entirely misconceived in her characterisation that the full payment by the licensee, which includes a licence fee, management charge and rates contribution, is equivalent to the terms of a Full Repairing and Insuring (FRI) lease in essence describing the payment by the occupier as rent. FRI leases usually have provisions for tenants to pay rates and contribute to a service charge in a shared building together with a separate amount for rent. If adopting the comparison with FRI terms and correcting the Ms. Bradshaw's approach by eliminating the management fee and rates charge leaves the licence fee of €277.50 per month (exclusive of the management fee and 'corporation rates') as equivalent to a rent of €3,330pa. Section 48(3) of the act specifically provides:

“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.” (Tribunal's underline)

11.5 The Appellant introduced nine properties in comparable evidence however each of the comparable properties is in a different building. Two of the properties PN 1153271 and PN 1153274 are valued at €65psm. Each of the remaining seven units are occupied as offices, a dance studio, an art studio, a beauty salon has a NAV of €90psm. In the absence of evidence at Terryland House, this evidence might be of interest to the Tribunal, however, with evidence available in Terryland House, the Appellant's comparable evidence is not of assistance to the Tribunal.

11.6 Ms Bradshaw stated that *“The best and closest comparables, are offices in the same building, on the same floor and nearly the same size, same date of construction, and the same type of construction”* and highlighted her NAV comparisons 1, 2 and 3 to make the point yet then proceeded to introduce six comparables removed from the immediate location of the Property.

11.7 The single KRT evidence is of little evidential value describing office and stores in Galway city with windows and no indication of the internal condition. The NAV of €140psm is 80% of the rent of €175psm at lease commencement date, which aligned with the Valuation date of the 1st day of February 2022.

NAV Comparison 1 – PN 2094228

Adjacent unit, first floor Terryland House. 27.00 sq. m, described as offices. NAV €130psm or €3,510. The Appellant's photograph demonstrates a superior fit out which is in no way comparable to the condition of the Property. No rent evidence. This NAV evidence is of assistance to the Tribunal.

NAV Comparison 2 – PN 2208370

Adjacent unit, first floor Terryland House. 74.00 sq. m, described as studio. NAV €130psm or €9,620. Appellant's photograph demonstrates a superior fit out which is in no way comparable to the condition of the Property. No rent evidence. This NAV evidence is of assistance to the Tribunal.

NAV Comparison 3 – PN2182821

Adjacent unit, first floor Terryland House. 51.17 sq. m, described as studio. NAV €130psm or €6,650. No rent evidence. This NAV evidence is of assistance to the Tribunal.

NAV Comparison 4 - PN 2191440

An attractive unit of 94.69 sq. m in purpose built, first floor office accommodation, with windows. NAV €130psm or €12,300.

NAV Comparison 5 - PN 2199603

Same development as NAV 4 - 94.25 sq. m in purpose built, first floor office accommodation, with windows. NAV €130psm or €13,150.

NAV Comparison 6 - PN 2209999

Purpose built business park. 13.64 sq. m in purpose built first floor office accommodation, with windows. NAV €130psm or €1,770.

NAV Comparison 7 – PN2213419

Attractive purpose-built modern office block at Galway Technology Park. 17.40 sq. m, ground floor office accommodation with windows. NAV €135psm or €2,340.

NAV Comparison 8 – PN 2213723

Same block as NAV 7. 36.88 sq. m, second floor office accommodation with windows. NAV €135psm or €4,970.

NAV Comparison 9 - PN 2199594

Very attractive new development Calbro Court, Tuam Road. 62.24 sq. m. second floor office accommodation with windows. NAV €130psm or €8,090.

11.8 In relation to NAV Comparisons 4 to 9 the Ms. Bradshaw did not specifically reference the quality of the internal fit out nor mentioned if each comparison had no windows. It is not unreasonable for the Tribunal to assume a good quality of fit out in such modern buildings and that each office has natural light via windows. In the circumstances other than confirming Tailte Éireann's general approach to applying a NAV of €130/135psm to modern office accommodation in Galway city and suburbs, Ms. Bradshaw's NAV comparisons 4 to 9 are of no assistance to the Tribunal given the disparity in fit out and condition between the Property and those comparisons.

11.9 NAV Comparisons 1, 2 and 3 (each €130psm and at first floor, Terryland House) are of assistance to the Tribunal and in the case of NAV Comparisons 1 and 2, Ms. Bradshaw's and the Appellant's photographs demonstrate the clear and irrefutable difference in both use and quality compared to the Property.

11.10 No evidence was advanced by either party as to the difference between a lease and licence and consequently no argument was advanced in relation to the Licence Fee and how the Licence Fee might be interpreted in the context of Section 48(3) of the Act, as amended by section 27 of the Valuation (Amendment) Act 2015, which 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.” (Tribunal’s underline).

11.11 The Tribunal accepts the Appellant’s contention that the Property and NAV Comparisons 1 and 2 are not comparable given the very superior condition and finishes of each property however the Tribunal accepts the Ms. Bradshaw’s evidence that well finished offices or studios at Terryland House are valued at €130psm. It is clear that Ms. Bradshaw, for the Respondent, did not value the Property “*in its actual state*” (Section 48(3) of the Act).

11.12 Accordingly, it falls to the Tribunal to decide the level of discount which should apply to the Property relative to the Ms. Bradshaw’s NAV 1 and 2 comparative evidence. Using its own expertise the Tribunal considers that a discount of at least 25% should apply on the €130psm assessments of the Ms. Bradshaw’s Nav 1 and Nav 2:

$$€130.00 \times 25\% = €32.50.$$

$$€130 - €32.50 = €97.50.$$

Unit 17, First Floor, Terryland House (PN 2165651):

$$35 \text{ sq. m} \times €97.50 = €3,412.50, \text{ say } €3,400.$$

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 **€3,400**.

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.