

Appeal No: VA23/5/1168

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

MICHAEL CAHIR

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. 1442693, Fuel/Depot at Liscannor, County Clare.**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF MARCH 2026**

BEFORE:

Raymond J Finlay - FIPAV, MMII, ACI Arb, TRV, MCEPI, PC

Member

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 €50,000.

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*

Set out the grounds upon which the Appellant considers that the determination of the valuation of the property is not a determination of its value that accords with that required to be achieved by section 19(5).

The valuation of the property has deemed to be incorrect based on the turnover of the financial statements for the years ended 31 December 2019, 31 December 2020 & 31 December 2021 and location of the service station as it a seasonal trade area.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €19,200.

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 €50,000.

2.2 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €50,000.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 01st 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 Description.

The subject property is a service station with retail (XL branding) indoor seating, commercial kitchen, ATM facility, Customer WC's, and rear storage areas.

The property is approx 0.40 acres and has ample tarmac parking facilities. It has two pump islands with a total of eight nozzles under cover.

Floor Areas;

Shop 133.41m²

Store 43.93m²

Total 177.34m²

These areas are agreed between the parties.

There were a number of photos supplied to demonstrate the property.

4.3 Location

The property is located in Liscannor Co Clare on the R478 which leads to Lahinch and the cliffs of Moher on the wild Atlantic way. Trade in mainly passing as the local population was 135 in 2022 Census.

4.4 Tenure

The Landlord; M.Cahir, leased the property to Tenant,H.Saeedi.

The parties entered into a seven year lease from 1/5/2024, which is in fact two years after the valuation date of this property;1/2/2022.

5. ISSUES

The 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 The property owner and landlord did not in this case forward the standard precis of evidence either directly or via an agent. He did, however, forward a document dated 7/7/25 containing the following;

A.A note confirming all accounts 2018/2022 had been furnished to Tailte Eireann.

B.A copy of the lease agreement.

C.A copy of his Rates correspondence.

D.His valuation certificate for 2023.

E.Photographs of two commercial properties on which, it was his opinion, ceased trading due to increased running costs.

F.He also attached his own home address and contacts as well as his accountants in Loughrea.

The appellants cited two properties as comparisons to prove his case;

Comp 1, PN 1442564.

Whilst being open at the time of Tailte Eireann's site visit this property apparently traded only as a service station with industrial buildings. No required financial S45 information was supplied.

Comp 2 PN 1442736.

This was an active service station at the time of valuation. The business was similar to the subjects being retail, fuel etc.

No required S45 financials were received from the appellants on this property.

Mr Cahir's case could therefore be summed up as;

The NAV Valuation is incorrect on the turnover of the premises for 2019/2020 and 2021.

The two properties photographed were indications of unfavourable trading conditions which led to their closure.

It was Mr Cahir's opinion that therefore the NAV of this property should have stood at E19,200.

8. RESPONDENT'S CASE

8.1 Parkinson Assoc SCSl,M.Sc.Real Estate,BA (Hons) Acc.,represented Tailte Eireann the respondent in this matter.

The respondent relied on four NAV comparisons to prove his value;

NAV Comp 1 PN 1693475

A very similar property to the subject in the village of Bunratty Co Clare.

The estimated NAV of E100, 000 was reduced to E52,000 by agreement with the owner's agent prior to an appeal. This was due to the financials sought being available in the required format.

NAV 2 PN 1443114

A larger service station than the subject in Milltown Malbay, Co Clare. As with Comp 1, the relevant S45 Financial information was supplied at representation leading to a reduced NAV from E106,500 to E86,600 on agreement before appeal.

NAV 3 PN 2195054

A large Retail service station close to a local shopping centre. Full S 45 financial information was offered in this case; Shop, Fuel sales, car wash etc, effectively allowing an agreement on NAV at E76,200 from an initial E120,000 to avoid appeal.

NAV 4 PN 2169411

A rural service station retail offering outside Ennis, Co Clare. This property is held on a stepped lease agreement and NAV was agreed via a deduction from E70,300 to E51,200 on foot of relevant financial data being offered.

The Respondent cited His opinion of a NAV in this case at E50,000.

The respondent also indicated his opinion that as the appellant has relied on financial information as their basis, they must comply with S.45 (1) of the valuation act and that this is not presented in the correct format as per the Section 45 notice was issued.

The Lease agreement offered by the appellant, in the respondent's opinion should be disregarded as its agreed commencement date; May 2024 is after the statutory valuation date and is also after the statutory effective Date, October 27 2023 and therefore has no relevance.

On that the respondent rested.

9. SUBMISSIONS

9.1 There were no legal submissions in this matter.

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 Clare County Council.

To arrive at a fair and equitable determination, the Tribunal must look at both parties' arguments as well as their compliance with the Valuation Act 2001 and the requirements of Section 19(5).

The appellant, whilst wishing to put His points across for consideration as clearly as possible, has nevertheless failed to follow the required legal protocols as regards the financial information offered as evidence. There was no breakdown between shop sales and throughput sales, as is key under Section 45 (1) of the Act. A fair comparison cannot for that reason be made on this properties NAV value.

Additionally, the fact that the commercial lease on this property was offered to assist the Appellants case must be judged as moot and irrelevant as the lease commenced considerably after the legal dates of import.

Finally, whilst the Tribunal has great respect for the smaller rural business persons' difficulties in these straitened times, no solid evidence was offered to support the appellant's opinion that businesses shown were closed 'Due to increased running costs'.

DETERMINATION:

Therefore, The Tribunal disallows the appeal and confirms the decision of the Respondent at the rate €50,000 NAV.

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.