

Appeal No: VA23/5/1199

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

AGENBITE LIMITED T/A MILANO

APPELLANT

and

COMMISSIONER OF VALUATION.

RESPONDENT

In relation to the valuation of

Property No. 1158509, Retail (Shop) at 20-23/ Unit 1 The Cornstore, Middle Street, Galway,
County Galway.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3RD DAY OF FEBRUARY 2026**

BEFORE

Raymond Finlay - FIPAV, MMIL, ACI Arb, TRV, MCEPI, PC

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 18th 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 €106,000.

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:

‘The Valuation is Incorrect

THE VALUATION IS EXCESSIVE AND BAD IN LAW AND SHOULD BE REDUCED. THE VALUATION DOES NOT CORRECTLY TAKE ACCOUNT OF THE RENT ON THE SUBJECT PROPERTY AND THE COMPARABLE RESTAURANT RENTS WITHIN GALWAY.'

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €49,200.

2. RE-VALUATION HISTORY

2.1 On the 25th 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 €106,000.

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 €106,000.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 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 The subject property is a single storied retail unit of good size (315.64M2) in one of Galway City's prime retail locations.

The property is located within a shopping centre known as The Cornstore, located at an axis between Middle St, Cross St and Augustine St in Galway City centre.

The open-plan restaurant, which trades from the subject property, is one of the Milano Italian Restaurant chain.

The lease on the subject property is a 25 Year FRI one from 19/2/99. It holds Five year upward only rent reviews, the most recent of these reviews being 19/2/2019 at which time the lease was agreed at E83,600 at that time and the leaseholder is Agenbite Ltd.

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 Appellant, Agenbite Ltd, is represented in this matter by Joanne Hobson BSc (Hons),MRICS of RHM Commercial. Essentially it is the Appellant’s case that the property should be awarded/discounted a 10% Frontage To Depth (FTD) allowance or discount from it’s NAV due to the large frontage of the subject property.

The Floor areas have been agreed at:

Retail Zone A 120.48

Retail Zone B 96.45

Retail Zone C 69.23

Retail Remainder 13.72

Store 15.76

Total 315.64 M2

After an initial difference of opinion on the Tome of the subject property, it now appears that the passing Zone A rate of E560 is agreed between the parties.

Despite the appellant’s initial estimate of E49,200 as per 18/10/23,Ms Hobson now confirms her agreement of the passing Tome at E106,000 (E560 per M2 Zone A)as per 31/3/25, but argues that a 10% FTD allowance should be applied to this figure at the valuation date’s NAV 1/2/2022, indicating her assessment of E95,400 NAV for the subject property.

In her precis, Ms Hobson indicates the current passing rent of the subject property at E83,600 is considerably less than the NAV suggested by the respondent.

In her precis the appellant cites six comparable properties to the subject;

PN 1158478

Middle St Galway

PN 1158575

Middle St Galway

PN 2193296

Middle St Galway

PN 1158250

High St Galway

PN 1158283

Kirwins Lane Galway

PN 1147342

William St West Galway

All of these retail properties are located on either Middle St, High St or Kirwan's Lane.

The appellant did not supply enough information, relevant to comparison for FTD purposes, on these comparables in the Tribunal's opinion.

The appellant also has considerable correspondence on both 20/3/25 and 25/3/25 whereby she responds to the respondent's precis in sixty one points on the two correspondences.

To summarise, the appellant's response;

There is inconsistent application to FTD allowances,

The return of the subject property has not been fully considered,

The appellant cites a frontage comparison distortion

The actual rent currently being paid is rental evidence of true value.

The appellant claims 'The valuation is excessive and bad in law and should be reduced. The valuation does not correctly take account of the rent on the subject property and comparable restaurants within Galway'.

On this the appellant rested.

8. RESPONDENT'S CASE

8.1 The respondent in this matter was represented by Mr Conor Murphy of Tailte Eireann. Mr Murphy failed to disclose to the Tribunal his qualifications to present the precis on either his introduction, within his precis or on conclusion.

Within his precis, Mr Murphy presented site maps and photos of the subject property which were useful, particularly of the subject property.

The respondent confirms the property has 'a large, glazed frontage into Middle Street and a return frontage into the Cornstore Mall'.

The Floor areas as supplied by the appellant are confirmed as agreed and a floor plan supplied showing the layout of the subject property.

The Landlord is confirmed as Lowstrand Investments Ltd.

The respondent cites that the appellant has provided 29 comparable properties none of which have valuation breakdown attached. He responds that of the 29, only three are subject to FTD allowances, all, apart from one of the 29 are smaller than the subject and all possess a Zone A NAV of E560.

FTD Allowance comparisons are:

PN 2193296

A retail unit on Middle St with a valuation of E31,900.

PN 1158575

A retail unit on Middle St with a valuation of E32,100

PN 1158478

A retail unit on Middle St with a valuation of E48,900.

The respondent then proposed three KRT (Key Rental Transactions) within his precis;

PN 1170034

PN 1170022

PN 2195313

All of which appeared to be located in Clifden Co Galway and measured between 32m² to 71m².

The respondent then moved on to his NAV comparisons within his precis. He cited 11 comparisons, two with FTD allowances;

PN 1158520

PN 1158519

PN 1158512

PN 2192926

PN 1158543

PN 1158490

PN 1158497

PN 1158496

PN 1158478 (FTD Applied) Similar dimensions.

PN 1158555

PN 2193296 (FTD Applied). Hairdresser.

The respondent then offered two previous Tribunal determinations on FTD as evidence of Fairness and uniformity;

VA 00.2.032 Proudlane V Commissioner of Valuations.

VA14.5.453 ZZSEL LTD V Commissioner of Valuations.

Full judgement were supplied within appendix.

To conclude the precis, the respondent confirmed his belief of;

The appellant's agreement with the established NAV of E560M² for this property.

The subject property was in fact 'Quite shallow in part and quite deep in part also'.

The appellant has cited 29 properties to support the contention for the end allowance. 26 of these are located in Middle St, but only three have an allowance applied. The appellant has failed to provide any details or frontage to depth on either the subject or any of the 29 comparisons cited. Indeed, the appellant cites a comparison which has an addition applied for the return frontage. The subject property also benefits from a significant return frontage.

The FTD ratio of the subject, in the respondent's opinion, is in line with many comparables cited which have not had an allowance applied to them.

Of the three properties cited by the appellant that have FTD allowances, the appellant has not demonstrated how these properties, that are not located closely to the subject, how they relate to that of other properties in their location, which may influence the application of any allowance.

The respondent thus rested.

9. SUBMISSIONS

9.1 No Legal submissions received.

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 Galway Co Co.

To arrive at a fair and equitable valuation we, The Tribunal must concur with the NAV established in accordance with section 48(1) and (3) of and section 19(5) of the Valuation (Amendment) Act 2015. The subject is valued 'Relative to the value of other properties comparable to that property

on the valuation list in the rating authority's area in accordance with correctness of value, equity and uniformity.

Firstly to engage with the appellant's argument, despite agreeing the established NAV rate at E560 for the subject property the sole determiner would be whether the subject property is due the sought 10% FTD allowance.

The Tribunal feels that the inconsistency in the FTDs shown as comparables to not be upheld as they were lacking in data re width's and depth's to make a fair analysis. They were also considerably smaller in valuation than the subject property.

The Subject's return into The Cornmarket access argument was also found to be not justifying of a FTD in this case.

The Tribunal failed to see how the alleged 'Frontage Comparison Distortion' could be evidenced in this matter.

As is standard, the fact that the passing rent of the subject property is greater or less than the NAV does not, in the view of the Tribunal, remove the subject property from its established, accepted and evidenced tome.

The burden of proof, as always, lies with the appellant and on these points the Tribunal believes the appellant has not successfully proved them.

As regards the respondent, whilst both parties offered a large selection of properties each felt by them to be comparable, the Tribunal discounts the Key Rental Transactions (KRT) from the respondent presented as;

KRT 1 1170034

A small hairdressers with a valuation of E5,521.

KRT 2 1170022

A flower shop of small area with a valuation of E5.513.

KRT 3 2195312

A small art gallery with a valuation of E6,722

As all of these properties are considerably smaller than the subject and also located in Clifden, Co Galway which has very little commercially in common with Market St Galway City, these properties were therefore, not taken into account.

However, The Tribunal would agree with the respondent that a relevant frontage to depth ratio (FTD) has not been proven in this case by the appellant in this case.

DETERMINATION:

Accordingly, for the above reasons,

Retail Zone A 120.48 NAV E560M2 = E67, 468.

Retail Zone B 96.45 NAV E280M2 = E27, 006

Retail Zone C 69.23 NAV E140M2= E9, 692

Retail Zone Remainder 13.72 NAV E70 =E960.40

Store 15.76 NAV E56 = E882.56

TOTAL NAV E106, 009.96

Say E106, 000.

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.