Appeal No: VA23/5/0792

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

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

MULHERN'S GALA **APPELLANT**

and

TAILTE ÉIREANN **RESPONDENT**

In relation to the valuation of
Property No. 2191356, Fuel/Depot at Mulherne's Gala, Ballina Street, Crossmolina, County Mayo.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF OCTOBER 2025

BEFORE
Eoin McDermott - FSCSI, FRICS **Deputy Chairperson**

1. THE APPEAL

1.1 By Notice of Appeal received on 19th 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 €53,700.

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. See attached documents for further grounds of appeal."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €38,000.

2. RE-VALUATION HISTORY

2.1 On 23rd 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 €90,000.

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 of the Property was reduced to €53,700.

2.3 A Final Valuation Certificate issued on 25th September 2023 stating a valuation of €53,700.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1st 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. The Appellant’s summary was prepared by the owners of the property and contained a lease valuation prepared by Fox & Gallagher Ltd; and the Respondent’s summary was prepared by Ms. Triona McPartlan, MRICS MSCSI of Tailte Éireann. The Respondents submission contained a Statement of Truth.

4. ISSUES

The issue is one of quantum.

5. RELEVANT STATUTORY PROVISIONS:

5.1 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."

5.2 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."

5.3 Section 19 (5) of the Act provides:

"The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable) —

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list,

and so that (as regards the matters referred to in paragraph (b)) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned ..."

6. APPELLANT'S CASE

6.1 The Appellants opened their case by noting that they operated a dealer site for fuel. They are paid a commission per litre for selling fuel, but the fuel on site is owned and operated by Applegreen. They contrast this to a standalone fuel operation owned by Circle K or Texaco and consider that it is unreasonable to value both operations in the same way.

6.2 The Appellants note that they are based in Crossmolina, which they describe as a town with a population of 800 people with very little employment in the immediate area. They contrast this to Ballina, which has a population of approximately 10,000 people and query why they should have a similar valuation to properties in Ballina when those properties have all the advantages of being located in a town with a much larger population and increased footfall.

6.3 The Appellants provided a Lease Valuation from Fox & Gallagher Ltd, a firm of estate agents based in Ballina. The Valuation refers to the property as comprising a shop unit, galley, deli, ground floor business and cashiers desk and gives an area of 1,500 sq.m. The population of the town is noted as being 1,200 people. The rental value of the property is given as €38,000 per annum. Reference is made to a recent letting of a property in Ballina, but no details are provided.

6.4 The Appellant seeks a valuation of €38,000 and asks that the Tribunal consider the properties location and limited footfall in the town, and the disparity of business models between an owner operated small business operating on commission versus a Texaco or Circle K retail outlet which operate on a market driven profit and loss basis.

7. RESPONDENT'S CASE

7.1 Ms. McPartlan, on behalf of the Respondent, described the property and its location using photographs and plans contained in her submission. She described the location as being situated on the Ballina Road, the main road entering the town of Crossmolina, approximately 9km west of Ballina on the N59 road. She described Crossmolina as a small town with a population of approximately 1,100 according to the 2022 census.

7.2 Ms. McPartlan described the property as an Appelgreen branded filling station with an adjoining convenience store, currently operating under the Gala brand. The filling station comprises two fuel islands, each equipped with four pumps. There are four underground fuel storage tanks with a capacity of 25,000 litres for diesel and 12,000 litres for unleaded petrol. Additionally, there are pumps for kerosene and agricultural (tractor) diesel. The adjoining convenience store comprises a two-storey building, with the ground floor operating as a retail shop and the first-floor accommodation consisting of office and staff facilities. The shop is described as well-stocked and well-maintained, featuring a large deli counter, ATM, coffee station, a small seating area, and a wine licence in addition to typical grocery items. The ground floor area is given as being 189 sq.m. and the first-floor area is listed as being 162.12 sq.m. It is noted that the floor areas are not in dispute.

7.3 Ms. McPartlan sets out in some detail the Respondents approach to assessing the Fair Maintainable Trade ("FMT") for properties valued on a trading basis. She states that an established method of valuation for service stations exists where rental values are linked to the trading potential and profitability of a service station. This method of valuation is applied to the varying types of service stations ranging from low volume sites with a basic forecourt shop offering, to larger volume sites with substantial convenience stores attached. She explains how the standard approach is to look at the most recent accounts but notes that Covid would have had a significant impact on the figures for 2020 and 2021, given the valuation date of 1st February 2022. She states that the Respondents view was that the hypothetical parties would give primary consideration to pre-pandemic trading figures from 2019 or earlier, as these would not have been impacted by Covid-19, when assessing FMT. She notes that although the 2020 and 2021 figures should not be ignored, they must be treated with caution. She notes that trading figures for the years 2018 to 2022 (partial) were provided by the Appellant at Representations stage, and these are included as Appendix A (N/A to public). She also provides details of the Service Station Valuation Scheme adopted by the Respondent and includes a copy in her précis.

7.4 Ms. McPartlan puts forward one rental comparison and three NAV comparisons to support her case. Details of the rental comparison are contained in Appendix B (N/A to public), and the three NAV comparisons are to be found at Appendix C (N/A to public).

7.5 Ms. McPartlan asks the Tribunal to affirm the valuation of €53,700, calculated as follows:

Description	NAV
Shop (less allowances)	€35,350
Throughput (litres) (less fuel card sales)	€18,355
	€53,705
Say	**€53,700**

The full valuation is show at Appendix D (N/A to public).

8. FINDINGS AND CONCLUSIONS

8.1 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.

8.2 In this, as in all appeals before the Tribunal, the onus of proof in appeals rests with the Appellant. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal's determination.

8.3 The Appellant has advanced their appeal on two main grounds. Firstly, the valuation does not take account of the properties location and the limited footfall within its catchment area and, secondly, that the Respondent has erred in using the same approach when valuing an owner operated small business operating on commission versus a Texaco or Circle K retail outlet which operate on a market driven profit and loss basis. The Appellants have also provided a rental valuation prepared by a local estate agent to support their claim.

8.4 The Respondent does not accept the arguments put forward by the Appellant, noting that there is established method for assessing the NAV of service stations based on the turnover of the retail premises and the throughput of fuel.

8.5 The Tribunal notes that the Estate Agents valuation put forward by the Appellant makes no reference to the value attributable to the fuel sales. It deals solely with the shop element of the property. It may well be that the that the rental value attributed to the shop in the valuation report is inflated by the presence of the fuel pumps, but the report is silent on this point. The Tribunal finds that no weight can be attached to the valuation report.

8.6 The Tribunal notes that the valuation scheme put forward by the Respondent is based on the turnover of the shop and throughput of the fuel pumps (as provided by the Appellant). As the valuation is based on the actual business transacted at the property, it is clear to the Tribunal that the valuation does take account of the location of the property and footfall, and the Tribunal attaches no weight to the Appellants arguments in this regard.

8.7 The Appellant also argued that the Respondent erred in not differentiating between an owner operated small business operating on commission basis versus a Texaco or Circle K retail outlet which operate on a market driven profit and loss basis. No evidence was put forward to indicate any level of differentiation between the two and the Tribunal can therefore attach no weight to the Appellants arguments in this regard.

8.8 The Tribunal notes and agrees with the Respondents statement that the hypothetical parties, considering a rental bid for the property in early 2022 *"…would give primary consideration to pre-pandemic trading figures from 2019 or earlier, as these would not have been impacted by Covid-19, when assessing FMT.*" However, it is clear from the valuation put forward by the Respondent that the calculations have been based primarily on an assumption of annualised figures for 2022, with figures for a nine-month period being provided by the Appellant and converted on a pro rata basis by the Respondent. While this may be a practical approach if the valuation date was 1st November 2022, the Tribunal does not believe that it is the right approach for a valuation date of 1st February 2022.

8.9 Having considered the evidence before it, the Tribunal believes that the valuation should be calculated on the basis of the trading figures from 2018 and 2019. The Tribunal has based its valuation on the total shop turnover from 2019, and the average fuel throughput over the two year period.

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 **€48,570,** calculated as follows: -

Description	NAV
Shop (less allowances)	€30,537
Throughput (litres) (less fuel card sales)	€18,034
	€48,571
Say	**€48,570**

The full valuation is show at Appendix E (N/A to public).

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.