

Appeal No: VA23/5/1034

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BENOIT LORGE T/A LORGE CHOCOLATIER

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of

Property No. 1136882, Retail (Shops) at 17c/3 Henry Street, Kenmare County Kerry.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF MAY 2026**

BEFORE

Frank O’Grady - MA, FSCSI, FRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 19th 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 €7,690.

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:

“Other grounds

This retail unit is tiny, doesn't even have a bathroom and generates a limited income trading in a town which is very much seasonally affected. The value of rates have increased to a point where it is not viable for us to continue to rent this space.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €4,500.

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 €7,690

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 €7,690.

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.

The property is situated on the westside of Henry Street, the N 71, Kenmare, between New Road and Shelbourne Street Roundabout in the centre of the town.

4.2 Kenmare is the 3rd largest town in Kerry with a population of 2,566 according to the 2022 census, located 25km north of Glengariff and 25km east of Sneem.

4.3 Henry Street is a one-way street with restricted on-street parking, the street is mainly retail with adjacent occupiers including Haven Pharmacy, The Pantry, Hallisseys, Simplicity and O'Sullivan's Bar.

4.4 The town is a popular tourist destination in the scenic area of the Ring of Kerry at the head of Kenmare Bay.

4.5 The property comprises the ground floor of a 2 storey terraced building currently in use as a chocolate manufacturer and retailer. The unit is L shaped with an internal frontage of circa 3 metres with double fronted display windows and central entrance.

4.6 The property is in good condition.

4.7 The floor areas are agreed.

Ground Floor Retail	17.70m ²
Ground Floor Store	<u>6.30m²</u>
	24.00m ²

4.8 The property is held under lease at a passing rent of €9,600 pax.

5. ISSUES

The matter at issue is 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. Benoit Lorge, a lay appellant submitted a short precis of evidence stating that the subject was a very small narrow shop with a recessed entrance and no bathroom facilities.

7.2 He stated that the tourist season from May – September restricted the viability of the premises and that during the off-peak season footfall drops by approx. 80%. He further opined that unlike larger hubs e.g. Killarney or Tralee, Kenmare lacks a sufficient year-round residential ‘hinterland’ to sustain high rental values outside of the tourist season.

7.3 Mr. Lorge stated that parking was a significant issue in the town and that the property has very limited storage and no rear access for deliveries.

7.4 He is of the opinion that €7,690 NAV is excessive and does not reflect the ‘Fair Rack Rent’ and €4,500 is more equitable.

8. RESPONDENT’S CASE

8.1 Mr. Kevin O’Doherty from Tailte Eireann for the Respondent submitted a detailed precis of evidence and confirmed the location, description and title of the property. A block plan of the unit and internal and external photographs were provided.

8.2 Mr. O’Doherty stated that this was a Revaluation Case in accordance with S.48 and S.19 (5) of the Valuation Act 2001 as amended, to achieve correctness of value, and equity and uniformity of value between properties on the valuation list. The Net Annual Value (NAV) mean in relation to a property, the rent for which one year with another the property in its actual state be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses that would be necessary to maintain the property in that state and all rates, taxes and charges payable are borne by the tenant.

Accordingly the estimate of value arrived at for this property is what a hypothetical tenant would pay by way of rent in accordance with S.48 which is not necessarily what any particular tenant is paying.

8.3 He stated that properties that are ‘similarly circumstanced’ are considered comparable. They share characteristics such as size, use, location or construction. Comparative evidence that demonstrates both correctness and equity and uniformity of value has been achieved in this case.

8.4 To assist his case, 2 Key Rental Transactions (KRT) and 4 NAV comparisons were introduced (App1).

KRT 1.	PN 21053	NAV €13,670	
	Henry Street, Kenmare.		
	Total Floor area	35.21m ²	
		Zone A	29.89m ² €420 / m ²
		Zone B	5.32 m ² €210 / m ²

Ground floor of 3 storey mid terraced building.

KRT 2.	PN 1136868		NAV €24,100
	Henry Street, Kenmare.		
	Total Floor Area	95.05m2	
		Zone A	51.73m2 €420 / m2
		Zone B	4.58m2 €210 / m2
		Store	35.54m2 €42 / m2

Ground floor retail unit in 3 storey building close to subject property.

NAV 1.	PN 230780		NAV €6,070
	Henry Street, Kenmare.		
	Total Floor Area	14.46m2	
	Ground Floor Area	14.46m2	€420 / m2

Ground floor retail unit in 3- storey building.

NAV 2.	PN 20990		NAV €7,280
	Henry Street Kenmare		
	Total Floor Area	43.48m2	
	Ground Floor Retail	Zone A	6.70m2 @ €420 / m2
		Kitchen	22.34m2 @ €42 / m2
		Store	14.44m2 @ €44 / m2

Ground floor retail unit in a 3- storey building

NAV 3.	PN 64118		NAV €7,200
	Henry Street, Kenmare.		
	Total Floor Area	19.62m2	
	Ground Floor Retail	Zone A	14.83m2 @ €420 / m2
		Zone B	4.79m2 @ €210 / m2

Ground floor retail unit in a 2-storey building.

NAV 4. PN 2179981 NAV €7,580
Henry Street, Kenmare.
Total Floor Area 18.06m2
Ground Floor Retail Zone A 18.06m2 @ €420 / m2
Similar sized property in 3- storey building close to subject.

8.5 The Respondent stated that the onus of proof rested with the Appellant and no evidence was provided that the Commissioner had erred in preparing the valuation.

8.6 Mr. O'Doherty stated that having investigated all the particulars of the appeal and considered both the grounds and the evidence of the Appellant that the NAV of €7,690 is correct.

Retail Zone A	17.70m2 @ €420 / m2	
Store	6.30m2 @ €420 / m2	
		NAV. €7,690

9. SUBMISSIONS

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 Kerry Co. Co.

10.2 Mr. Lorge as a lay appellant is of the opinion that the assessment is excessive and should be reduced to €4,500 NAV. No comparable evidence to support the opinion of value was put forward.

10.3 Mr. O'Doherty for the respondent offered 2 KRTs and 4 NAVs as listed in the Appendix (N/A to public), to support his opinion of value. He further stated that the onus of proof lies with the Appellant.

10.4 The Tribunal notes the comments made by the Respondent commenting on the ‘Lay Appellant’ and the fact that they are bound by the rules of the Valuation Tribunal with regard to their conduct in the appeal procedure and it is noted that no comparable evidence of similar or alternative properties in Kerry Co. Co. rating authority area was provided.

10.5 The Appellant comments on the size of the unit and the seasonal nature of Kenmare as a tourist destination are well made but all rate payers and traders in Kenmare are subject to the same market conditions and as has been shown by the Respondent are paying rates that are uniform and therefore equitable in the local authority area.

10.6 The Tribunal can only make decisions based on the information put before it and where no reliable evidence is present the Tribunal's hands are tied.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent at NAV €7,690.

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.
