Appeal No: VA23/5/0044

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

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

CATHAL SWEENEY T/A AN SEAN SIBIN **APPELLANT**

AND

TAILTE ÉIREANN **RESPONDENT**

In relation to the valuation of
Property No. 1349198, Public House at Abbey Street, Ballina, County Mayo.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF AUGUST 2026

BEFORE

Emma Slattery BL **Member**

1. THE APPEAL

1.1 By Notice of Appeal received on the 26th day of September 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 €30,600.

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 property was not zoned for valuation and location of premises was not reflected. This public house is out of the main business thoroughfare (Pearse Street/Tone Street) and located out of town centre.

The floor area was also not reflected in this valuation as we are a small country family run business. Which other premises were we compared to for valuation?

The number of public houses has fallen considerably in Ballina especially since the pandemic indicating the fall in revenue in our sector in Ballina. We are a very quiet premises mid week depending on weekend trade only."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €2,507.

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 26 of the Valuation Act 2001 ("the Act") in relation to the Property was sent to the Appellant indicating a valuation of €30,600.

2.2 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €30,600.

2.3 No representations were made to the valuation manager in relation to the valuation during the representation period.

2.4 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 The Property is located at 3 Lower Abbey Street, Ballina, Co. Mayo. Abbey Street is approximately 50 metres from the River Moy junction.

4.3 The Property is a mid-terrace, double-fronted, ground-floor licensed premises held freehold, with residential accommodation overhead.

4.4 The trading areas are divided between "An Sean Sibin" and "The Social Bar", operated under the same licence. An Sean Sibin comprises an open bar and lounge areas with associated WCs and storage. The Social Bar is an entertainment venue with separate access and an outdoor smoking area. The premises is well known for live music and entertainment.

4.5 The floor areas are agreed between the parties as follows: Trading Area: 131.18 sq m; Smoking Area: 24.36 sq m.

4.6 The Property appeared to be in good condition throughout at the time of inspection.

4.7 The valuation date is 1st February 2022.

5. ISSUES

5.1 The sole issue in this appeal is quantum, namely the appropriate net annual value of the Property.

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 The provisions of section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provide 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 expected to let from year to year, on the assumption that the probable average 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."

6.3 The provisions of section 19(5) of the Act, as inserted by section 7 of the Valuation (Amendment) Act 2015, are as follows:

"(5) 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 or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area."

6.4 The provisions of section 37(4) of the Act are as follows:

"(4) For the avoidance of doubt, neither subsection (1)(a) or (2)(b)(ii) (so far as it relates to section 19(5)) nor section 19(5) shall require the Tribunal to achieve the determination of the value of a property concerned by reference to any particular method of valuation and the Tribunal may arrive at its determination by reference to whatever method of valuation or combination of methods of valuation as the Tribunal, in its discretion, may deem appropriate."

7. APPELLANT'S CASE

7.1 The Appellant's summary of evidence was prepared by Mr David Halpin M.Sc. (Real Estate) Ba. (Mod) of Eamonn Halpin & Co. Ltd.

7.2 The Appellant submitted that the Property is located in a secondary/tertiary location on the eastern side of the River Moy, away from the majority of commercial activity within the town and outside the main business thoroughfare of Pearse Street/Tone Street.

7.3 The Appellant submitted that the Property has exceptionally high entertainment costs running at over 10% of turnover: 2018: €56,112 (10.9% of drink sales of €511,394); 2019: €56,940 (10.6% of drink sales of €537,116). Music is provided a minimum of five nights per week, involving considerable cost and co-ordination not adequately reflected by the Respondent’s scheme.

7.4 The Appellant further submitted that the gross profit of the Property is approximately 50%, at the lower end of the accepted range, leaving a substantially lower net profit than might be achievable in other premises.

7.5 The Appellant submitted that of the four pubs on Abbey Street, Salman’s Lounge has been defunct for nearly a decade, while Katie’s Corner and Breathnach’s open for fewer hours than the subject. The Appellant contended that estimated valuations (where occupiers provided no trading information) are of limited evidential value.

7.6 The Appellant relied upon the following comparable properties: - Breathnach’s (PN 1349200), Abbey Street, Ballina: NAV €12,000; trading area 47.6 sq m; located immediately adjacent to the subject; two-year lease from September 2021 at €12,000 per annum. - Salman’s Lounge (PN 1349111), Abbey Street, Ballina: NAV €30,000; estimated basis (no trading information supplied). - Katie’s Corner (PN 1349117), Abbey Street, Ballina: NAV €30,000; estimated basis (no trading information supplied); trading area 103.4 sq m. - VJ Doherty’s (PN 1347972), Tolan Street, Ballina: NAV €9,450; trading area 87.5 sq m; no entertainment venue. - Moclair’s (PN 1347980), Tolan Street, Ballina: NAV €15,050; trading area 122 sq m; no entertainment venue.

7.7 The Appellant argued that Breathnach’s, immediately next door, is the most relevant comparison. While accepting the subject is larger, the Appellant contended the physical difference does not justify a relationship of €12,000 NAV to €30,600 NAV. The Appellant further argued that the hypothetical tenant could rent a similar-sized premises on the town-centre side of the river for between €9,450 and €15,050 NAV.

7.8 The Appellant criticised the Respondent’s reliance on estimated valuations (where occupiers provided no trading information) as comparables. The Appellant submitted that while such valuations are deemed correct by virtue of section 63 of the Act, they provide no assistance in terms of comparing trading data. The Appellant further noted an apparent inconsistency in the Respondent’s estimated valuations: Salman’s Lounge (205.1 sq m) and Katie’s Corner (103.4 sq m) were valued at almost identical NAVs (€30,000) despite the former being approximately twice the size of the latter, suggesting that size has little or no effect on NAV in the Respondent’s approach.

7.9 The Appellant further argued that the subject's higher trade compared to neighbouring premises is attributable to the occupiers' goodwill and acumen, built up over 27 years, rather than any physical characteristics of the Property. The Appellant contended that Breathnach's, immediately next door, cannot sustain a similar trade despite being a similar type of premises, and that the former Salman's Lounge, the largest premises in the street, has been closed for nearly a decade and is being converted to apartments. The Appellant submitted that there is nothing physically exceptional about the subject Property, and that the hypothetical tenant should not be required to pay for goodwill personal to the occupiers.

7.10 In his responding submission, Mr Halpin confirmed that the net percentage applicable to drink sales is agreed at 6% (the Respondent's approach of 7% less 1% entertainment being accepted). The dispute therefore rests on the appropriate Fair Maintainable Trade to be assessed.

7.11 The Appellant's valuation of the Property is: Drink Sales €325,000 at 8% = €26,000; less entertainment costs at 1.5% = minus €4,875; less low gross profit margin allowance at 0.5% = minus €1,625; Total NAV: €19,500.

8. RESPONDENT'S CASE

8.1 The Respondent's summary of evidence was prepared by Ms Claire Callan, MSc Planning & Development, BSc Surveying, on behalf of the Chief Operations Officer of Tailte Éireann.

8.2 The Respondent submitted that the Property is valued in line with the well-accepted scheme for licensed premises and that appropriate percentages have been applied to all public houses in Mayo County Council.

8.3 The Respondent explained that the established method of valuation for licensed premises is by the application of a percentage to the Fair Maintainable Trade, following the analysis of market and trading information. A valuation scheme of between 6% and 9% of the estimate of FMT for Drink On Sales is applied to all licensed properties in the rating authority area. An entertainment allowance of 1% is applied where entertainment costs exceed 5% of total drink-on-sales turnover.

8.4 The Respondent submitted that the application of a percentage to Fair Maintainable Trade is long established as the appropriate method of valuation for licensed premises, as determined by the Valuation Tribunal in prior decisions including VA 14/5/967 (Longstone Investments Ltd), VA19/5/0376 (Solazzi Ltd), and VA19/5/0480 (Aishling McMahon t/a The Wishing Well). The Respondent submitted that Fair Maintainable Trade represents the annual level of trade that can be achieved by a reasonably efficient operator of the business in the subject property.

8.5 The Respondent stated that a section 45 notice was issued to the occupier in November 2019 and duly returned in December 2019, providing trading information for 2017, 2018 and a projected figure for 2019 of €520,000 in drink sales. The Appellant's agent subsequently provided 2019 drink sales figures of €537,116.

8.6 The Respondent submitted that the valuation of €30,600 represents drink sales of €510,000 assessed at 7%, less 1% for entertainment: €510,000 × 7% = €35,700; less €510,000 × 1% = €5,100; NAV = €30,600.

8.7 The Respondent submitted that the accounts provided for the period ending March 2022 (sales of €404,363) represent trading for all of 2021 and only three months of 2022, during a period affected by COVID-19 restrictions when licensed premises could not operate normally. The Respondent requested full 2022 accounts but stated these had not been forthcoming.

8.8 The Respondent submitted that no differential in percentages has been applied to other properties to reflect entertainment expenses and that to apply an alternative level to the subject would be in direct contravention of section 19(5) of the Act.

8.9 In response to the Appellant's argument regarding gross profit margin, the Respondent submitted that the rate of 7% applied to the subject reflects the gross profit of approximately 50%.

8.10 The Respondent relied upon the following comparable properties: - Breathnach's (PN 1349200), Abbey Street: NAV €12,000; drink sales €200,000 at 7% less 1% entertainment; trading area 47.6 sq m; two-year lease from September 2021 at €12,000 per annum. The Respondent noted this property is approximately one-third the size of the subject and lacks the capacity to sustain the same level of trade. - Moclair's (PN 1347980), Tolan Street: NAV €15,050; drink sales €215,000 at 7%; trading area 121.5 sq m; no entertainment; located 1.5 km from the subject. - Katie's Corner (PN 1349117), Abbey Street: estimated NAV €30,000; similar trading area to the subject (103.4 sq m versus 131 sq m); no trading information supplied. - Lillies Bar (PN 1348227), James Connolly Street: estimated NAV €40,000; trading area 110.4 sq m; 500 metres from the subject. - Vincy's (PN 1348859), James Connolly Street: NAV €11,400; drink sales €190,000 at 7% less 1% entertainment; trading area 44 sq m; 750 metres from the subject.

8.11 In commentary on the comparable properties, the Respondent noted that VJ Doherty's and Moclair's do not have entertainment venues and therefore do not benefit from the same level of trade as the subject. The Respondent further noted that Breathnach's valuation was not appealed to the Valuation Tribunal.

8.12 The Respondent submitted that approximately 360 licensed premises in County Mayo were valued using the same approach and that 90.22% of licensed premises accepted their valuation.

9. SUBMISSIONS

9.1 There were no separate legal submissions in this appeal beyond those contained in the parties' respective summaries of evidence.

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 practicable, 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.

10.2 It is well established that the onus of proof in appeals before the Tribunal rests with the Appellant. In order to succeed, the Appellant must demonstrate, through cogent evidence, that the Respondent has erred in the valuation of the Property.

10.3 The Tribunal accepts that the appropriate method of valuation for licensed premises is by the application of a percentage to the Fair Maintainable Trade. This method is well established in practice and has been endorsed by the Tribunal in numerous previous determinations.

10.4 The parties are agreed that the net effective rate applicable to drink-on-sales is 6% (being 7% less a 1% entertainment allowance). The essential dispute is as to the appropriate level of Fair Maintainable Trade to be assessed for the subject Property.

10.5 The Tribunal notes that the Respondent has based the FMT on drink sales of €510,000, which broadly reflects the trading information available from 2018 (€511,394) and 2019 (€537,116). The Appellant contends for drink sales of €325,000, but the evidential basis for this figure is not clearly established. The Appellant did not provide full trading accounts for 2022 despite the Respondent's request.

10.6 The Tribunal has carefully considered the comparable evidence adduced by both parties. The Tribunal notes in particular: (a) Breathnach's (NAV €12,000) is located immediately adjacent to the subject but has a trading area of only 47.6 sq m compared with the subject's agreed trading area of 131.18 sq m. While it provides useful rental evidence, the substantial difference in size limits its direct comparability for determining the subject's NAV. (b) Moclair's (NAV €15,050) has a broadly similar trading area (121.5 sq m) but does not have an entertainment venue, is located 1.5 km from the subject on Tolan Street, and has drink sales of €215,000 compared with the subject's materially higher trading levels. (c) Katie's Corner (NAV €30,000, estimated) has a similar trading area (103.4 sq m) and is located on the same street. However, this is an estimated assessment where no trading information was provided and the NAV was not challenged. (d) VJ Doherty's (NAV €9,450) and Vincy's (NAV €11,400) are substantially smaller premises without entertainment venues and with materially lower trading levels. They are of limited assistance in determining the correct NAV for the subject.

10.7 The Tribunal accepts the Respondent's submission that the valuation scheme has been applied uniformly across licensed premises in County Mayo and that the same percentage parameters have been applied to the subject as to its comparables. The Tribunal is not satisfied that the Appellant has demonstrated that the application of the scheme to the subject produces a result that is incorrect or fails to achieve equity and uniformity of value.

10.8 The Tribunal has considered the Appellant's argument regarding the high entertainment costs and lower gross profit margin. The Tribunal notes that a 1% entertainment allowance has already been applied and that this is the standard allowance applied across the rating authority area. The requirements of section 19(5) of the Act include equity and uniformity of value between properties on the valuation list. To apply a greater allowance to the subject in the absence of evidence that a different allowance has been applied to similarly circumstanced properties would risk undermining the equity and uniformity the Act requires.

10.9 The Tribunal has considered the Appellant’s argument regarding the location of the Property. While the Tribunal accepts that Abbey Street may be secondary to Pearse Street or Tone Street for general commercial purposes, the evidence before it demonstrates that the subject Property nonetheless achieves substantial trading levels. The FMT method accounts for location insofar as it is reflected in the actual trade that the premises sustains. A property’s trading performance, rather than its bare locational classification, is the appropriate indicator under the FMT method.

10.10 The Tribunal has considered the Appellant’s argument that the estimated valuations of Katie’s Corner and Salman’s Lounge are of limited evidential value because those occupiers did not provide trading information, and that the size inconsistency between those properties (Salman’s Lounge at 205.1 sq m having a similar NAV to Katie’s Corner at 103.4 sq m) demonstrates that size has little effect on NAV. The Tribunal notes that estimated valuations, while deemed correct by virtue of section 63 of the Act, are necessarily less informative than valuations based on actual trading data. However, the Tribunal does not accept that they are of no evidential value. The fact that estimated valuations have been made for properties on the same street provides some indication of the tone of the list in that location. As to the size inconsistency, the Tribunal notes that in the absence of trading data, the Respondent was required to estimate NAV by other means, and the resulting figures do not necessarily reflect a considered judgment that size is irrelevant. The Tribunal is not satisfied that this argument undermines the Respondent’s valuation of the subject.

10.11 The Tribunal has considered the Appellant’s argument that the subject’s higher trade compared to neighbouring premises is attributable to the occupiers’ goodwill and personal acumen, built up over 27 years, rather than any physical characteristics of the Property. The Tribunal accepts that personal goodwill is, in principle, not to be valued. However, the FMT method does not value the goodwill of the particular occupier; rather, it values the trade that could reasonably be achieved by a reasonably efficient operator. The fact that the subject Property sustains materially higher trade than its immediate neighbours is evidence that the Property itself is capable of supporting that level of trade. The Tribunal is not satisfied that the difference in trade is wholly attributable to personal factors as distinct from the Property’s characteristics, including its size, layout, entertainment facilities, and established customer base attaching to the premises.

10.12 The Tribunal has considered the Appellant's argument that a hypothetical tenant, in possession of all facts, could rent a similar-sized premises such as Moclair's (121.5 sq m, NAV €15,050) on the town-centre side of the river, and would not bid double that amount for the subject. The Tribunal notes that the hypothetical tenant test is relevant to the assessment of NAV. However, the FMT method is itself a means of estimating what a hypothetical tenant would pay, by reference to the trade the premises can sustain. The evidence before the Tribunal is that the subject Property sustains drink sales materially in excess of Moclair's (€510,000 compared with €215,000). Under the FMT method, a premises with higher trade will attract a higher NAV. The Tribunal is not satisfied that the comparison with Moclair's demonstrates that the subject's NAV is incorrect, given the material difference in trading levels.

10.13 However, the Tribunal has also considered whether the Respondent's FMT of €510,000 remains the appropriate figure by reference to relevant market data available on or before the date of issue of the valuation certificates. The Tribunal notes that the 2019 drink sales figure of €537,116 is the most recent complete pre-COVID trading year, and the 2018 figure was €511,394. The projected 2019 figure of €520,000 was provided by the occupier in the section 45 return. On balance, the Tribunal is satisfied that drink sales in the region of €510,000 represent a reasonable estimate of FMT for the subject Property at the valuation date of 1st February 2022.

10.14 The Tribunal finds that the Appellant has not discharged the onus of proof so as to demonstrate that the Respondent's valuation of €30,600 is incorrect or fails to achieve the requirements of section 19(5) of the Act.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the valuation of the Property as stated in the valuation certificate at €30,600.

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.