

Appeal Number: VA17/5/045

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Donal Murtagh

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1444757, Workshop at 8B (Unit 1 & 2), Moate Business Park, Moate, County Westmeath.

B E F O R E

Majella Twomey - BL

Deputy Chairperson

Pat Riney – FSCSI, FRICS, ACI Arb

Member

Frank O'Grady – MA, FSCSI, FRICS, FIABCI

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF MAY, 2018**

1. THE APPEAL

1.1 By Notice of Appeal dated the 28th day of September, 2017 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 €19,310.

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 :

- “ 1. *The Valuation of the subject property is excessive and inequitable. The property’s value as applied by the Commissioner is not remotely in line with its actual rental value.*
2. *The subject property is an industrial building leased on the open market on a 6 year lease from 1st January 2015 at €8,000 per annum.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €8,000.

2. REVALUATION HISTORY

2.1 On the 12th day of January, 2017 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 €19,310.

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 7th day of September, 2017 stating a valuation of €19,310.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th day of October, 2015.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on 6th day of February, 2018. At the hearing the Appellant was represented by Mr Eamonn Halpin BSc (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd. and the Respondent was represented by Ms Roisin Casey BSc (Real Estate) of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his/her précis as his/her evidence-in-chief in addition to giving oral evidence.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The subject property is located within Moate Business Park which is on the Clara Road, just outside of Moate, Co. Westmeath.

4.3 The subject property is a detached single storey industrial unit. It is a 1970's Shannon Development type industrial buildings with ca 4.5 metre eaves. The property has concrete walls. There are offices to the front and a workshop to the rear.

4.4 The Property is held on a 6 year lease from the 1st of January 2015, at a rent of €8000 per annum.

4.5 The business park consists of 5 industrial units, located 1.2 kilometres from the M6 at junction 6 (Moate).

4.6 The agreed floor areas are divided into the workshop at 573.30 m.sq. and offices at 70.61 m.sq.

5. ISSUES

5.1 The issue in question is the NAV. The Appellant claims that the valuation should be set at the subject property's actual rent at €8000.

5.2 The Respondent claims that the valuation should be set at €19,310, taking into account a number of other warehouse type properties in Co. Westmeath, as comparators.

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. Halpin, for the Appellant said that the subject property is a small industrial unit in Moate. It was built in the 1970's/ 80's as part of the Shannon Development, as a factory. He said that it is a modest property with lower eaves but that it is perfectly functional.

7.2 Mr. Halpin said that his client uses the premises to adapt vehicles for disabled use.

7.3 The subject property is the subject of a lease which was negotiated on the open market for a sum of €8000 per annum. Mr. Halpin said that the floor areas were agreed between the parties.

7.4 Mr. Halpin gave evidence that there were five units in the Moate Business Park, but that there is very little activity in this park. He said that the property is at the entrance to the park. The property, it was stated, is lower inside than a modern building. He said that another premises, run by 'Country Tool Hire', is immediately behind it.

7.5 Evidence was given by Mr. Halpin that the industrial market in Westmeath is particularly bad at present. He said that rents are worse there, than they were in the 1980's. He claims that an valuation of €19,310 is 2.5 times the actual open market rent. He claimed that Moate is not an attractive place for a hypothetical tenant. Mr. Halpin said that the subject property had been vacant for seven years prior to the current letting.

7.6 A number of comparators were put forward by Mr. Halpin. Comparator number 1 is a property at Relic Road, Kilbeggan Co. Westmeath. He said that this property had to be divided into three different lettings and that it was only able to achieve a gross market rent of €11,000 per annum from the three lettings. Evidence was given that this property consists of a main building which was constructed in the 1960's with asbestos roof and a newer part was constructed in the 1990s, with a metal deck, hence the standard is comparable to the subject property. The gross rent devalues at €12.30 per m.sq. Mr. Halpin stated that the location is comparable to that of the subject property and it is a good example of the modest rents in Westmeath.

7.7 The second comparator put forward was the former Powerscreen Site, Moate Road, Kilbeggan. This, Mr. Halpin, said is one of the best industrial buildings in Westmeath. It has 10 m eaves and is of a high specification. It is a modern building, which was owned by a Northern Irish company from the 1980's to 2000's. This building is rented out and the rental income devalues at €15 per m.sq.

7.8 The third comparator is TMC Fabrications, Unit 6/7 Moate Business Park, Westmeath. Evidence was given that this is a good quality, modern building with offices and that it is the best unit in the business park, being the most modern with 8 metre eaves. The valuation on this property is €26,100, which devalues at €20 per m.sq. Mr. Halpin stated that it was difficult to see how the Commissioner puts a value of €30 per m.sq. on the subject property when it is far inferior to this comparator.

7.9 The final comparator is a property known as the former Andrew Mannien Structural Engineers, at Clara Road, Moate, Co. Westmeath. The NAV for this devalues at €18 per m.sq. This is a much bigger property than the subject and has been vacant for the past 7 years.

8. RESPONDENT'S CASE

8.1 At the outset Ms. Casey, for the Respondent, stated that in relation to the Powerscreen comparators, an error was made in reaching the NAV and that the value of €18 per m.sq. would be reduced to €17 per m.sq.

8.2 Ms. Casey said that at the time of the revaluation, the office took into account properties from around the county.

8.3 A number of comparators were put forward by Ms. Casey. The first comparator is Mergon International, Unit 4, Castlepollard, Co. Westmeath. This is an industrial warehouse with no offices. It is a more modern building and it is in a business park with 6 other units. It is 55 km north, up the motorway. There is no direct access to the motorway from this property. It was built in the 2000's and it has a double clad roof. It is a storage unit and it devalues at €42.17 per m.sq.

8.4 The second comparator is RTP Supplies, Unit 5, Castlepollard, Co. Westmeath. This devalues at an NER of €35.59 per m.sq. It is a newly built, modern property in the same business park as the first comparator.

8.5 The third comparator is a property called Buggy Foods, in Kilbeggan. There is a cold store in this property and the NER of warehouse devalues at €62.23 per m.sq.

8.6 Ms. Casey also put forward a number of NAV comparators. Her first comparator in this respect was Unit 8, Moate, Co. Westmeath. This is a double clad property and its roof is also double clad. It is more modern than the subject property. The NAV for the warehouse is €30.00 per m.sq.

8.7 The second comparator is a property at Comagh Industrial Estate, Kilbeggan. It is a semi-detached building with double skin cladding and it is more modern than the subject. It was built in the 1990s and it has an NAV of €30.00 per m.sq.

8.8 Comparator 3 is Unit 1, Clonmellon Industrial Estate, Clonmellon, Co. Westmeath. This is located some 50 km to the north of the county and is a detached building. It is a 1980's building and it has a NAV of €30.00 per m.sq.

8.9 The final NAV comparator is a property at Aghamore Business Park, Kilbeggan. It is a workshop only, with no offices. It is a modern building, which was built in the mid-1990s. It has an NAV of €30.00 per m.sq.

9. SUBMISSIONS

9.1 No legal submissions were made.

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 Westmeath County Council.

10.2 The Tribunal, having weighed and evaluated all of the evidence before it, comes to the following conclusions:-

10.3 In terms of location, the properties which were put forward as comparators in Kilbeggan, are more closely situated to the subject property than some of the other properties, such as those in the north of the county, in Castlepollard, for example.

10.4 Having assessed all of the comparators before it, the Tribunal finds that the Appellant's first comparator at Relic Road, Kilbeggan, is the best comparator. The reasons for this are that the property is relatively close to the subject property; being in or around 15 kms away, the property is leased as is the subject property and the size of this property is comparable to the subject property. The Tribunal notes that this property is leased at present, in the sum of €11,000 per annum and, as such, the gross rent devalues at €12.30 per m.sq. The Tribunal notes that the Commissioner's valuation for this property is €20.00 per m.sq and not €30.00 per m.sq as is the case with the subject property, despite the fact that both properties are comparable.

10.5 The Tribunal notes that the Appellant's third comparator, at Moate, Co. Westmeath is valued by the Commissioner at a value of €20 per m.sq. However, the Tribunal finds that this property is far superior than the subject property as it is a more modern property, The Tribunal notes that it is in the same estate as the subject property but is valued at a much lesser rate.

10.6 The Tribunal finds that comparator number 4, of the Appellant's comparators, is much bigger in size than the subject property and, therefore, is not as helpful as the other properties which the Appellant put forward, are.

10.7 The Valuation Office put forward a comparator from the Castlepollard Enterprise Centre, as being comparable to the subject property. During the course of Ms. Casey's evidence, it became clear that Castlepollard is 50 km north of the subject property and, therefore, not in a similar location to it. Furthermore, evidence was given that this property is situated in an enterprise centre with 24 hour security, which is supported by Westmeath County Council. Consequently, the Tribunal finds that this property is not comparable to the subject property, which does not have the benefit of these supports and facilities.

10.8 The Tribunal finds that the second comparator, which Ms. Casey put forward, Buggy Foods, is also of little assistance as this property is subject to a long lease, which was negotiated in 2007. Furthermore, this property has a coldstore, which takes up a very significant amount of the overall size. In the circumstances, the Tribunal finds that this is not a comparable property to the subject for the purposes of assessing the rateable valuation.

10.9 While Ms. Casey's first NAV comparator is within the same business park as the subject property, it has 8m high eaves and is a very different property type to the subject property, in that it is a more modern property. The Tribunal finds that the second NAV comparator is also more modern, built more recently and is of a superior quality to the subject property. The Tribunal finds that the third comparator put forward by Ms. Casey, is in Clomellon, which is 50 km to the north of the county and is, therefore, not a suitable comparator in terms of location. Finally, the fourth NAV comparator is also a much more modern building than the subject and it was built in the 1990s.

10.10 In the circumstances, having taken all of the evidence before it into account, the Tribunal finds that the best comparator is the property at Relic Road, Kilbeggan. The Tribunal notes that this property is rented out and the actual rent devalues at €12.30 per m.sq. The property consists of a main building constructed in the 1960s with an asbestos roof and a newer building constructed in the early 1990s with a metal deck. The Commissioner accords a valuation of €20 per m.sq for this building, yet a valuation of €30 per m.sq was put forward for the subject property. The Tribunal finds that the rate of €30 per m.sq was not supported by the evidence given. Having taking all of the evidence and comparators into account, the Tribunal finds that a value of €15 per m.sq is fair and equitable in the circumstances.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the decreases the valuation of the Property as stated in the valuation certificate to €9,600.00

Area	Value	
573.30 m2 (Workshop)	@ €15/ m2 (Decrease)	€8599.50
70.61 m2 (Offices)	@ €15/m2 (Decrease)	€1059.15
Total		€9658.65

And so the Tribunal determines.