

Appeal No: VA17/5/072

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

SPRING ELEGANCE LTD. T/A CERAMICA

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2181375, Industrial Uses, Warehouse at Floor: 0, 1, Unit 12 C Hebron Industrial Estate, Hebron Business Park, Kilkenny, County Kilkenny.

B E F O R E

Barry Smyth – FSCSI, FRICS, MCI Arb

Deputy Chairperson

Claire Hogan - BL

Member

Hugh Markey – FSCSI, FRICS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF JULY, 2018.**

1. THE APPEAL

1.1 By Notice of Appeal received the 4th day of October, 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 €13,290.

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 set by the Commissioner is not in line with its actual rental value."

"2. The subject property is let at €11,064 per annum from 8th November 2016. The Commissioner's estimate is not in line with the open market rent of the property."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €11,267.

2. REVALUATION HISTORY

2.1 On the 11th day of May, 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 €13,290.

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 it 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 €13,290.

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 the 13th day of March, 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 Mr Terry Devlin BSc, SCSi, RICS 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 précis as his 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.

4.1.1 Location

The property is located in Hebron Business Park, Kilkenny City, described by the Appellant’s valuer as ‘one of the main industrial areas in Kilkenny’.

4.1.2 Description

The property comprises a modern industrial unit in use as a facility for manufacturing kitchens. There are two storey offices to the front and a warehouse to the rear. There is a single roller shutter door at the front of the property.

4.1.3 Accommodation

The floor areas are agreed:

| | | |
|--------------|------------------|---------------|
| Ground Floor | Warehouse/office | 230.00 sq. m. |
| First Floor | Office | 56.00 sq. m. |
| Mezzanine | Store | 18.00 sq. m. |

4.1.4 Title

The property is let on a month to month tenancy from 8th November 2016. There was a nominal divergence in the evidence as to the rent payable with Mr Halpin suggesting €922 per month and Mr Devlin indicating €922.75 per month. The Respondent sought but did not receive a copy of this lease.

5. ISSUES

5.1 The issue in this case is purely 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 Mr Halpin suggested that the primary evidence in this case was the actual rental evidence of the unit itself which analysed at a rate of €38 per sq. m. and also the agreement for lease entered into, in September 2015, for the adjoining property which analyses at a rate of €34 per sq. m. He saw no reason to deviate from the range of values (€30 -€45 per sq. m.) applied by the Respondent to standard industrial buildings in Kilkenny.

He relied on this adjoining property PN 2187467 as his primary comparison demonstrating rental values.

He introduced three further comparisons in Hebron as ‘tone of the list’ comparators.

These were:

1. PN 1064936: This was a building with lower eaves height; having a large yard area and appearing to be of lesser quality than the subject. The NAV analyses at €35 per sq. m.
2. PN 20927: This building has lower eaves height, is in warehouse use, with a small showroom and trade counter. The NAV analyses at a rate of €35 per sq. m.
3. PN 22000131: Mr Halpin suggested this was the best building in Hebron comprising a detached warehouse premises with similar eaves height to the subject but having a large glazed atrium. The NAV, in this case, analyses at €45 per sq. m. on the warehouse. He suggested that the subject was at least 20% poorer than this property.

PN 2169392. This is a similar type and size unit, partially in retail use. The analysis of the NAV is €45 per sq. m. applied to the warehouse.

Mr Halpin suggested the NAV should be €11,000 based on rates of €38 per sq. m. (warehouse and first floor offices) and €7.60 applied to the mezzanine store.

8. RESPONDENT'S CASE

8.1 Mr Devlin in his direct evidence suggested that the subject property was particularly well positioned at the entrance to the business park; there were 43 similar properties in the city valued at €45 per sq. m., of which 7 were under appeal to the Tribunal.

Due to the alteration in floor areas which were now agreed, he put forward a figure of €13,000 as representing his opinion of NAV.

He introduced 6 key rental transactions. These were in a number of locations in business parks in the city. An analysis of the rentals achieved indicated rents varying from €20.16 to €60.79 per sq. m. The Respondent had adopted a rate of €45 per sq. m. for this type of accommodation in Kilkenny and of the 43 properties concerned, at least 25 were in the vicinity of the subject. Of the 15 properties where representations were made, 7 were under appeal, including the subject.

Mr Devlin introduced 3 comparators as evidencing the 'tone of the list' and with the warehouse element valued at €45 per sq. m. These were PN2176497; PN 2199987 and PN 2181376.

9. SUBMISSIONS

9.1 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 Kilkenny County Council.

In this instance, the Appellant's valuer has relied on two pieces of evidence which were, in the opinion of the Tribunal, unreliable. The first is the month to month lease of the subject. This is unreliable insofar as it not a lease from 'year to year' and the circumstances behind the letting were not disclosed to the Tribunal. The second piece of evidence relied upon is also unreliable insofar as it is an agreement for lease that was never translated into a letting; rather the party purchased the building. His other evidence was of properties of a lesser standard than the subject.

On the other hand the Respondent's valuer has provided the Tribunal with evidence of other NAV's of similar type properties all valued at the same rate.

The onus is on the Appellant to persuade the Tribunal that it should disturb the level set by the Respondent and in this instance; the Tribunal determined that insufficient evidence was placed before it to so do.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

And the Tribunal so determines.