

Appeal No: VA17/5/163

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Sophie Soh

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 2191344, Retail (Shops) at Local No/Map Ref: Unit 19 Newpark Shopping
Centre, Newpark Upper, Kilkenny, County Kilkenny.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 12TH DAY OF JUNE, 2018.

BEFORE

Hugh Markey – FSCSI, FRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 3rd 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 €21,800.

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 floor Level 0, Retail Zone C & Zone remainder (21.11 + 7.02m2) is not belongs to me [sic].”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €1,538.76

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 €21,800.

2.2 No representations were made by the Appellant.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €21,800.

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

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 Respondent submitted the following facts which do not appear to be disputed by the Appellant.

4.2 The Property comprises a two storey, end of terrace shop building in use as a restaurant, located in Newpark Shopping Centre, Kilkenny. This is a centre with approximately 17 units. Other occupiers include dry cleaners; opticians; a pharmacy and a further restaurant.

4.3 The Respondent measured the property on 1st November 2017, in the company of the Appellant, at which time the correct areas were recorded.

4.4 The amended areas and rental levels applied by the Respondent are as follows:

Level	Rate per sq. m.	NAV
Level 0		
Retail Zone A 50.35 sq. m.	€250	€12,587.50
Retail Zone B 5.55 sq. m.	€125	€693.75
Store 7.02	€25	€147.50
Level 1		
Shop 42.37	€85	€3,601.45
Store 53.02	€65	€3,443.05
	Total NAV	<u>€20,473.25</u>

SAY €20,400

4.3 The Property is held on a lease but relevant details were not supplied to the Respondent.

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.”

6. APPELLANT’S CASE

6.1 The Appellant relies solely on the increased quantum of rates payable as the basis for her appeal.

7. RESPONDENT’S CASE

7.1 The Respondent indicated that the error of fact in respect of the floor areas had been corrected and was reflected in the revised NAV. Furthermore, the Appellant had not proffered any evidence to support their opinion of value.

The Respondent introduced evidence of the 16 other retail units in the Centre, all of which had been valued at €250 per sq. m. Zone A.

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 Kilkenny County Council. The onus is on the party bringing the appeal to persuade the Tribunal that the valuation placed on the property by the Respondent was incorrect and should be adjusted. In the instant case, no such evidence has been adduced and the Tribunal therefore affirms the Respondent’s valuation.

DETERMINATION:

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