

Appeal No: VA17/5/825

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

SEAN MCMORROW

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. 1833679, Retail (Shops) at 9 Main Street, Manorhamilton, County Leitrim.**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF JULY, 2018**

BEFORE

Hugh Markey - FSCSI FRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th 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 €3,270.

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 : *“I have only 14.29M² for sales and display area which should compromise Zone A”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €2765.

2. REVALUATION HISTORY

2.1 On the 19th 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 €3,630.

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 of the Property was reduced to €3,270.

2.3 A Final Valuation Certificate issued on the 7th Day of September, 2017, stating a valuation of €3,270.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30th day of October, 2017.

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 Location: There was no dispute between the parties as to the location of the property on Main street, Manorhamilton, Co. Leitrim.

4.3 Description: The property comprises the ground floor of a two storey end of terrace property in use as a butcher's.

4.4 Areas: The parties disagreed on the zoning methodology adopted by the Respondent.

4.5 Zone A Rate: There was no dispute as to the zone a rate to be applied. The parties to the appeal were agreed that the appropriate rate was €120 per sq. m.

4.6 Comparators: As the rate per sq.m. to be adopted was not in dispute, neither party introduced comparators.

5. ISSUES

5.1 The issue in dispute was whether the Respondent was correct in adopting a NAV based on 2 zones. The Appellant claimed that the Zone A area was limited by physical factors to a depth of 2.96m and the 6.1m depth adopted by the Respondent was incorrect.

5.2 There was an issue in respect of the floor areas adopted by the parties. The Appellant adopted a ground floor area of 31.79 sq. m., while the Respondent adopted an area of 31.81 sq. m.

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 The Appellant’s case was that the Respondent erred in adopting a depth of 6.1m Zone A. He adduced a plan showing the layout of the shop which indicated a narrowing of the unit from 4.83m to 2.7m and suggested that only the front part of the unit was the ‘*prime display and sales area*’. He maintained that the correct Zone A area to be adopted was 14.29 sq. m. with the balance of the shop, 17.5 sq. m., in Zone B. He indicated that this latter area was used for food preparation and contained a meat saw, mincer, block, sink, fridge and storage. He posited that the correct NAV was €2,765.

8. RESPONDENT’S CASE

8.1 The Respondent suggested that this property and all neighbouring units were valued using the ‘Retail Zoning Method’ of analysis. He noted that retail properties of less than 1,000 sq. m. are generally valued for rating purposes by reference to this method. He suggested that the Respondent had regard to the SCSI Guidance Note on zoning in applying this method. A copy of same was appended.

He noted that the subject had been valued on the basis of a Zone A depth of 6.1m in accordance with both the Valuation Office Guidelines and the SCSI Code of Measuring Practice. He maintained that the area beyond the appellant’s notional Zone A was still retail space and fell to be zoned.

9. FINDINGS AND CONCLUSIONS

9.1 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 Leitrim County Council.

9.2 Finding 1 – Floor Areas. The Appellant provided a scale plan and it was therefore possible to establish that the Respondent’s areas were correct, totalling 31.81 sq. m.

9.3 Finding 2 – Zoning Methodology. The Tribunal finds that the Respondent’s approach was correct in adopting a depth of 6.1m in arriving at the area of Zone A. In doing so, the Respondent adopted what is custom and practice amongst valuers. He adduced the SCSI Information Paper titled ‘Retail Zoning for the Chartered Surveyor and while this does not have the status of a ‘Guidance Note’ being that of ‘recommended good practice’; it is still widely adopted by surveyors when analysing rents of retail properties.

The Appellant bases his view of the Zone A area on his particular use but zoning is ‘blind’ to actual use. Another user, such as a fashion outlet, could well use the entire ground floor as

retail. Therefore, the usual use of zones of 6.1m depth and halving back is appropriate in this instance where there are no physical impediments, such as walls or stairs to impede trade.

DETERMINATION:

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

And the Tribunal so determines.