

Appeal No: VA17/5/305

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ELPHIN FITTED FURNITURE

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 122698, Industrial Uses at 5C Chanterland/Windmill Park, Elphin, County Roscommon.

B E F O R E

Barry Smyth - FRICS, FSCSI, MCI Arb

Deputy Chairperson

Liam Daly - MSCSI, MRICS

Member

Caroline Murphy - BL

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3RD DAY OF JANUARY, 2019.**

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th 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 €25,100.

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 :

“VALUATION IS COMPLETELY OUT OF LINE WITH RENTS BEING PAID FOR SIMILAR PROPERTIES IN THIS AREA.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €10,500.

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 €25,100.

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 €25,100.

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, 2017.

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 4th day of October, 2018. At the hearing the Appellant was represented by Mr Sean Mahon, of Mahon Sweeney Solicitors and the Respondent was represented by Ms Clair Power BBLs (Hons), BSc (Hons) Prop 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.

4.2 The subject property is located in the townland of Chanterland in the town of Elphin on the R369 which is approximately 1km from N61 linking Boyle and Roscommon in the County of Roscommon.

4.3 The subject property is a modern detached showroom and workshop consisting of the original workshop and single storey workshop, detached showroom and stores. The subject property includes a mezzanine store that overlooks the original workshop area. The property is used for the production of fitted furniture including fitted kitchens. There is tarmac car parking to the front with 12 car parking spaces available.

4.4 The workshops are steel frame in their construction with 3.5m eaves, blockwork infill, double clad roof and plastered outer leaf walls. The single storey offices and detached showroom are concrete block with concrete tile and slate tile respectively.

4.5 The subject property is freehold.

5. ISSUES

5.1 Quantum is the only issue.

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. Mahon said the subject property is located in Elphin, County Roscommon which is a small satellite town adjoining Boyle and has a population of approximately 500. Mr. Mahon said there is little or no demand for property for rent in the town and it was unlikely that the property would find a tenant on the open market. He said there are lots of vacant commercial properties in the town therefore the subject property has little or no rental value and not at the level the Respondent has proposed. He said most people who have businesses in the town own and use their own properties for the business and many of them are part-time businesses. Mr. Mahon gave evidence that in his opinion it was necessary to look for comparators in other towns similar to Elfin such as Frenchpark, Croghan, and Tulsk.

7.2 He said the NAV at the date of valuation in the component parts of the building did not reflect the rents prevailing in the locality. He said there were no properties in the locality attracting the NAV per square metre suggested in the proposed valuation. Mr. Mahon said there was evidence that the actual rents paid in the locality are at rates significantly below the price per square meter assessed by the Respondent. He said the Respondent applied a value of €20.00 per square metre in respect of similar properties comprising of offices, workshops, factory and stores and the Respondent applied a price of €30.00 per square metre in respect of the offices, store and workshop and €36.00 in respect of the showroom of the subject property. He further said the mezzaine should not be included in the valuation as the floor to ceiling height is reduced by the angled roof.

7.3 Mr. Mahon relied on three comparisons in relation to rental evidence in the locality **(Appendix 1)**:

1. New Store Croghan, Croghan, Boyle, County Roscommon.
2. Springfield, Elphin, County Roscommon.
3. Emlagh Lodge, Elphin, County Roscommon.

Mr. Mahon said Comparison No. 1 is vacant. He gave evidence that Comparison No. 2 is 150 yards from Main Street in Elphin and Comparison No. 3 is 800 metres outside the town of Elphin.

7.4 Mr. Mahon relied on three NAV comparisons **(Appendix 1)**:

1. PN122954
NAV: €7,590.00
2. PN2201584
NAV: €2,410.00
3. PN122866
NAV: €9,110.00

7.5 Mr. Mahon referred to copies of 2 leases included in his precis (**Appendix 1**):

1. Lease 1: New Road, Elphin, County Roscommon. Mr. Mahon said this property is vacant and he thought the property's size was 4000 square foot.
2. Lease 2: Unit 7, Ballaghaderreen Business Park, Ballaghaderreen, County Roscommon. These are newer units built in 2006 or 2007 and he thought the property's size was 4000 square foot. This property is located in Ballaghaderreen which is a bigger town than Elphin with nearly as high vacancy rates.

7.6 Mr. Mahon said that the precise size of the property is not the issue when renting property in this locality but rather or not there was any tenant at all.. He said properties must compete with properties in adjoining towns and that this locality caters for local employees and operators. He said it wouldn't be realistic to relocate as the lower rates and rents keep employees there.

7.7 In his notification of appeal to the Tribunal Mr. Mahon proposed a NAV of €10,500 for the subject property although he said this might be slightly more upon calculation. He suggested that the NAV should be:

Based on rents	Showroom 114.41 sq.m. @ €15	€1716.15
	Workshop 524.16 sq.m. @ €15	€5241.60
	Offices 52.64 sq.m. @€10	€526.40
	Store 114 sq.m. @ €20	€2,280
	Mezzanine 51.20 @ nil	
	Total	€8,054.15

Based on equity and uniformity (ie Tone of the List)

0	Showroom	114.41	€20	€2,288.20
0	Workshop	524.16	€15	€7,862.40
0	Offices	52.64	€10	€526.40
0	Store	114.00	€20	€2,280.00
Mezzaine	Store	51.20	€0	€51.20

Total: €13,008.20

7.8 In cross examination Ms. Power put it to Mr. Mahon that 4/5ths of vacant properties in Elphin are retail property and industrial property is not in huge supply. Mr. Mahon said he didn't accept that there was a scarcity of industrial space adding that the subject showroom looks like a bungalow. Ms. Power said that the Appellants Comparison No. 3 of market rental information was familiar to the Respondent. She said the previous landlord commanded a rent of €16,000 and at present it is a related lease not a market lease and the Respondent could not consider it. In reply Mr. Mahon said the parties were not fully related in that there was more than one person renting the property. He said it is the case that one individual owns the property and is renting it out to several others and so it is a real market rent. He said it is not quite correct to say that it is a related party lease. Ms. Power put it to Mr. Mahon that the Appellant's Lease No. 2 in Ballaghaderreen is valued at €50 per square metre and it is a retail Warehouse. Mr. Mahon said irrespective of use it is a store to his knowledge.

7.9 Ms. Power submitted photographs of the Appellants NAV comparisons to the Tribunal. Ms. Power said that the Respondents NAV Comparison No.1 PN218343 was the property to which the Appellant's Lease No.1 related. Ms. Power asked Mr. Mahon if he carried out any analysis on the leases the Appellants were relying on, for example the value for square metre or rent provided for square metre and Mr. Mahon said he had not. Ms. Power said on the evidence put forward by the Appellant in relation to this property she had analysed and calculated the valuation to be €22 per square metre for the store and €16.50 per square metre for the yard. She said she did not take into account the rent on this property as it had the same owner in 2006 and said she was unsure if the store had been added after this date. Ms. Power referred to the photographs and said that the Appellants NAV Comparison No.1 was a haybarn structure with concrete block and corrugated iron roof used as a car workshop. She said that

the Appellants NAV Comparison No.2 was a former domestic shed now in commercial use as a garage in basic condition with corrugated steel roof, located to the side of a domestic house in a rural location. She said in relation to the Appellants NAV Comparison No.3 the occupier said the roof was leaking, porous and had asbestos.

7.10 In summing up Mr. Mahon said in line with equity and uniformity of the list, greater weight should be given to rents in the area. He said the lease the Respondent considered a related lease did not have significance as properties are all owner occupied in the area and must be informed by tenants in the locality. He said other NAVs in the locality are high and they are not appealed.

8. RESPONDENT'S CASE

8.1 Ms. Power adopted her Precis of evidence. She said the subject property has ample parking and excellent road frontage. She said there was no dispute about the mezzanine up until the week of the hearing and therefore had no time to discuss this with the Appellant. She said it is established practice that there is a reduction to 20% of workshop rate for the mezzanine area which amounts to €6.

8.2 The Respondent relies upon three key rental transactions in arriving at the NAV for the subject property (**Appendix 2**):

Respondents Key Rental Transactions:

1 Warehouse at Boyle. Eaves height 5m

NER @ 30th October 2015: €24,700.

NER per m²: €34.25m²

NAV: €21,600 = €30/ sq.m.

2 Modern workshop Castlereagh eaves height 4.5m

NER @ 30th October 2015: €13,188.04

NER @ €42.30/m²

NAV: 4,440.00 and NAV: 4,460.00 = NAV: €8,900.00 =€30/sq.m

3 Warehouse, Ballinlough eaves height 6/6.5m

NER @ 30th October 2015: €11,906.40

NER @ 20.67/m²

NAV: 17,280.00 = €30/sq.m

8.3 Ms. Power gave evidence that over 600 properties had been valued in Roscommon with 150 of them being similar properties to the subject property. She said 34 of these properties were subject to representations to the Commissioner of Valuation and 5 properties (including the subject property) are under appeal to the Valuation Tribunal

8.4 The Respondent relies upon three NAV comparisons (**Appendix 2**):

1. PN: 2183043

NAV: €15,270.00 €30/sq.m

2. PN 214557

NAV: €24,500 = €30/sq.m

3. PN 1034174

NAV: €26,700.= €30/sq.m

Ms. Power said the NAV comparisons put forward by the Respondent are all modern buildings which are the same size as the subject property and were not subject to representations or an appeal to the Tribunal.

8.5 The Respondent contended for a NAV of €25,100:

0	Showroom	114.41	€36	€4,118.76
0	Workshop	524.16	€30	€15,724.80
0	Offices	52.64	€30	€1,579.20
0	Store	114.00	€30	€3,420.00
Mezzaine	Store	51.20	€6	€307.20

Total: €25,100.

8.6 In cross examination Mr. Mahon asked Ms. Power why she had relied upon NAV Comparison 3 as these were related parties. Ms. Power said she wouldn't have included the property if that was the case. She said she was restricted to the Tone of the List in that 12 out

of 603 valuations had been appealed and she had to apply the Valuation Act and the Appellant is open to appeal but that she is restricted by what is valued.

8.7 She said the mezzanine is afforded a big reduction but would have relooked at the measurement of the mezzanine of the subject property. She said only the middle area should be valued and any reduction for this area would most likely amount to about €80 which is a reduction from €307.20.

8.8 In summing up the Respondent submitted that the Appellants NAV comparisons are old and unsuitable and that information in relation to rental properties is also old. She said the subject property is a large modern building which is reflected in the NAV in line with the tone of the list of similar type properties. The appellant had not proved that the NAV proposed was incorrect

9. SUBMISSIONS

9.1 There are 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 Roscommon County Council.

10.2 The Tribunal considered the Appellants comparisons and disregarded Comparison No. 1 as the lease date is nearly one year after the Valuation Date and Comparison No.3 was up for rent review in 2016. The Tribunal found that Comparison No. 2 lease details are closer to the valuation date and located closer in proximity to the subject property. However it notes that it is a related parties lease.

10.3 The Tribunal found the Appellants NAV comparisons helpful in coming to their decision as they are comparable to the subject property as they are all located in Elphin however found that the subject property was superior to all three.

10.4 The Tribunal disregarded the leases relied upon by the Appellant as the size of the properties to which they related to was unknown. The Tribunal also noted that both leases were only for a period of one year.

10.5 The Tribunal considered the Key Rental Transactions put forward by the Respondent. The Tribunal disregarded Comparison No. 1 as it is located in Boyle and Comparison No.2 as it is located in Castlerea as both are better locations. The Tribunal considered Comparison Number 3 located in Ballinlough was the best comparison as the location is similar to that of the subject property.

10.6 The Tribunal considered the Respondents NAV comparisons and noted that there were no representations or appeals to the Tribunal regarding these properties. The Tribunal notes the emerging tone of the list in which appeals are determined. The Tribunal noted that the Respondent's NAV Comparison No. 1 is the most comparable as it is located in Elfin but that this property is vacant. The Tribunal considered their location to be better but did not disregard the Respondent's NAV Comparison No. 2 which is located in Castlerea and the Respondent's NAV Comparison No.3 which is located in Athleague.

10.7 The Tribunal finds that a reduction should be given to the subject property bearing in mind the emerging tone of the list by which it is not totally bound and noting the Respondent's witness said her hands are tied by the list. The Tribunal notes there appears to have been very few representations and very few appeals taken in this County following revaluation.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €18,300.

0 Showroom	114.41	€25	€2860.25
0 Workshop	524.16	€22	€11531.52
0 Offices	52.64	€22	€1158.08
0 Store	114.00	€22	€2508
Mezzaine Store	51.20	€4.40	€225.28
Total:	€18,283.13		

SAY: NAV: €18,300.00

And the Tribunal so determines.