

Appeal No: VA17/5/337

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

S/S INVESTMENTS LTD.

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2197481, Retail (Shops) at Floors: 0,1, 31A/1 Carrickduff, County Carlow.

B E F O R E

Majella Twomey - BL

Deputy Chairperson

Michael Connellan Jr - Solicitor

Member

Donal Madigan – MRICS, MSCSI

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF MARCH, 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 €114,600

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- 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.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €90,500.

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 €117,100.

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 of the Property was reduced to €114,600.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €114,600.

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 3rd day of October, 2018. At the hearing the Appellant was represented by Mr David Halpin MSc (Real Estate), BA (Mod) and the Respondent was represented by Mr Terry Devlin BSc, MSCSI, MRICS 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

From the evidence adduced by the parties, the Tribunal finds the following facts:

(a) The property is located on the West side of the town, in Carrickduff, which falls within the functional area of Carlow County Council. The town is bisected by the River Clody and Slaney, with the main part, being to the East, all within County Wexford;

(b) The property comprises a purpose built supermarket completed in 2007 which trades as a franchise branch of Supervalu, as O'Reillys of Bunclody.

(c) The parties have agreed the floor areas as follows:

Ground Floor: Supermarket	1,379.59m ²
First Floor: Ancillary Office etc	267.84m ²
Total:	1,647.43m ²

(d) The property was previously leased at a rent of € 125,000 per annum from 2008 but the Tenant purchased the freehold of the supermarket together with 2 other retail units in February 2017 for € 1,125,000 and accordingly it is now owner occupied.

(e) The property has the benefit of an off-licence.

5. ISSUES

The only issue in dispute is the quantum of the valuation.

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. David Halpin, for the Appellant, submitted a valuation of € 87,200 which he calculated as follows:

Ground Floor: Supermarket	1,379.59m ² @ € 48.00 per m ²	66,220
Add 7% for fit out		4,635
Off Licence		10,000
First Floor: Ancillary Office etc	267.84m ² @ € 24.00 per m ²	<u>6,428</u>
		87,283 say, € 87,200.

7.2 Mr. Halpin put forward six comparables in support of his valuation as outlined in Section A of the Appendix to this decision.

7.3 Mr. Halpin submitted that the town of Bunclody has a population of 1,984 persons and was categorised in a report by Teagasc as the most economically deprived area in the country in 2014. The part of the town in which the property is located is within Carlow and there are only 15 properties in this section which fall to be revalued. The major part of the town has more than 100 commercial properties but all these are within County Wexford, which has not yet been revalued so any potentially comparable assessments are not capable of being used for comparison, as they are in the Valuation List at historically lower figures on the old basis.

7.4 Mr. Halpin considers that there is rental evidence here to assist in determining the correct NAV as there is:

- (a) taking the purchase price for the property and applying a market yield to this at 10% based on SCSI statistics and deducting the NAV of the other units from this to arrive at a net rental (€ 112,500-€ 32,810) giving a rental equivalent or NAV of € 79,690;
- (b) the March 2008 rent for the subject property of € 125,000 albeit that was agreed in 2007;
- (c) the market rent for the Mr. Price unit (No. 1) in his Comparables-see Appendix.

This was let in April 2016 at the rent of € 38,250 per annum which analyses at a rent of € 30.45 per m² for a unit of 1,256m².

7.5 By taking the lease rent of the property in 2008 he derives a rental equivalent for the statutory valuation date of 30th October 29015 by reference to the change in the Lisney Retail Rental Value indices which indicate a ratio of 56% (77.71/138.72). The index for December 2007 (when the rent was agreed) being 138.72 whilst the index figure for December 2015 (being the closest available to the valuation date) being 77.71. By adopting this approach he derives a rental value of € 70,000 for the property (€ 125,000 X 0.56).

7.6 Mr. Halpin further contends that out of the properties valued in this County Carlow section of Bunclody, the subject property appears out of line with those other assessments as set out in Section A of the Appendix, Comparables No.s 2 & 3.

7.7 Mr. Halpin takes issue with the manner of the Commissioner of Valuation’s approach to valuing the first floor of the unit relative to the ground floor and sets out the approach adopted in other counties (that have had revaluations) which he contrasts with the approach adopted by the Commissioner of Valuation here. Rather than adopting a rate of 100% of ground floor to apply to the first floor unit value rate, Mr. Halpin prefers to apply 50% of the ground floor unit value in order to value the first floor.

These relative rates are represented by him as follows:

COUNTY	first floor unit value as % of ground floor unit value
Sligo	66.60%
Leitrim	72.70%
Roscommon	50.00%
Westmeath	15-100%
Offaly	70%
Longford	15-55%
Kildare	40-100%
Carlow	100%
Kilkenny	50-57%

8. RESPONDENT'S CASE

8.1 Mr. Terry Devlin, for the Respondent, submitted a valuation of € 114,600 which he calculated as follows:

Ground Floor: Supermarket	1,379.59m ² @ € 60.00 per m ²	82,775.40
First Floor: Ancillary Office etc	267.84m ² @ € 60.00 per m ²	16,070.40
Fit out		5,794.00
Off Licence		<u>10,000.00</u>
		114,639.80
		Say, € 114,600.

8.2 Mr. Devlin put forward two comparables in support of his valuation as outlined in Section B of the Appendix to this decision

8.3 Mr. Devlin contended that the supermarket is a well fitted out unit on the edge of the town with the benefit of a restaurant and a pharmacy unit adjacent plus car parking to the front and side of the building.

8.4 Mr. Devlin confirmed that there are 7 properties valued at the level of € 60-70 per m² in County Carlow, three at €60.00 and four at € 70 and that a total of 5 properties had made representations at Proposed Valuation Certificate stage with the subject property being one of five under appeal to the Tribunal. In the case of the subject property a value of € 60.00 per m² had been applied to calculate NAV.

8.5 The two comparable properties upon which Mr. Devlin relies are in Tullow and are each valued at a rate of € 70.00 per m² on the retail area. He considered that the subject property was accordingly fairly valued, in relative terms for location, at the level applied of € 60.00 per m².

8.6 Mr. Devlin gave evidence that the sum of €60.00 per m² was applied 'across the board' in relation to the subject property. Mr. Devlin was asked, by the Tribunal, why the ground floor was valued in the same way as the first floor and he said that 'across the board this has been the approach taken'. Mr. Devlin did not put it any further than that.

9. SUBMISSIONS

9.1 There were no legal submissions in this case.

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 Carlow County Council.

10.2 The key to establishing the correct tone of assessment for rating purposes is the rental basis that is adopted to provide the framework for the ensuing tone of net annual values. There is a severe lack of rental evidence for supermarkets and indeed no rental evidence was advanced by Mr. Devlin for the Respondent. Mr. Halpin made reference to the letting in the subject property but analysis of this by devaluation of a price is not wholly reliable and, furthermore, the date by which this was originally made is well before and in a completely different market to that which prevailed at the valuation date. Likewise the reference to the letting to Mr. Price (Comparable No.1 in section A to the Appendix) of the unit in the Eastern part of Bunclody, though helpful, must be adjusted, for amongst other issues, the mode of use.

10.3 The Tribunal considers that Bunclody would be much less desirable as a location in the mind of the hypothetical Tenant than Tullow, and indicative values for similar but lesser properties are provided by the Appellant's comparables no. 2 & 3 in Section A of the Appendix. Taking account of these and the other evidence the Tribunal believes that a rate of € 50.00 per m² better reflects the location of the supermarket, being for a higher value use than that which the letting to Mr. Price showed.

10.4 It is not clear to the Tribunal the justification for valuing the first floor at the same rate as the ground floor and Mr. Devlin was unable to explain the reasoning for this approach having accepted that the Commissioner's approach varies significantly from county to county. A reasonable view of this indicates to the Tribunal that a hypothetical Tenant, viewing the unit vacant and to let, is unlikely to regard the first floor as having equal unit value per m² as the ground floor, and considers that a rate at 50% more accurately accords with the valuation convention in this regard.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property to € 90,500.

This is calculated as follows:

Ground Floor: Supermarket	1,379.59m ² @ € 50.00 per m ²	68,979.50
Add 7% for fit out		4,828.57
Off Licence		10,000.00
First Floor: Ancillary Office etc	267.84m ² @ € 25.00 per m ²	<u>6,696.00</u>
		90,504.07

Say, NAV € **90,500.**

And the Tribunal so determines.