

**Appeal No: VA17/5/287**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**SUPERVALU BALLYRAGGET**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 198792, Retail (Shops) at Floor: 0,1, 8,9,10,11,4,5,6A,7,12. Castle Street,  
Ballyragget, County Kilkenny.

**B E F O R E**

**Dolores Power - MSCSI, MRICS**

**Deputy Chairperson**

**Frank O'Grady - MA, FSCSI, FRICS, FIABCI**

**Member**

**Barra McCabe - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 20<sup>TH</sup> DAY OF MARCH, 2019**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 9<sup>th</sup> 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 €77,500.

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 rental value.*
2. *The subject property is assessed at just a 12.5% discount from supermarkets in Kilkenny City (€80/m<sup>2</sup>). Ballyragget is arguably the poorest supermarket location in all*

*of Kilkenny County, with a population of just 1,082 persons and would be unlikely to exceed €50/m<sup>2</sup> on the ground floor retail (with the 1<sup>st</sup> floor valued at 50% of this level).*

3. *The subject property is under 1,000m<sup>2</sup> and would therefore not qualify for fit-out allowance.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €46,400.

## **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 €78,900.

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 €77,500.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €77,500.

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 4<sup>th</sup> day of February, 2019. At the hearing the Appellant was represented by Mr David ES 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**

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The subject property is a purpose-built supermarket, completed in 2007, on Castle Street, Ballyragget, Co. Kilkenny. The property is in the centre of the town in a restricted site with parking for 20 cars.

4.3 The property is on two levels with supermarket and stores on ground floor and additional stores and offices overhead.

4.4 The accommodation and floor areas have been agreed between the parties:

Ground Floor	Supermarket	674.80 sq.m.
	Stores	<u>183.10 sq.m.</u>
		857.90 sq.m.
First Floor	Store/Office	<u>119.93 sq.m.</u>
	Total	977.83 sq.m.

#### **5. ISSUES**

5.5 The matter at issue is quantum.

5.2 The Appellant claims that the valuation is excessive and unequitable and is seeking a reduction in the NAV to €62,700.

5.3 The Respondent states that the NAV is in line with the tone of the list for Co. Kilkenny and requests the Tribunal to affirm same in accordance with the Valuation Acts..

#### **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 for the Appellant adopted his precis as his evidence in chief and went on to describe the location and physical nature of the site and property.

7.2 He stated that there was a lack of market rental information on supermarkets in Co. Kilkenny and therefore heed must be paid to the tone of the list.

7.3 Mr. Halpin advised that the property though purpose-built had a small retail area (675 sq.m.) and would be of interest to local traders only and not the national or international brands. Also the lack of additional on-site parking would further curb large multiples interest in the property.

7.4 He stated that there were a total of 19 shops in the town of Ballyragget, with just one, a former Londis store, larger than the subject and it had been vacant for the past 5 years.

7.5 To support his case he commented on the fact that the Commissioner had a uniform rate for Co. Kilkenny of €70-€80/sq.m. for supermarkets with only a 12.5% discount from the rate applied in Kilkenny City for rural outlets.

7.6 He produced 7 NAV comparisons to illustrate the uniformity of the Commissioners approach regardless of the actual location or population and indeed occupation of the properties.

(a) PN 220737 Vacant former Supervalu Supermarket, Thomastown, Co. Kilkenny.

Supermarket 712.40 sq.m. @ €70/sq.m. NAV €63,200.

(b) PN 2187196 Eurospar, The Newpark Centre, Kilkenny City.

Supermarket 1,080 sq.m. @ €80/sq.m. NAV €140,700.

(c) PN 2175897 Lidl Supermarket, Waterford Road, Kilkenny City.

Supermarket 1,328 sq.m. @ €80/sq.m. NAV €146,200.

7.7 An additional piece of evidence produced by Mr. Halpin to support his case was a chart listing the rate/sq.m. for supermarkets based on population size around the country (Appendix1) , which clearly showed the range for supermarkets from €90/sq.m. for Newbridge (pop. 22,742) down to €50/sq.m. for Banagher (pop. 1,760).

7.8 Mr. Halpin stated that on reflection he had adjusted his opinion of value after the Reps stage from NAV €46,400 to the current NAV €62,700 after reviewing the available evidence and asked the Tribunal to confirm same.

## **8. RESPONDENT'S CASE**

8.1 Mr. Terry Devlin for the Respondent adopted his precis as his evidence in chief and contended for an NAV of €77,500.

8.2 The location, description and floor areas were agreed and confirmed. Mr. Devlin also confirm that there was a shortage or lack of open market rental evidence.

8.3 Mr. Devlin confirmed that the approach the Commissioner had adopted for equity and uniformity for supermarkets outside Kilkenny City was €70/sq.m. and supplied 4 NAV comparisons to support his case.

(a) PN199648 Eurospar, Castlecomer, Co. Kilkenny.

Supermarket 752 sq.m. @ €70/sq.m. NAV €81,600

(b) PN 228121 Centra Supermarket, Mooncoin, Co. Kilkenny.

Supermarket 651 sq.m. @ €70/sq.m. NAV €52,400.

(c) PN 224247 Vacant Supermarket premises, Urlingford, Co. Kilkenny.

Supermarket 365 sq.m. @ €70/sq.m. NAV €50,400.

8.4 He confirmed that the Fit Out addition had been removed when the actual floor areas had been agreed and he had adjusted his opinion of NAV accordingly. The adjustment had also carried through to the Off- Licence allowance and that also had been adjusted and that his opinion of NAV at Tribunal stage had been reduced to €73,250

8.5 At cross examination stage Mr. Devlin informed the Tribunal that 10 supermarkets in Co. Kilkenny were included in the current reval and 5 were now under appeal to the Tribunal. Four of the supermarkets not under appeal had a rate of €70/sq.m.

8.6 Mr. Devlin contended for the NAV to be affirmed @ €73,250 as fair and reasonable and in accordance with the Valuation Acts.

## **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 Co. Kilkenny.

10.2 The Tribunal has examined the particulars of the property and considered the written and oral evidence adduced by Mr. Halpin on behalf of the Appellant who contended for a revised valuation of €62,700 and Mr. Devlin on behalf of the Respondent who sought confirmation of €73,250 NAV.

10.3 The Tribunal has noted the location and restricted nature of the site, the size of the unit and the general property market both in Ballyragget and in the county of Kilkenny. The lack of market information from both parties is a hindrance to the Tribunal as all the evidence was based on the interpretation of the tone of the list. This matter is further compounded when the Tribunal are now advised that 50% of the current supermarket revisions are under appeal.

10.4 The Tribunal has noted the Appellants claim that a discount of 10% -12.5% on the prevailing rate in Kilkenny City towards the remainder of the county, as exercised by the Commissioner is insufficient allowance when population and potential for trade is taken into consideration. This fact is apparent when the number of appeals is noted.

10.5 The chart presented by Mr. Halpin showing the rate applied in the various population centres was of much assistance to the Tribunal in arriving at its determination.

10.6 It is noted that both parties attempted to resolve this case and adjusted their earlier opinions of value when new information became available ie. the fit-out allowance and off-licence allowance by the Respondent and the increase in valuation from the Appellant. Also noted was the agreed valuation method giving the upper floor a rate of 50% of the ground floor.

**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 €63,500.

Supermarket	674.80 sq.m. @ €60/sq.m.	=	€40,488
Ground floor Store	186.10 sq.m. @ €60/sq.m.	=	€11,166
First floor Store	119.93 sq.m. @ €30/sq.m.	=	€ 3,598
+ Off-licence	@ 15%	=	<u>€ 8,288</u>
	TOTAL NAV		€63,540
	SAY		€63,500

And the Tribunal so determines.