

Appeal No: VA17/5/200

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

CORAS IOMPAIR EIREANN

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. 1213461, Utility at 18.22/b Sligo, Sligo, County Sligo.**

B E F O R E

Barry Smyth - FRICS FSCSI MCI Arb

Deputy Chairperson

Frank O'Grady - MA FSCSI FRICS FIABCI

Member

Caroline Murphy - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 29TH DAY OF JULY, 2019

1. THE APPEAL

1.1 By Notice of Appeal received on the 6th 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 €39,000.

1.2 The grounds 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 is excessive and inequitable*

2. *The valuation is bad at law*

3. *The valuation is incorrect taking account of the condition and location of the building in relation to those against which it is being compared*
4. *The building is categorised as a utility building yet it is inextricably linked to the provision of the public bus service. The space cannot be let on the open market.*
5. *It is incorrect to value the building on the same basis as, and in most cases, higher than other office buildings in the location.*
6. *The building is part of a wider group of buildings which cater for the provision of public bus transport and should be valued as such.*
7. *Incorrect areas have been included within the valuation and excessive values applied.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €12,400.

2. REVALUATION HISTORY

2.1 On the 16th day of March, 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 €32,600.

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 increased to €39,000.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €39,000.

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 29th March 2019. At the hearing Mr. Byron Wade BL and Mr. Pdraig O’Toole Solicitor with CIE, represented the Appellant and the Tribunal heard evidence from Mr. David Dineen BSc MSCSI MRICS of CIE Group Property Management. The Respondent was represented by Mr. David Dodd BL instructed by

the Chief State Solicitor and Mr. Liam Hazel MSc, BSc, MSCSI, MRICS, MIPAV (CV) gave evidence on behalf 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 bus station located on Lord Edward Street in Sligo in County Sligo.

4.3 The subject property comprises of a single storey building with concourse/waiting area, public toilets, a retail kiosk, a travel centre/ticket office, various offices used by Bus Eireann transport network. driver facilities, staff canteen and staff toilets.

4.4 The building was extended and renovated in 2003.

4.5 The subject property also includes a yard area to the front which facilitates the parking of 5 buses for the loading and unloading of passengers.

4.6 The subject property has been measured on a Gross Internal Area basis at 400.87 sq.m. This overall area is agreed but the breakdown and value of the areas within this is disputed.

5. ISSUES

5.1 There was agreement between the parties that the issue in the Appeal was primarily quantum and not legal but that the parties had engaged legal representation and they would continue to represent the parties at the hearing.

5.2 At the outset of the hearing, the Respondent raised a preliminary issue that the Appeal should proceed in accordance with the Grounds of Appeal in the Notice of Appeal which is set out hereunder including the ruling of the Tribunal.

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 Dineen of CIE Group Property Management, surveyor gave evidence on behalf of the Appellant. Mr. Dineen said the Appellant’s proposed valuation had been calculated with consideration of other comparable properties such as Bus Aras and Athlone Bus Station which have retail units separately rated.

7.2 Mr. Dineen suggested that the subject property was closely comparable to Athlone Bus Station. Mr. Dineen said the Respondent agreed to exclude the concourse and common areas from the valuation in respect of Athlone Bus Station. He did not have the breakdown to hand. He said that Athlone is occupied and operates under similar agreement to the retail unit in the subject property. He said the same methodology had been applied to the retail unit in Athlone bus station that he is proposing to use for the subject property, though he accepted that the separate assessment of the shop was now excluded because of the Tribunal’s ruling on the preliminary issue. He said that he accepted a rate of €90 per sq. m (The Commissioners figure), just for the shop, staff areas and offices but excluding the concourse but if the concourse was to be included the overall rate per sq. m should be reduced as there would be no hypothetical tenant for the concourse and therefore it had no rental value.

7.3 Mr. Dineen said in the case of Bus Aras there had been agreement that the retail unit should be separately listed prior to Revaluation and the concourse was excluded prior to the Tribunal hearing.

7.4 Mr. Dineen suggested that what the hypothetical tenant would pay for the concourse must be considered when applying a valuation to the concourse. He said that bus stations aren't wanted and that ticketing was carried out online and at the kerbside. He said it was inflexible in terms of location. Mr. Wade referred to the *Iarnod Eireann v. Commissioner of Valuation*, (unreported) High Court, Barron J of 27th of November 1992, where the concourse was valued at nil rather than excluded. Mr. Dineen agreed where the concourse is included the concourse should be nil. Mr. Dineen was asked what he would value the subject property at with the inclusion of the concourse and suggested that the overall valuation of the subject property would be very low, maybe €20 per sq. m as for Industrial use as 40% of the building was very inefficient.

7.5 Mr. Dineen said that in his proposed valuation he included a separate valuation for the retail unit at €1,180. He said applying the Respondent's rate, he valued the subject property as offices at €90 per sq. m X 235 sq. metres with regard to other comparable properties where the concourse was excluded. He had not included a valuation for the property measured at 400 sq. metres as it was not an exercise he had completed. Mr. Dineen suggested that the property valued in *Iarnod Eireann v. Commissioner of Valuation*, was the only case where the concourse was included in the valuation and was valued at nil.

7.6 Mr. Dineen said the Appellant proposed that bus parking be valued at 2.5 car parking levels which he said the Tribunal had accepted in Bus Aras. He referred to a map of Sligo with car parking areas and said the subject property was located in a secondary location. Mr. Dineen suggested that the Appellant's Comparison No. 4, Dominic Street, Sligo valued at €150 per car space was the most comparable to the subject property as it is located at a secondary location on the periphery of Sligo town. The Appellants comparisons are set out at Appendix 2.

7.7 In cross-examination, Mr. Dineen said the Appellant owned the bus station while Bus Eireann were the operators and agreed that the Tribunal must value the property. He confirmed that the Appellant owned the building and the concourse.

7.8 Mr. Dineen was asked if the Appellant controls access to the building. He answered that the retail unit has access and he couldn't say who locked the bus station every night. He said the retail unit would have keys to access the building. Mr. Dineen agreed that the Appellant would have a key when asked who controlled access and the doors to the subject property. In reply to a question from Mr. Dodd as to who put the Bus Eireann seats on the concourse, Mr. Dineen said couldn't say definitively. Mr. Dineen was asked who paid for insurance and he said he didn't know. Mr. Dineen was asked about cleaning the area noting the shared usage and he said he didn't know.

7.9 During cross examination, Mr. Dineen said there are no office related car spaces rated in Sligo. He agreed there were comparisons of NAV from commercial car parking, and also that there was no other bus station in the rating authority area and that the subject property was unique. When Mr. Dodd put it to Mr. Dineen that the Commissioners approach of adopting the same ratio for the parking as applies to the Athlone Bus Station offices and that proposed for Sligo was a reasonable approach Mr. Dineen said it was not comparable and said he relied upon local evidence in Sligo. Mr. Dineen said he was happy to adopt the valuation of €90 per sq. m on the accommodation on the basis that the concourse was taken out to which Mr. Dodd said the concourse is not an individual stand-alone property. Mr. Dineen said he didn't apply a separate rate to the concourse but suggested as an alternative a rate of €20 for the total 400 square metres having considered the valuation based on the poorest or lowest type of industrial unit in the most rural location.

7.10 On re-examination Mr. Wade asked whether the concourse is offices or yard and Mr. Dineen said it was neither.

7.11 In response to questions from the Tribunal the Appellant said that the customers don't walk into the retail unit in its current configuration but stand on the concourse and deal across a counter and it has one table on the concourse where coffees and teas are served.

7.12 The Appellant clarified to the Tribunal the proposed valuation of €24,205 as including the retail unit at €1,180, the staff offices, toilets etc at €21,150, the bus parking at €1,875 and that the concourse valued at nil did not affect the proposed valuation.

8. RESPONDENT'S CASE

8.1 Mr. Hazel, on behalf of the Commissioner, was called to give evidence. He said that the Appellant was in occupation of all the subject property. The tenant does not have exclusive use or occupation of the retail unit as the Appellant has the right to move the tenant within the bus station and to regain possession. Mr. Hazel said he arrived at €90 per sq. m for the subject property as he compared it to Office (own door) properties with a 25% reduction to the valuation level for uniqueness and because offices are measured Net Internal compared to Gross Internal for the Bus Station. He relied upon a summary of market evidence of four Key rental transactions giving Net Effective Rent (NER) at the valuation date of €133, €118, €110 and €160 per sq. m. He advised that the Key Rental Transactions he relied on upon in arriving at a NAV for the subject property have been valued at NAV €120 per sq. m, 25 % higher than the subject property. He said there was no rental evidence for bus stations in Sligo. When asked why he did not take retail values for comparisons, he answered that if vacant and to let the space would have no retail demand or value but would have as offices and so he used offices at €120 per sq. m and adjusted this by 25% for the uniqueness of the bus station relative to offices

8.2 He said the most comparable evidence for valuing bus bays was that of Athlone Bus Station where the bus bays are valued at €875 per bay. He said there was 37% differential between Athlone Bus Station NAV @ €144 per sq. m and the subject property @ €90 per sq. m. The per bus bay valuation level in Sligo would be €545 in the subject property based on the same percentage difference.

Mr. Hazel said there are four pay car parks within Sligo valued as follows:

1. Quayside Shopping Centre Multi-Storey 360 spaces @ €350 per space.
2. Quay Street Lower 65 surface spaces €250 per space
3. Quay Street Lower 50 surface spaces €250 per space
4. Dominic Street Lower 75 surface spaces €150 per space.

The Respondents 4 Key Rental Transaction comparisons and 7 NAV comparisons are set out at Appendix 2.

8.3 During cross examination, Mr. Wade suggested that 235 sq. m of the subject property had lockable doors and the rest was mostly concourse and public toilets. He asked who the hypothetical tenant for the concourse would be and Mr. Hazel answered that the hypothetical tenant was for the entire including the offices, concourse etc. and that the property had always been valued on a total gross internal basis and there was no reference to this in the notice of appeal or the precis of evidence.

8.4 In re-examination Mr. Hazel said that what was being valued was a bus station and not its constituent parts and that there was no reference in the notice of appeal or the precis of evidence to any quantum allowance.

9. SUBMISSIONS

9.1 In his submission, Mr. Wade said the local comparisons in the same town as the subject property were more compelling when valuing the bus spaces than an adjusted Athlone bus station level. He said re the concourse it must be valued on comparisons or consideration of the hypothetical tenant and the Respondent had taken a broad-brush approach to value the property as one. He said the valuation certificate was incorrect in the classification of the subject property as offices and yard.

9.2 Mr. Wade said the practice to exclude the concourse was off the table and noted that the Appellant had to deal with it. He said where it is potentially ratable it had to be nil for the hypothetical tenant to take as there is no hypothetical tenant in existence by whom the common areas and concourse might be valued and it is an unreal situation created by rating code. He argued the decision of *Iarnrod Eireann v. Commissioner of Valuation* was applicable in respect of the concourse.

9.3 Mr. Wade said that there is no evidence before the Tribunal of any party who might take a letting of a bus station concourse or floor area and that none of the NAV comparisons and key rental transactions is of a tenant of the concourse of a bus station or a train station. The concourse therefore should be valued at nil. Mr. Wade accepted the inclusion of the shop in the valuation and the assumption that it should be valued and that the decision of *Iarnrod Eireann v. Commissioner of Valuation* was not open to it in respect of the shop.

9.4 In his submission, Mr. Dodd said the concourse should be included in the valuation. He relied upon the decision of *Iarnrod Eireann v. Commissioner of Valuation* and said the rated occupier of the rateable hereditament occupied the concourse, ramps and escalators. He said that case was factually very different to the subject property as it related to a passenger terminal and whether it should be given a separate valuation. He said this doesn't arise in the subject property as the occupier of property is not a separately rated occupier. Mr. Dodd suggested that to take out the concourse is like taking out the reception, common area, hallway, or lobby in a hotel, and there is no authority for that. He said that the concourse was not a separate property, not given a separate property number and should not be valued as nil. He said it was agreed that there was no rental evidence for a bus station and that both parties looked at offices and €90 per sq. m is agreed.

9.5 Mr. Dodd said the second issue is quantum of bus bays. He said Mr. Hazel has raised an attractive argument for bus spaces and that commercial car parks are very far removed from bus spaces and that the evidence pointed towards a higher valuation.

9.6 Mr. Dodd said the Appellant argued that there was no hypothetical tenant for the subject property. He said it was his submission that all possible occupiers, including the actual occupier, must be taken into account as possible tenants from year to year referring to Ryde on Rating and Council Tax who addresses "Who may be the Hypothetical Tenant?"

9.7 In response Mr. Wade said that it was incorrect to say that he wanted the concourse taken out but rather that it should be valued at nil.

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 Sligo County Council.

10.2 In an appeal, the onus of proof is on the Appellant to put forward a basis as to why the valuation should be altered. Both parties have relied upon the decision of *Iarnrod Eireann v. Commissioner of Valuation*, (unreported) High Court, Barron J of 27th of November 1992 and the Tribunal has regard to this decision.

10.3 The Tribunal finds that the Hypothetical Tenant for the subject property would look to rent the entire property. The Tribunal finds that all possible occupiers, including the actual occupier, the Appellant in this case, must be taken into account as possible tenants from year to year.

10.4 The Tribunal finds that the Appellant is the rated occupier of the rateable hereditament which comprises the concourse. Upon hearing the evidence adduced by the parties the Tribunal finds that the concourse is in use and has value as passengers can wait for buses in the seating area provided and there is a table in use by the retail unit which serves refreshment to passengers. The Tribunal notes that the subject property is unique and that a large proportion of the area of the subject property comprises of concourse and public toilets.

10.5 The Tribunal does not accept the Appellant's suggestion of treating the accommodation at an overall rate of €20 per square metre if the concourse is included, as proposed by Mr. Dineen as no evidence was found for this suggestion. The Tribunal notes that the Appellant stated that he accepted a rate of €90 per sq. m but that this was on the basis of the concourse being valued at nil and was not agreed for the total gross internal area.

10.6 The Tribunal notes that all the comparisons are valued on a Net internal Area (NIA) basis as opposed to GIA and that all of the comparisons relied upon by the Respondent are smaller than the subject property. The Tribunal notes that Athlone Bus Station is not located in the same Local Authority area and is valued at €144 excluding the concourse.

10.7 The Tribunal agrees that the subject property should be valued on a Gross Internal Area basis measuring 400.87 per sq. m.

10.8 The Tribunal notes that in the Valuation list the category of the property is described as Utility and is of the view that the description of the property in the attached valuation report as offices is incorrect and misleading. This is a bus station and while it includes some element of offices it also includes a variety of other facilities appropriate to its use.

10.9 The Tribunal finds that the Respondent is correct in valuing the subject property by applying a rate per sq. m to the gross internal area. However there was no comparative evidence

put forward of a Utility building and the reliance on office rents and NAVs for much smaller units is fraught with difficulties.

10.10 Having regard to the uniqueness and size of the subject property, its secondary location and the limited value of comparisons put before us the Tribunal determines that a rate of €75 per square metre is correct to apply to the gross internal area.

10.11 The Tribunal is in agreement with the methodology proposed by the appellant for valuing bus bays at 2.5 times the local car parking levels and finds the comparisons to be of assistance when valuing the bus bays as these comparisons are located in Sligo. The Tribunal is influenced by the comparison in Dominic Street as it is a local car parking area located on the periphery of Sligo town and the subject property is also located in a secondary location. A scheme of relativity with a bus station in a different rating authority area and which has been measured on a different basis is not appropriate.

10.12 In the foregoing circumstances, the Tribunal deems it appropriate to reduce the valuation to €32,500.

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 €32,500.

Calculated as follows:

Bus Station: 400.87 m x €75 per sq. m =	€30,065.25
Bus Bays: 5 spaces x €500 =	€ 2,500
(€200 X 2.5)	
	€32,565.25
	SAY : €32,500

11.PRELIMINARY ISSUE

11.1 Mr. Dodd raised a preliminary issue in relation to the Appellant’s Notice of Appeal. Mr. Dodd said the Appellant submitted a Précis with new Grounds of Appeal, as follows:

1. The subdivision of the property to give the retail unit a new property number in line with other Bus Stations.
2. The valuation of the retail unit.

3. The exclusion of common areas (concourse and public toilets) in line with other Bus Stations.
4. Valuation methodology of bus parking bays in line with other Bus stations.

11.2 Mr. Dodd said Section 35 of the Act states an Appellant must identify the grounds on which the Appellant considers that the value of the property, the subject matter of the appeal, being the value as determined by the Respondent, is not a determination of its value and what the Appellant considers ought to have been determined as the property's value. Mr. Dodd argued that the Tribunal was not entitled to deal with any additional Grounds of Appeal noting that there was no application to amend the Grounds of Appeal before the Tribunal. Mr. Dodd referred the Tribunal to No. 9, No. 10 and No. 17 of the Tribunal's Rules 2001-2008. He referred to Rule 9 which states "*These Grounds of Appeal may not be changed or extended (and liberty to amend will not be granted) save in exceptional circumstances. The Tribunal shall not entertain any amendments to the grounds of appeal at hearing and in particular the adducing of new grounds of appeal other than in exceptional circumstances. The Tribunal will adjudicate on such matters having regard to the Rules of the Superior Courts*".

11.3 Mr. Dodd referred to the Revaluation Reps Report, which he said was an online form populated by the Appellant. He said there is a question in this form asking the occupier whether subdivision or amalgamation of the subject property is required to which the Appellant answered that it was not. Mr. Dodd said two years later the Appellant says in its Precis of Evidence that subdivision is required. Mr. Dodd said if another person was in occupation and this was revealed through the Statutory Process in Revaluation at Representations stage and two certs had to issue the Respondent is effectively neutral to this. He said the Respondent would suffer prejudice as it cannot now carry out a revaluation or issue certificates, which is essentially a "rates holiday" for a third party if the Appellant was to be correct.

11.4 Mr. Dodd argued that this new ground was not before the Tribunal and that there was no need for subdivision of the subject property. He referred to the Appellant's Précis where the Appellant contends that the retail unit should be rated separately and given a separate property number. He said the Tribunal had an obligation to notify parties affected by the appeal under Section 36(2) (b). He concluded that the new additional grounds and lease agreement were not before the Tribunal as they are not included in the Notice of Appeal.

11.5 Mr. Wade contended that the shop should not be included in the valuation of the subject property and that he did not contend that the Tribunal deal with the valuation of the shop at this hearing and therefore the obligation to notify affected parties under section 36 does not arise. He said that the Appellant was only the landlord of the shop but not the rated occupier. Mr. Wade said the appeal was defined by the Notice of Appeal, the Repts form was not relevant and the core submission of the Respondent was wrong. He submits that No.7 of the Appellant's Grounds of Appeal which states "incorrect areas have been included within the valuation" is in respect of the tenant's shop and the concourse which he said should not have been rated or added to the Appellant's rate bill.

11.6 Mr. Wade said offices and bus bays are rateable, and that the areas in dispute are the concourse and shop. He argued that the Grounds of Appeal are analogous to pleadings which are a skeleton of one's argument and not one's evidence. He said the Notice of Appeal refers to the Valuation Certificate of the subject property that states that the subject property comprises of offices and a yard which he said was incorrect and that it should be a shop not an office. In reply to the Respondent's contention that a "rates holiday" would occur, he said the Respondent can revalue the shop.

11.7 Mr. Wade said the appeal was clear and the subject property had exceptional circumstances as the retail unit is a unique shop in the bus station and it is obvious it should not have been included in the valuation against the owner of the bus station in this county. He said it was necessary to keep uniformity when applying the Valuation Act 2015.

11.8 In reply, Mr. Dodd said with regard to section 35 of the Act, No. 7 of the Grounds of Appeal which refers to "incorrect areas" was not the same as subdivision of the premises. Mr. Dodd said the Appellant wants subdivision of the property and for the retail unit to be given a new property number but there is not a claim that there should be subdivision or a reference to a Third Party in the Notice of Appeal, or that the Appellant is not the rateable occupier. Mr. Dodd argued that subdivision is an afterthought. He said at no point was Patricia O'Connell (the tenant) mentioned in the representations. He said the Notice of Appeal asks for the name and address of any interested party and the reason for that person's interest and this name is only revealed in the Précis of Evidence. In conclusion, Mr. Dodd said that there was no amendment application before the Tribunal.

11.9 The Tribunal rose to consider the preliminary issue. The Tribunal, having heard Submissions from the parties, found that the issues and factors affecting the NAV relied upon and set out in the Appellant's Precis of Evidence were different to the Grounds of Appeal set out in the Notice of Appeal. The Tribunal did not agree with the Appellant's submission that No.7 of the Appellant's Grounds of Appeal which refers to "incorrect areas have been included within the valuation" is in respect of the Appellant's position that the tenant's shop and the concourse should not have been rated or added to the Appellant's rate bill. The Tribunal noted the importance of the Notice of Appeal and found that there had been addition of new grounds to the Appeal as set out in the Precis of Evidence submitted by the Appellant and that the hearing should proceed as set out in the Notice of Appeal.

11.10 At this point, Mr. Wade advised that his fallback application was to amend the Notice of Appeal as exceptional circumstances applied as the subject property was unique and that it was obvious that the shop should not have been included in the valuation. The Tribunal was not satisfied that the reason given by the Appellant amounted to exceptional circumstances and refused this application in the absence of any exceptional circumstances. Mr. Wade suggested that the Valuation certificate had to be incorrect as it has been a retail unit since 2012 and suggested that if the certificate was incorrect the practice was that the hearing should be rescheduled. Mr. Dodd argued that the Appellant had tried 3 times to adjourn the hearing and said the Notice of Appeal concerns the Certificate and suggested that the offices and yard are valued at €90 per sq. m which was agreed between the parties. Mr. Wade said there was no agreement to €90 per sq. m as the Certificate was incorrect on its face. The Tribunal decided in the circumstances that the Appeal should proceed on the basis of the Notice of Appeal and these issues can be determined therein.