

**Appeal No: VA17/5/318**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**RAYMOND HEALY**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1207870, Retail (Shops) at Floors: 0,1, 67 Mill Street, Tullow, County Carlow.

BEFORE:

**Hugh Markey – FSCSI, FRICS**

**Deputy Chairperson**

**Liam G. Daly – MSCSI, MRICS**

**Member**

**Claire Hogan - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 26<sup>TH</sup> DAY OF JUNE, 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 €7,100.

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 is not in line with its potential rental value.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €4,050.

## **2. REVALUATION HISTORY**

2.1 On the 11<sup>th</sup> 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 €9,200.

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 €7,100.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €7,100.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> 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 15<sup>th</sup> day of November, 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, SCSI, RICS 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 on Mill Street in Tullow, Co. Carlow. Other occupiers on the street include a newsagent, take away, beauty salon and a public house. Mill Street is accessed from Market Street in Tullow and there is on street parking in place.

4.3 The subject property is currently in use as a hair salon over 2 levels and enjoys return frontage on to the Old Chapel Lane.

4.4 The accommodation has been agreed between the parties;

Ground Floor : 104.47 sq. m

First Floor: 41.30 sq. m

4.5 We are advised the subject property is held freehold by the Appellant.

## **5. ISSUES**

5.1 The matter at issue is Quantum

5.2 The Appellant claims the valuation of the subject property is excessive and inequitable. It is alleged that the property's value as determined by the Commissioner is not in line with its actual rental value.

5.2 The Appellant is contending for a valuation of €4,740

5.3 The Respondent has relied on three key transactions in arriving at valuation level of €200 per sq. m. to be utilised in determining the NAV. The transactions used are not subject to Valuation Tribunal Appeals. This gives an NAV of €7,100 for the subject property

## **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 on behalf of the Appellant adopted his precis as his evidence-in-chief. Mr. Halpin explained that the subject property is a former residential property without a conventional retail shopfront, located at the junction of Old Chapel Lane and Mill Street. This is a secondary tertiary retail location, with the majority of properties beyond the subject along Mill Street being residential or office properties.

7.2 Mr. Halpin described how the surrounding retail properties are valued by the Commissioner at €170 per sq. m Zone A. Mr Halpin was of the opinion, that given the characteristics of the property (a former residential property) it should not be zoned. However, if it is to be zoned, than a more appropriate rate would be that of €170 per sq. m Zone A, reflecting what is applied to the other properties within the immediate vicinity.

7.3 Mr Halpin also believed that some consideration should be given to the subject property to reflect the lack of a retail shopfront. Mr. Halpin suggested an allowance of 10%.

7.4 Mr Halpin was of the opinion that the Commissioner has-over assessed parts of the secondary and tertiary retail in the town of Tullow. It was Mr. Halpin’s contention that the over-assessment in the areas of Bridge Street, Mill Street and Course Street was proven by the rental levels being achieved in these locations.

7.5 Mr. Halpin explained how the Commissioner was applying the following Zone A rates in Tullow:

Location	Base Rate ( Zone A)
The Square	€200/m <sup>2</sup>
Bridge Street	€200/m <sup>2</sup>
Barrack Street	€170/m <sup>2</sup>

Church Street	€170/m <sup>2</sup>
Abbey Street	€170/m <sup>2</sup>
Mill Street	€170/m <sup>2</sup>
One off Tertiary retail	€100/m <sup>2</sup>

It was Mr. Halpin's view that there was no logical reason why Bridge Street would appear more valuable than other secondary locations based on the rental levels being achieved.

7.6 Mr. Halpin also contended that the Commissioner was overstating the values being applied to 1<sup>st</sup> floor store areas in Tullow. He believed there was an inconsistency whereby ground floor stores were assessed at 10% of Zone A, whereas a rate of 25-35% is been applied to first floors.

7.7 Mr. Halpin introduced nine rental comparisons (See Appendix 1) within proximity of the subject property to support his case for reduction

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

8.1 Mr. Devlin for the Respondent adopted his precis as his evidence-in-chief.

8.2 Mr. Devlin commenced his evidence by explaining that a valuation level of €200 sq. m (Retail Zone A) was applied to the subject property which arrived at a NAV of €7,100.

8.3 Mr. Devlin stated that 3 key rental transactions were relied upon in arriving at the NAV for this valuation level of €200 sq. m (Retail Zone A). Of the 3 key transactions, none was subject to further consideration at representative stage or subject to a Valuation Tribunal appeal (See Appendix 2)

8.4 Mr. Devlin explained that equity and uniformity was utilised in compiling the NAV comparisons on the list (See Appendix 3). Mr. Devlin explained there are 61 retail properties valued at €170 sq. m (Retail Zone A) in the Carlow Rural area. At least 30 of these properties are located within the vicinity of the subject property. A total of 12 properties valued at this level made representations at the proposed valuation certificate stage and the subject property is one of three which is under appeal to the Valuation Tribunal.

8.5 Taking all of this into consideration, Mr. Devlin requested that the Tribunal affirm the valuation of the subject property appearing on the relevant valuation list as representing its Net Annual Value in accordance with Section 48 of the Valuation Act 2001 and the requirements of section 19(5).

8.6 Under cross examination the Responded reiterated his opinion that the process was fair, this was substantiated by the low number of appeals lodged. Mr. Devlin stated that out of 19 representatives made, only 5 appeals were lodged. The subject property is one of these appeals. The Appellant dismissed this argument as proof of fairness. Mr. Halpin maintained that the low number appeals reflect the cumbersome nature of the appeals process rather than ratepayer satisfaction. Mr. Halpin was of the opinion that in many circumstances ratepayers were unhappy with the rate applied but there is an imbalance in the amount of work required in what may result in a marginal reduction. Therefore, Mr. Halpin concluded that the lack of appeal should be acknowledged as a lack of engagement rather than ratepayer approval.

## **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 Carlow County Council.

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 NAV of €4,740 and Mr. Devlin on behalf of the Respondent, who sought confirmation of the Valuations Office's determination of NAV €7,100.

10.3 Mr. Halpin presented evidence showing a number of units within the vicinity being assessed by the Commissioner at a Zone A €170 per sq. m. It was the Tribunal's view that the subject property did not deviate radically from these units to qualify for a higher rental level being applied.

10.4 Mr. Halpin also contended that the Commissioner was overstating the values being applied to 1<sup>st</sup> floor stores areas in Tullow. He believed there was an inconsistency whereby ground floor stores were assessed at 10% of Zone A, whereas a rate of 25-35% is being applied to first floors. The Tribunal acknowledges this inconsistency.

10.5 Mr Halpin referred to the unconventional nature of the unit. The subject property was formerly a residential house and is now being used for retail. As a result, the premises does not have the typical characteristics of a purpose built retail premises in terms of shop front. The Tribunal was not convinced that this significantly hampered the unit’s ability to trade to justify any additional allowance.

**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 €7,100 say €5,190.

<b>Level</b>	<b>Use</b>	<b>Area</b>	<b>€/per sq. m.</b>	<b>NAV</b>
0	Retail Zone A	26.42	€170	€4,491.40
0	Store	15.01	€17	€255.17
1	Store	26.09	€17	€443.53
			<b>Total NAV</b>	<b>€5,190.10</b>

**Say €5,190.00**

And the Tribunal so determines.