

Appeal No: VA17/5/1178

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

MARY WYBRANT & CLIONA LAWLOR - MC BEAUTY

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. 1138160, Retail (Shops) at 96A/Unit 7 Tullow Street, Carlow, County Carlow**

B E F O R E

Barry Smyth FRICS, FSCSI MCI Arb

Deputy Chairperson

Pat Riney FSCI, FRICS, ACI, Arb, FIABCI, PC

Member

Frank O'Grady MA, FSCI, FRICS, FIABCI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF NOVEMBER, 2019

1. THE APPEAL

1.1 By Notice of Appeal received on the 13th 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 €17,910.

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 “*we are listed as a retail shop, we are a beauty salon. We have 3 areas to the salon- only 2 are actually used publicly. Our rent is €10,140- we were told this should bring down the valuation.*”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €10,140.

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 €19,140.

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 €17,910.

2.3 A Final Valuation Certificate issued on the 07th day of September, 2017 stating a valuation of €17,910.

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 27th day of June, 2019. At the hearing the Appellant was represented by the Mr Eamonn S. Halpin B.Sc. (Surveying) MRICS, MSCSI and the Respondent was represented by 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 located at Unit 7 Lismard House off Tullow Street, Carlow, to the side of the former Penny Lane store. The premises is an end of terrace ground floor lock-up retail outlet.

4.3 The floor areas have been agreed between the parties;

Shop 69 sq.m. Zone A 63.71 sq.m.

Zone B 5.29 sq.m.

4.4 Information on the leasehold title and rent were agreed between the parties. (Appendix 1).

5. ISSUES

The sole issue to be determined by the Tribunal is quantum.

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 stated that the subject was one of a parade of units fronting a car park and laneway to the side of the former Penny Lane store and set back from the main trading area, namely Tullow Street.

7.2 The subject is the furthest unit from Tullow Street and faces onto a laneway and side wall of the former Penny Lane store.

7.3 He stated that the premises was vacant on the Valuation Date 31/10/2015 and only let in August 2016.

7.4 He further stated that the subject was the poorest unit in the development, the last to let and this fact was reflected in the rental achieved. Also the physical location of the property rendered is similar to other secondary locations in Carlow town i.e. Barrack Street and Charlotte Street.

7.5 Mr. Halpin stated that the Commissioner had applied the same rate for the entire development and made no allowance for the actual position, physical layout or rent paid for the unit stating that it may be uniform but it was not equitable.

7.6 To support his case details of the various NAV's for Lismard House were supplied (Appendix 2), which estimated the subject property at more than double the NAV of all the other individual shop units in the development.

7.7 Further NAV comparisons for College Street and Charlotte Street were supplied to indicate the level for secondary locations (Appendix 3).

7.8 Mr. Halpin stated that a level for Zone A should be in the order of €160 /sq.m. and requested the Tribunal to reduce the NAV to €10,610.

7.9 Under cross examination Mr. Halpin stated that the development Lismard House was sold by Allsop's for €350,000 in 2015.

7.10 He further stated that Lismard House was a secondary location and that Tullow Street was the prime retail area in Carlow and that rents dropped off as one moved away from Tullow Street.

7.11 He stated that the Commissioner had erred in his approach and that the method adopted may be uniform but was not equitable.

8. RESPONDENT'S CASE

8.1 Mr. Devlin for the Respondent adopted his precis as his evidence in chief and confirmed agreement with the location, description and floor areas.

8.2 He stated that the Commissioner had applied a uniform rate of NAV to Tullow Street of €300 /sq.m. and adjusted it accordingly for Lismard House to €270 /sq.m. for Zone A.

8.3 To support his case 10 Key Rental Transactions had been taken into consideration (Appendix 4). In addition more than 100 properties were valued @ €300 /sq.m. Zone A, of which 9 properties had appeals to the Tribunal and 6 were now agreed and this was the only appeal in the Lismard House development.

8.4 Further NAV comparisons were supplied to show the relationship between Tullow Street and Lismard House (Appendix 5), he confirmed that a uniform approach had been adopted and that a reduction had been allowed as one moved away from Tullow Street.

8.5 Mr Devlin asked the Tribunal to affirm the NAV @ €17,910 as fair and equitable.

8.6 Under cross examination he confirmed that a number of rental transactions, not just one were taken into consideration to arrive at a standard level. He also stated that Lismard House had a good profile and car parking was available.

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 subject property and considered the written and oral evidence adduced by Mr. Halpin on behalf of the Appellant who contended

for a revised valuation of €10,610 and Mr. Devlin on behalf of the Respondent who sought confirmation of €17,910 as NAV.

10.3 Both parties gave quality evidence of market rents and NAV's, which the Tribunal find to be of great assistance.

10.4 Much play was made of the uniform approach adopted by the Commissioner in the case and how a level rate was applied to the Tullow Street and the immediate environs. Mr. Halpin's concerns as to the equity of the approach is well founded as the rental levels show a dramatic fall-off away from Tullow Street and in this particular case the subject is at the end of a parade of shop units.

10.5 The Tribunal has to consider the uniformity and equity in all cases and adopt a reasonable approach in accordance with the evidence provided.

10.6 In this particular case the evidence does indicate a major divide between Tullow Street and the subject property and the Tribunal's decision is to allow a further discount on the NAV in this instance.

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 €13,270.

Devalued as follows;

Ground Floor Retail ;	Zone A	63.71 sq.m. @ €200 /sq.m. =	€12,742
	Zone B	5.29 sq.m. @ €100 /sq.m. =	€ 529
			<u>€13,271.00</u>

SAY NAV €13,270.00

And the Tribunal so determines.