

**Appeal No: VA17/5/805**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015  
VALUATION ACTS, 2001 - 2015**

**IRISH NATIONAL FORESTERS BENEFIT SOCIETY**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1328892, Leisure at Floor 0,1, PT1a Market Square, Tullamore, County Offaly.

**B E F O R E**

**Eoin McDermott – FSCSI, FRICS, ACI Arb**

**Deputy Chairperson**

**Orla Coyne – Solicitor**

**Member**

**Raymond J. Finlay – FIPAV, MMII, ACI Arb, TRV, PC**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 26<sup>TH</sup> DAY OF FEBRUARY, 2020**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 12<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 €19,730.

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

*“The valuation is excessive and inequitable.*

*The appellant contends that the valuation of €19,730 is excessive as the property is available to members and honorary use only, i.e. members’ family parties. The appellant states that the ground floor is only used for AGM meetings, weekly members’ bingo and Sunday night “25”*

*card game. The bar counter on the ground floor is not in use. The property is registered under the Registration of Clubs Act and cannot trade to the public.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €6,570.

## **2. REVALUATION HISTORY**

2.1 On the 3<sup>rd</sup> 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 €36,500.

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 €19,730

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €19,730.

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 31<sup>st</sup> day of October, 2019. At the hearing the Appellant’s representative Mr. Thomas Martin appeared in person and the Respondent was represented by Ms. Clair Power BBLs (Hons), BSc. (Hons) Prop, of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, Mr Martin had submitted a letter and Ms. Power had submitted her précis of evidence both letter and précis of evidence were exchanged between the parties prior to the commencement of the hearing and each submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted their letter and précis as his/her 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.

The property is a period detached two storey property built in 1903. It is situated on Church Street, Tullamore, Co. Offaly. It has a large shopfront display windows on the ground floor. The ground floor had at one stage been used as a furniture store. The ground floor now has a disused bar, a small kitchen and bar store. The first floor has a bar, snooker tables and an office/committee room.

#### **5. ISSUES**

5.1 The sole issue in this case is one of 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 The Appellant was represented by Thomas Martin Trustee of the Society known as the Irish National Foresters Benefit Society. Mr. Martin told the Tribunal at length of how this Society came into being. It has been in existence for 120 years and is the last remaining branch in Ireland. He further stated that the Society provides services to the local community. He advised

that it is a not for profit organisation but it is not a charity and it is not registered as such. He further went on to say that the premises should be exempt, that there is no outside advertising, that the social activities which are carried on within the premises are bingo, card games, darts and there is a small bar in operation upstairs.

7.2 He further explained while the Society provides a number of social activities as outlined above, it also provides a death benefit insurance payment for each member. However, each member has to contribute a small membership fee on a voluntary basis. When asked by the Tribunal whether the premises is registered under the 1904 Clubs Act, he said that it was and it was licensed to sell alcohol. The Society is also under the auspices of the Central Bank and therefore has to provide audited accounts every year.

7.3 There were two bars in the premises. However, because there are declining member numbers the Society has ceased using the ground floor bar which is 190.7sq m<sup>2</sup>. The bar downstairs while still in situ has not been used for a number of years and has been decommissioned. He went on to state that to remove the bar downstairs would cost approximately €10,000, so it was left there because they did not have the money to spend on its removal.

7.4 The Society charges people who play bingo in their premises but any money obtained is only for the benefit of the Society's members. Both members and their guests can play any of the social games that are held on the premises. All activities carried on in the premises are for the members and their guests only.

The Appellant did not agree with the calculation of the floor area as being 533.51m<sup>2</sup> by the VO. However, he did not elaborate on why he did not agree with this calculation. He further reiterated that the Society is not a charity but a club. The Appellant said that generally if part of a property ceases to be used no rates apply to same. He was therefore seeking the removal of the downstairs area of the premises from the total area being rated.

Ms Power asked the Appellant whether the whole building was licensed upstairs and downstairs and he said that it was.

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

8.1 Ms. Power on behalf of the Commissioner said that the property was a two storey building in Tullamore close to the main street. From the outside looking towards the building it looks

like a shop/retail premises. The lower part of the premises had been a furniture shop at one stage. It now has a bar not in use and a small kitchen and store. The property was valued in 2017 at €36,500. When it was valued in 2017 the level applied was the same as used for offices in a period house similar to those in the locality. However, at Representative Stage a decision was made to value the property as a clubhouse.

8.2 Ms Power was asked by the Tribunal to explain the difference in the floor area as at the initial re-valuation the floor area was 398.02 m<sup>2</sup> compared to the amended valuation before the Tribunal of 533.31 m<sup>2</sup>. She referred to the Appellants appeal and the VO's revaluation report where the premises was taken out of the office category and regarded as a club. She said that the premises was now measured on a Gross External Area basis, the basis applicable to clubhouse premises in the Code of Measuring Practice. It had been previously been measured on a Net Internal Area basis applicable to offices.

8.3 Ms. Power gave evidence on her three clubhouse comparators, noting that values ranged from €35 per m<sup>2</sup> to €50 per m<sup>2</sup>. Her opinion was that the use of the property fell within the parameters set out in Schedule 4 Section 4B of the Valuation Acts 2001-2015, which sets out exclusions whereby relevant property that may otherwise be exempt remains rateable. The presence of a bar on both floors, even where the ground floor bar was no longer in use, meant that the area must be valued as if there is a fully operational bar on both floors.

8.4 Ms Power put forward five NAV comparables, three of which are clubhouses, the fourth offices in a period house and the fifth a retail unit, all within the Tullamore area. Details of the clubhouse comparisons are included in the Appendices.

Ms Power advised that it is a matter for an individual to apply for vacancy relief if he believed that an area was not in use.

### **Cross Examination by Appellant.**

The Appellant asked Ms Power as the bar is decommissioned downstairs how can it still be regarded as an area that ought to be valued as if there is a bar situated in that part of the premises? Ms Power responded that the bar does not need to have all the physical attributes of a bar once it is a part of the premises and is capable of selling alcohol. She went on to say that not every bar would have beer taps. The Appellant also put to Ms Power whether or not the physical removal of the bar would reduce the rateable valuation of the premises, she replied no

because one would have to look at its use. The issue is whether or not it is capable of selling alcohol. If it is capable of selling alcohol then it is rateable. For an area to be exempt it would have to come within Schedule 4 of the Valuation Act 2001 as amended and the VO would need to know what the room was going to be used for.

The Appellant asked Ms Power whether the VO assumed that the Appellant has commercial activities on the ground floor, the VO said no because the VO has to value the premises as a club house not as a retail unit. The Appellant was asked whether for instance under the first comparator were allowances made for example the toilets, the VO responded that the toilets associated with the bar would be valued, if however the toilets were associated with changing rooms the toilets in that instance would not be valued. Ms Power further stated that the downstairs area has to be valued as such because it has a bar, and the use of the room, in this instance has other income generating activities for the Society.

The VO has to consider the approach a hypothetical tenant would take. The licence for the premises covered both upstairs and downstairs and there are bars on both floors.

### **Summation :**

The Appellant accepts that the premises is rateable, that they carry out a commercial activity on the top floor for members and guests but they do not accept that they are doing the same on the ground floor. What they carry out on the ground floor, namely bingo, and card games is for the benefit of the community. He requested that the ground floor be removed from the rateable valuation.

The Respondent said that the Appellant had not provided any evidence for a further reduction in the valuation. The VO has valued the premises as a clubhouse, they have produced a number of comparables that proves the valuation is on the lower end of the scale of those that have already been valued, the VO cannot accept the request of the ground floor be removed from the valuation because there is a bar on the ground floor and just because it is not in use is not sufficient for it not to be valued.

## **9. SUBMISSIONS**

9.1 None.

## **10. FINDINGS AND CONCLUSIONS**

10.1 On this appeal the Tribunal has to determine the value of the premises so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the premises as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Offaly County Council.

10.2 The Tribunal finds that the valuation of the property as a clubhouse is correct. The occupier is not a charity and therefore the property is not exempt from being valued. The Tribunal relied especially on the comparators relating to clubhouses as shown in Appendix 1-3 attached.

10.3 The Tribunal finds that the hypothetical tenant would look at the premises as being near the city centre of Tullamore. There are alternative uses that the property could be put to, for instance there was at one stage a furniture shop on the lower ground floor. There is an economic activity being carried out in relation to the bar upstairs and the bingo downstairs. Therefore, money is being taken from the public in the form of members and their guests.

10.4 There is still a bar downstairs notwithstanding that it is not in use but it could be brought back into commission if the Society was of a mind to do so. Therefore the Tribunal does not believe that the ground floor area should be taken out of the equation of the valuation of the premises as a whole.

### **DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent

And the Tribunal so determines.