

Appeal No: VA19/5/0586

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

HEAD VIEW LTD

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1321042, Hospitality at Local No/Map REF: 24DB Callystown, Clogher,
County Louth.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF APRIL, 2024**

BEFORE

Killian O'Higgins - FSCSI, FRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th day of October, 2019 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 €3,300.

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:

(a) "The Valuation is incorrect, in 1990 a group of Seven families took up an offer to purchase the caravan park that they were rent in Callystown, Clogherhead, Co Louth and since then the same seven families continue to make full personal use of their caravans each year."

(b) "As the total capacity of the site was for 11 caravans and in order to defray site maintenance and other costs they decided to rent out the additional four sites to friends and neighbours at the current rate of €950 each per year."

The only reason a limited company was formed was due to the prohibitive cost of insuring the property. The accumulated losses for the last 28 years is €5,638 and in that time the owners/shareholders never received a dividend nor did the directors receive remuneration for their services to the company.

(c) "In our opinion it is not operated wholly as a commercial activity.

Approximately 5 or 6 years ago Louth County Council had the property revalued and the rates paid for the past few years was €150 which we would consider fair."

1.3 The Appellant considers that the NAV ought to have been determined in the sum of €750 or, alternatively, €1,200.

2. RE-VALUATION HISTORY

2.1 No evidence was offered as to the date 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 a certain amount.

2.2 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €3,300, calculated at 11 units x €300.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is the 15th day of September 2017.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 Only the Appellant submitted evidence following the Tribunal's directions. No evidence was advanced on behalf of the Respondent.

4. FACTS

4.1 The Appellant advanced the following limited facts in a submission by Feran & Co., Solicitors, dated the 14th Day of March 2022. The submission did not accord with the Valuation Tribunal (Appeals) Rules 2019, nevertheless the Tribunal proceeded to consider the appeal in the interests of justice.

4.2 The Property was described as a “private caravan park” located at Callystown, Clogherhead, Co. Louth. In 1992, electricity, water and sewage connections were installed and a storage shed was also built.

4.3 There is a total capacity of eleven caravan units (referred hereinafter by the Tribunal as “stands”) on the Property, seven of which were used by the original seven families which purchased the Property and only four of which were "rented out" to family connections at a cost of €950.00 each per year.

5. ISSUES

5.1 Quantum is the only issue in dispute.

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 Feran & Co., Solicitors, advanced arguments on behalf of the Appellant in its submission dated the 14th day of March 2022.

7.2 In 1991 a group of seven families acquired the Property, that they were previously renting (along with four others). The Property was developed in 1992 with electricity, water and sewage connections being installed and a storage shed was also built.

7.3 Since acquisition, the seven families continue to make full personal use of their caravan units each year. All users are obliged to bring and use their own caravan at their own cost.

7.4 Head View Limited was incorporated solely for insurance purposes, due to the prohibitive cost of insuring the Property as individuals. A member of each of the seven families is a director of Head View Limited. A Company Report from Vision Net dated the 11th day of March 2022 was provided.

7.5 There is a total capacity of eleven caravan stands on the Property, seven of which were used by the original seven families which purchased the Property and only four of which were "rented out" to family connections at a cost of €950.00 each per year. The total income from the four units of €3,800.00 is used to defray maintenance costs and upkeep of the Property, such as the cost of grass cutting, and the payment of rates.

7.6 Feran & Co stated that the Property was not a commercial enterprise and is not open to the public. The consent of the company must be obtained for a new renter to occupy a site and if granted the new user must provide their own caravan of a size permitted by the company. A “standard Agreement” used by the company in respect of the four stands used by non-directors was provided, although it does not appear to include a figure for rent. “Open units” were offered first to family members of the existing directors.

7.7 Feran & Co. contended that there were no comparable properties for the purpose of the NAV calculation as all of the other caravan parks in Clogherhead, and County Louth in general, were commercial enterprises, open for business to members of the public.

7.8 The accumulated losses of the company for end 2018 were €5,638.00. The owners/ shareholders have never received a dividend from the company and the directors do not receive remuneration for their services to the company. Copies of Annual Reports and Unaudited Financial Statements for Head View Limited for the years 2019 and 2020 were supplied demonstrating a small profit of €294 in 2019 and a small loss of €77 in 2018.

7.9 In 2019, annual rates were paid on the property in the sum of €149.86 which the owners accepted as fair and reasonable. This was based on a ratable valuation of the site from 1998

being IR£2.25 commercial and IR£21.00 domestic. Therefore, the commercial percentage of the entire site is 9.68%. Based on the current rate of Louth County Council, in order to continue paying rates in the approximate sum of €150.00, Feron & Co for the Appellant, contended that the appropriate Valuation of the Property should be €750.00.

7.10 Feron & Co alternatively contended that the maximum valuation should, be 9.68% of €3,300, i.e. €328.68 or as a further alternative, at a maximum, the new NAV should be €1,200.00 on the basis that only four of the eleven units were let/rented out.

7.11 Feron & Co stated that the Valuation was “punitive and unmaintainable” and the company would be required to increase the annual cost of the letting of the four units in order to cover same should the new Valuation not be amended.

8. RESPONDENT’S CASE

8.1 No submission was received from the Respondent.

9. SUBMISSIONS

9.1 Feron & Co’s submission on behalf of the Appellant addressed quantum only. No legal submissions were advanced.

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 Louth County Council.

10.2 Feron & Co stated that four of the stands were “rented out” to family connections at a cost of €950.00pa., confirming the total income from the four units of at €3,800.00pa which is used to defray maintenance costs and upkeep of the Property, such as the cost of grass cutting, and the payment of rates. The €950pa rent per stand significantly exceeds the Respondent’s assessment of €300pa per stand, likely, taking account of the fact the €950pa is a gross rent before expenses – however as there was no evidence filed by the Respondent, the approach to arriving at €300pa per stand is not known. Although no evidence was advanced on a ‘Receipts & Expenditure’ basis of valuation by the Appellant, accounts were provided demonstrating a very small profit of €294 in 2018 and a very small loss of €77 in 2019.

10.3 Feron & Co stated that the Property was not a commercial enterprise; evidence was provided that the Appellant company had been incorporated and it collected rent which was calculated to cover expenses to include rates.

10.4 Feron & Co. contended that there were no comparable properties for the purpose of the Valuation process as all of the other caravan parks in Clogherhead and County Louth in general were “commercial enterprises”, open for business to members of the public. No effort was made to examine valuations in other counties or to analyse “commercial

enterprises” in Co. Louth from which conclusions as to comparability with the Property and its NAV might be drawn.

10.5 No argument on a Receipts & Expenditure basis of valuation was advanced by Feran & Co, and therefore neither the accumulated losses of the company nor the absence of dividends or director remuneration are relevant to the Tribunal’s consideration of quantum.

10.6 In contending for a valuation of €750, Feran & Co referenced the approach to the valuation adopted in 1998. This historic approach to the valuation assessment predated the Valuation Act 2001 (as amended), No claim was advanced that the approach adopted by the Respondent did not comply with the Valuation Act 2001 (as amended) - only quantum was in contention.

10.7 The fact that only four stands were rented out does not mean that the other seven stands have no rental value. The evidence advanced by Feran & Co for the Appellant was that a rent of €950pa rent was received for each of the four stands. This is *prima facie* evidence that each stand has a gross rental value of €950pa.

10.8 No evidence was offered by Feron & Co to demonstrate their contention that the valuation was “punitive and unmaintainable”. The fact that the Appellant might be required to increase the annual cost of the letting of “the four units” in order to cover an increased rates liability is a commercial matter between the Appellant and its tenants or licencees – any such increase is not relevant to the Tribunal in considering the valuation.

10.9 Other than their own unsupported opinion, Feran & Co. offered neither other comparable evidence nor expert advice to support their opinion that the valuation of the subject property was excessive. No evidence was advanced in relation to comparable properties on the County Louth List or other County Lists which might challenge the Respondent’s valuation of €3,300. Unsupported by expert evidence, Feran & Co were of the opinion that comparable evidence did not exist on the Louth County Council List.

10.10 In appeals before the Valuation Tribunal, the onus of proof strictly rests with the ratepayer – the Appellant. The Appellant has failed to prove its case.

DETERMINATION:

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

RIGHT OF APPEAL:

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal’s determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal’s Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.