

**Appeal No: VA22/3/0018**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**DILLON WASTE UNLIMITED COMPANY**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 5024353, Warehouse/Warerooms/Yard at Buntalloon, Monavalley, Tralee,  
County Kerry.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 3<sup>RD</sup> DAY OF APRIL, 2024**

**BEFORE**

**Allen Morgan - FSCSI, FRICS**

**Tribunal Member**

**1. THE APPEAL**

- 1.1 By Notice of Appeal received on the 7<sup>th</sup> day of September, 2022 the Appellant appealed against the determination of the Respondent pursuant to which the rateable value of the above relevant Property was fixed in the sum of €470.
- 1.2 The valuation of the Property falls to be determined from a decision made by the revision manager under section 28(4) of the Valuation Act 2001 as amended ('the Act') that a material change of circumstance occurred since a valuation under section 19 of the Act was last carried out in relation to the rating authority area in which the Property is situate Accordingly, the value of the Property must be ascertained by reference to values, as appearing on the existing valuation list for the rating authority area wherein the Property is situated of other properties comparable to the Property.
- 1.3 The sole ground of appeal as set out in the Notice of Appeal is that the valuation of the

Property is incorrect as it does not accord with that required to be achieved by section 49 of the Act because, quoting directly from the Notice that:

*“(a) The Valuation is Incorrect*

*We appealed the original proposed valuation certificate but did not receive a reply to our appeal other than a confirmation email of submission of online appeal.*

*To date, we have not received a breakdown of the calculation of the Valuation Rate of €470.00 and believe this rate to be excessive.*

*We operate another facility at our site in The Kerries, Tralee, Co. Kerry (Property Number 2161439) with an RV rate of €358. Our site in The Kerries includes a Mixed Dry Recyclables Processing Plant. Our new site in Monavalley does not have a Mixed Dry Recyclables Processing Plant.*

*A similar site in the environs of Tralee to our Monavalley site (Warehouse/Transfer Station with No Dry Recyclables Processing Plant - Property # 2161435) has an RV of €215.00. We have also reviewed other Warehouse/Warerooms/Office/Yard sites in Monavalley and Clash in Tralee and smaller sites from €21 to €321 (sample properties 2167885, 1543191)*

*There are some buildings within the area with a rate of €50. We believe that a rate of €150 would be a fair rate as this is a new building/site that will be opened on a phased basis and will not be generating additional revenue.*

*Please send on valuation report so that this report can be reviewed.”*

1.4 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €150.

## **2. VALUATION HISTORY**

2.1 On the 14<sup>th</sup> of December, 2021, a copy proposed valuation certificate issued under section 28(6) of the Act in relation to the Property was sent to the Appellant indicating a valuation of €470.

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 manager did it not consider it appropriate to provide for a lower valuation.

2.3 A final valuation certificate issued on the 12<sup>th</sup> day of August, 2022 stating a valuation of €470.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is **15<sup>th</sup> day of September, 2019.**

### **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 The Appellants, the Dillon family, the Owners of Dillon Waste Unlimited Company and the subject property, represented themselves in submitting their own appeal.

3.3 Mr. Conor Murphy, witness for the Commissioner of Valuation, represented the Respondents.

3.4 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

3.5 Supplementary Information provided by the parties at the request of the Tribunal in relation to their precis of evidence:

A. Agreement on areas.

B. Copy of Valuation Report prepared by Commissioner of Valuation

C. Confirmation by VO of reason giving rise to Material Change of Circumstances.

### **4. FACTS**

4.1 The parties are agreed as to the following facts.

4.2 The subject property comprises a recently constructed warehouse of portal frame construction, with concrete block walls and double clad sheeted roof.

Three floors of offices, are located within the warehouse building, situated on its east side (front) elevation. Adjoining this building, on its north flank, there is a reinforced concrete yard, of a stated 2,500sqms in size, with bays, and two weighbridges.

The subject property is located within the Monavalley Industrial Estate on the North side of the town of Tralee, Co. Kerry.

The floor areas, which are agreed, are as follows:

Use	Floor	Sqm	NAV €	Total NAV €(sm)
Office	0	217.58	41.00	8,920.78
Office	1	195.11	41.00	7,999.51
Office	2	195.11	41.00	7,991.51
Warehouse	0	2,374.42	27.30	64,821.66
Weighbridge	0	2 (units)	1000	2,000
Yard/concrete	2	2,500	1.37	3,425.00

The premises are in use as a materials recycling facility.

The documents provided by the parties do not precisely identify its date of construction; however, by reference to the photographic appendix included in the Respondents submission, the building is evidently of very recent construction. It is stated to be in excellent condition, a statement which the photographs bear out.

4.3 **Title:** The property is held in freehold.

## 5. ISSUE(S)

5.1 The single issue in this appeal is one of Quantum.

## 6. RELEVANT STATUTORY PROVISIONS:

6.1 All references to a particular section of the Valuation Act 2001 ('the Act') refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act, 2015.

6.2 Section 3(1) of the Act, defines "material change of circumstances" as meaning a change of circumstances that consists of:

- (a) The coming into being of a newly constructed relevant property or of a relevant property or
- (b) A change in the value of a relevant property caused by the making of structural alterations or by the total or partial destruction or other erection by fire or any other physical cause, or
- (c) The happening of any event whereby any property or part of any property begins, or ceases, to be treated as a relevant property, or
- (d) The happening of any event whereby any relevant property begins, or ceases, to be treated as a property falling within *Schedule 4*, or
- (e) Property previously valued as a single relevant property becoming liable to be valued as 2 or more relevant properties, or

(f) Property previously valued as 2 or more relevant properties becoming liable to be valued as a single relevant property.

6.3 So far as material to this appeal, the Tribunal is obligated to rely upon the written evidence provided to the Tribunal by the respective parties.

6.4 **Material Change of Circumstances.**

The Appellants, in their evidence and associated appendices, do not make reference to, or identify, the nature of the material change of circumstances, and have chosen simply to contend that the valuation placed by the Respondents upon the property is incorrect by reference to a number of comparisons they have adduced, stated to be of similarly circumstanced properties in the locality and that in that context, the Respondents valuation is thus excessive.

The Respondents confirm that the Material Change of Circumstance (MCC) criteria was satisfied in accordance with provision (a) *“the coming into being of a newly erected or newly constructed relevant property or of a relevant property”*.

The Respondents also clarified the subject property did not exist on the valuation list prior to this Revision process, hence it’s compliance with MCC provision (a) set out above. The new building is set on the site of a former abattoir which was destroyed by fire c. 2006. This abattoir was previously valued under PN 1034941. A revision was subsequently carried out in 2006 / 2007 whereby the valuation was struck out (see attached). The development as per planning application referenced in the report was not carried out.

Following construction of the subject building, Kerry County Council applied for a revision to value the new build on the subject site. For your benefit, I have also attached a screenshot from Google Streetview, captured in June 2009 showing the brownfield site upon which the subject property was constructed.

The Valuation Report furnished by the Respondent, further clarifies that an earlier industrial property which had stood on the same site was demolished in or around 2007, since when the site, once cleared of the rubble, remained vacant and unused, (with the previous RV being derated to €0.00), up until the date that the new building, the subject of this appeal, was constructed.

6.5 If a revision manager is satisfied that a material change of circumstances as defined by section 3 of the Act has occurred since a valuation under section 19 of the Act was last carried out in the rating authority area in which the Property is situated, the revision manager has power under section 28(4) (i) of the Act having regard to the facts pertaining in this case, to amend the valuation of the property as it appears on the list.

6.6 Where a property falls to be valued for the purpose of section 28(4) of the Act that value is ascertained in accordance with the provisions of section 49 (1) of the Act which provides:

*“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.”*

## **7. APPELLANT’S CASE**

7.1 The Appellant’s Précis, a succinct submission dated 27.1.2022, states that:

1. *The warehouse building RV is assessed, based on other warehouse buildings in the surrounding area. We note there is no other warehouse in the area with such a basic level of internal finishing.*

*All other warehouses in the area are used as production/manufacturing areas or units for storage and distribution, occupied, serviced, fitted out and controlled to facilitate a comfortable working environment for their staff. The use of this warehouse is a Waste Transfer Facility. The daily operations include bin lorries tipping their loads throughout the day into segregated warehouse areas via an excavator for transportation away from the site. We request that the warehouse be revalued to reflect the actual use.*

2. *The warehouse, wall to wall measures 72m length x 36m width. Total Ground Floor Area = 2,592 sqms. Deduct the size of the Ground Floor Office 217.58 sqms. The Warehouse Actual Area for Ratable Valuation is= 2,374 sqms. The Valuation Office Report RV Warehouse measure of 2,421.68 sqms needs to be revised to reflect the actual size.*
3. *We note 2,500sqms of the yard is included in the RV. This area is from our own measurements; we assume to the front/south side of the warehouse building. This yard area contains the warehouse access road and parking area for bin lorries, artic lorries and operational staff parking. The yard space is not presented as an area for customers/potential customers to park in. The yard does not represent the same value as other warehouse yards in the vicinity that offer sales services to the general public. We request the Valuation Office review the yard actual use when determining the Yard RV.”*

### **Appellants case in summary:**

- the Appellants are contending for a rate for the subject as a whole that reflects the specific business/use to which the unit is being put, as compared with uses of a different nature being carried out in comparator units.
- They challenge the correctness of the floor areas as measured by the Valuation Office.
- They challenge the rate applied by the Valuation Office to the Yard space, again in terms of the specific use.

**Reduction in rates:** The Appellants seek a reduction in the Respondents RV of the subject property, having lodged a Standard Revision Appeal dated 7.9.2022 to the

Valuation Office referencing the above issues. They note that, other than an acknowledgement to the original valuation certificate they did not receive a reply to their appeal apart from an emailed confirmation of their on-line appeal. They state that they did not receive a breakdown of the calculation of the Valuation Office of €470.00.

**Appellants comparisons:** They have stated that they believe this rate to be excessive by reference to comparisons, identified and recited below, that they believe are relevant to their appeal:

*“We operate another facility at our site in The Kerries, Tralee, Co. Kerry (Property Number 2161439) with an RV rate of €358. Our site in The Kerries includes a Mixed Dry Recyclables Processing Plant. Our new site in Monavalley does not have a Mixed Dry Recyclables Processing Plant.*

*A similar site in the environs of Tralee to our Monavalley site (Warehouse/Transfer Station with No Dry Recyclables Processing Plant - Property # 2161435) has an RV of €215.00. We have also reviewed other Warehouse/Warerooms/Office/Yard sites in Monavalley and Clash in Tralee and smaller sites from €21 to €321 (sample properties 2167885, 1543191)*

*There are some buildings within the area with a rate of €50. We believe that a rate of €150 would be a fair rate as this is a new building/site that will be opened on a phased basis and will not be generating additional revenue.*

*Please send on valuation report so that this report can be reviewed.”*

7.2 **Related Appellant correspondence: - see Appendices at rere. (Appendix C, N/A to public).**

- Letter dated 13.10.2022 from the Appellants to the Valuation Tribunal summarising the sequence of their Appeal. (*Appendix G of Appellants Appendices A-H*).
- Letter dated 2.11.2023 from the Appellants to the Valuation Tribunal confirming the Appellants intention of having their case referred to the Valuation Tribunal for determination.

## 8. RESPONDENT’S CASE

8.1 In his precis, Mr. Murphy, the Respondents witness, documents his engagement with the Appellant as follows:

### **8.1.1 Representations Stage – Evidence put before the Valuation Manager**

*Representations received dated 21/01/2022 stated “We find the valuation excessive compared to similar properties in Tralee and will submit information in the coming days. We have had delays in pulling information together due to the Christmas break and the difficulty in getting information with the number of staff off due to Covid19.*

### **8.1.2 Consideration of Appellant's Representations**

Mr. Murphy's response to the representations received (as recited immediately below) are at 8.2. and 8.3 below:

*" I reply in response to your additional rep's information submission dated 27/01/2022. In relation to point*

*(1) on your document your property has been valued in line with the tone of the list for comparable properties in Monavalley and Clash industrial estate in Tralee. The fitout internally and recycling use of the property is not a key part of the property valuation. The property is of a modern construction with reinforced concrete walls and 9 metre eaves which could possibly make it a higher specification building compared to other industrial properties in the vicinity.*

*(2) In relation to point 2 on your submitted document you state that the warehouse is 72m length x 36m width. On inspection I measured the property on a gross external area (GEA) basis which is standard for industrial properties and found the warehouse area to be 2421.68 square meters when measured by gross external area (GEA). I measured the total ground floor area to be 2639.06sqm (GEA). I can only presume the 72m X 36m measurement provided by the appellant is gross internal area (GIA) and not gross external area measurement which is standard for this industrial type of property.*

*(3) In relation to point 3 on your submitted document the area I have measured as usable yard is on the south side of the warehouse and is not an area used for customer parking. This area is a conservative measurement of what is occupied by concrete bays and waste storage/sorting which is a necessary part of performing the duties of the main warehouse building and hence has been valued as a yard in use by the main warehouse property".*

### **8.2 Outcome by Respondents following Consideration of Representations**

Mr. Murphy stated that the representations were considered in full, and it was decided that no change would be made to the valuation.

### **8.3 Respondents opinion of the Grounds of Appeal.**

Mr. Murphy's contention in his evidence is that the Appellant's valuation is incorrect. He states that the Appellants valuation has been based on a comparison of the subject property with other similar properties valued in the Tralee area such as PN: 2161439 (also run by Dillon Waste), and also to similar properties PN:2161435, 2167885 and 1543191. Mr. Murphy notes that summary in the Appellants precis asserts that the aforementioned PN references are similar properties in the Tralee area, valued at a lower level than the subject. Mr. Murphy states that he will provide commentary on the issues raised and the evidence adduced by the Appellant in support of those grounds.



**8.3.1 Respondents note the history of Appellants stages of appeal of the subject.**

Representations Stage	€150
On notice of Appeal	€150
In Appellants Submissions	€150

**8.3.2 Respondents review of Evidence relied upon by the Appellant.**

The appellant has relied upon comparable properties and documentation submitted in appendices as his supportive evidence. The comparative properties the appellant has provided are PN's: 2161439, 2161435, 2167885 & 1543191.

**Property 1. PN:2161439**

<b>Property Number</b>	2161439
<b>Occupier</b>	Dillon Waste Unlimited Company
<b>Address</b>	The Kerries, Tralee
<b>Total Floor Area</b>	3586 sq.m
<b>RV</b>	RV €358

<b>Level</b>	<b>Description</b>	<b>Size sqms</b>	<b>NAV per sqm</b>	<b>Total</b>
0	Workshop	3,398.70	€20.50	€69,673.35
0	Offices	141.40	€30.75	€4,348.05
0	Store	46.20	€13.66	€631.09
0	Yard	753.75	€0.68	€512.55
	<b>Total</b>			<b>€75,165.04</b>
	<b>RV @ .005</b>			<b>€375.82</b>
	<b>RV say</b>			<b>say €358</b>

Property number 2161439 is occupied by the appellant and located in a peripheral location on the West side of Tralee and not in an Industrial estate. This property is in an inferior location and has much smaller warehouse dimensions and a low eaves height. Property is not an equal comparison to the subject property.

**Property 2. PN:2161435**

<b>Property Number</b>	2161435
<b>Occupier</b>	Higgins Waste and Recycling
<b>Address</b>	Ballyvelly, Tralee
<b>Total Floor Area</b>	431.25 sq.m

<b>RV</b>	RV €54
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<b>Level</b>	<b>Description</b>	<b>Size sqms</b>	<b>NAV per sqm</b>	<b>Total</b>
0	Canopy	67.32	€13.67	€920.26
0	Offices	97.86	€30.74	€3,008.22
0	Store	333.39	€20.50	€6,834.46
<b>Total</b>				<b>€10,762.94</b>
<b>RV @ .005</b>				<b>€53.81</b>
<b>RV say</b>				<b>€54</b>

Property number 2161435 is another waste recycling plant also located on the West periphery of Tralee. This property is located in an inferior location when compared to the subject of the appeal. This property consists of older more basic buildings.

**Property 3. PN: 2167885**

<b>Property Number</b>	2167885
<b>Occupier</b>	Tralee Printing works
<b>Address</b>	Monavalley, Tralee
<b>Total Floor Area</b>	367.35 sq.m
<b>RV</b>	RV €50

<b>Level</b>	<b>Description</b>	<b>Size sqms</b>	<b>NAV per sqm</b>	<b>Total</b>
0	Warehouse	367.35	€27.34	€10,043.35
	<b>Total</b>	367.35		<b>€10,043.35</b>
	<b>RV @ .005</b>			<b>€50.22</b>
	<b>RV say</b>			<b>€50</b>

Property number 2167885 is a small industrial warehouse located in the Monavalley Industrial Estate. This property is 367.35sqm and is far smaller than the appealed property and does not have a large yard and associated facilities.

**Property 4. PN:1543191**

<b>Property Number</b>	1543191
<b>Occupier</b>	Atlantis International Industries
<b>Address</b>	Clash industrial estate, Tralee

<b>Total Floor Area</b>	6,606.94 sq.m
<b>RV</b>	RV €630

<b>Level</b>	<b>Description</b>	<b>Size sqms</b>	<b>NAV per sqm</b>	<b>Total</b>
0	Factory	1,517.10	€17.30	€26,245.83
0	Offices	939.00	€30.75	€3,008.22
0	Warehouse	4,150.84	€15.72	€65,251.20
0	Tanks	Non bulk	€5,940.00	€5,940.00
	<b>Total</b>			<b>€126,311.28</b>
	<b>RV @ .005</b>			<b>€631.56</b>
	<b>RV say</b>			<b>€630</b>

Property number 1543191 is located in Clash Industrial Estate on the Eastern side of Tralee far from the Subject property. This is a large factory and is a much larger property than the subject property and is a 1970s property with lower 6 metre eaves. This factory has been valued at the lower level taking quantum into consideration. It is not comparable to the subject property.

#### **8.4 Mr. Murphy's Commentary on his basis for valuing the subject property in the context of Appellant's arguments adduced.**

The subject property was valued in accordance with S.49(1) of the Valuation Act 2001 2020 which states:

*"49.—(1) If the value of a relevant property (in subsection (2) referred to as the "first mentioned property") falls to be determined for the purpose of section 28 (4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property"*

#### **Mr. Murphy's concluding observations on the Appeal.**

Mr. Murphy contended that the properties submitted to the tribunal by the Appellants as comparable evidence, are not directly comparable to the subject property in terms of size, location and type.

Mr. Murphy contended that the appellant's precis of evidence does not comply with the Rules of the Valuation Tribunal.

## 8.5 Mr. Murphy's Response to the detail of the Appeal.

### 8.5.1 Introduction

*"Having reviewed the grounds of appeal submitted by the appellant, below are my responses to the issues raised.*

*The valuation of the subject property is determined by reference to the values, as appearing on the valuation list relating to the same rating authority area as the property is situate in, of other properties comparable to that property – Section 49 (1) Valuation Act 2001 as amended by the Valuation (Amendment) Act 2015.*

*The subject property was inspected on the 18th of October 2021 for Revision stage.*

*The property comprises of a warehouse, three storey offices, 2 weighbridges & concrete yard occupied by Dillon Waste Unlimited Company.*

*At inspection the property was in an almost finished state and all the property was sealed and internal walls, external windows etc had been installed.*

### 8.5.2 Equity and Uniformity

*The respondent relies on 4 properties that share similar characteristics and are situated in the same Local Authority area to support the valuation on the subject property. Please find in the next pages (other) selected comparisons that share similar characteristics that are located in Kerry County Council rating area."*

## 8.6 RESPONDENT'S NAV COMPARISONS

### 8.6.1 Comparison 1 PN: 1141143

<b>Property Number</b>	1141143
<b>Occupier</b>	TOLERANCE TECHNOLOGIES LTD
<b>Address</b>	Monavalley Industrial Estate Tralee
<b>Total Floor Area</b>	2,280.47 sq.m
<b>RV</b>	€380.92

<b>Level</b>	<b>Description</b>	<b>Size sqms</b>	<b>NAV per sqm</b>	<b>Total</b>
0	Warehouse	1,313.76	€27.30	€35,865.65
0	Warehouse	81.6	€30.74	€2,508.38
0	Store	74	€27.30	€2,020.20
	Plant room	34.98	€20.49	€716.74

	<b>Total</b>	1,469.36		<b>€41,110.97</b>
	<b>RV @ .005</b>			<b>€205.55</b>
	<b>RV say</b>			<b>€205</b>

### Commentary on Comparison 1.

1. This property located is in the Monavalley Industrial Estate circa 200m from the subject property under appeal.
2. Main workshop valued at €27.30 per square metre which is that same as the subject property at €27.30 per square metre.
3. Comparison 1 is a modern property of construction similar to the subject property under appeal.

Representations Received	No
Represented by an Agent	No
Appealed to the Valuation Tribunal	No

### 8.6.2 Comparison 2 PN: 1141143

<b>Property Number</b>	1141143
<b>Occupier</b>	Econ Fuels
<b>Address</b>	Monavalley Industrial Estate
<b>Total Floor Area</b>	341.74sqm
<b>RV</b>	RV €36

<b>Level</b>	<b>Description</b>	<b>Size sqms</b>	<b>NAV per sqm</b>	<b>Total</b>
0	Workshop	186.30	€27.34	€5,093.44
0	Store	155.44	€13.66	€2,123.31
<b>Mezz</b>	<b>Total</b>	341.74		<b>€7,216.75</b>
	<b>RV @ .005</b>			<b>€36.08</b>
	<b>RV say</b>			<b>€36</b>

### Commentary on Comparison 2

1. This property located is in the Monavalley Industrial Estate close to the subject property.
2. Main workshop valued at €27.34 per square metre which is similar to subject property at €27.30 per square metre.

- Comparison 2 is a modern property of construction similar to the subject property under appeal.

Representations Received	No
Represented by an Agent	No
Appealed to the Valuation Tribunal	No

### 8.6.3 Comparison 3: 2167889

<b>Property Number</b>	2167889
<b>Occupier</b>	Kingdom Crash repairs
<b>Address</b>	Monavalley Industrial Estate
<b>Total Floor Area</b>	704.58 sq.m
<b>RV</b>	€101

Level	Description	Size sqms	NAV per sqm	Total
0	Workshop	538.98	€27.32	€14,724.93
0, 1	Offices	165.60	€41.00	€6,789.60
0	Yard(gravel)	560	€0.68	€380.80
	<b>Total</b>	690.3		<b>€21,895.33</b>
	<b>RV @ .005</b>			<b>€109</b>
	<b>RV say</b>			<b>€109</b>

### Commentary on Comparison 3

- This property is located in the Monavalley Industrial Estate circa 100m from the subject property under appeal.
- Main workshop valued at €27.32 per square metre which is similar to subject property at €27.30 per square metre.
- Comparison 3 is a modern property of construction similar to the subject property under appeal.

Representations Received	No
Represented by an Agent	No
Appealed to the Valuation Tribunal	No

#### 8.6.4 Comparison 4 PN: 2213772

<b>Property Number</b>	2213772
<b>Occupier</b>	HSE
<b>Address</b>	Clash Industrial Estate
<b>Total Floor Area</b>	1185.3sqm
<b>RV</b>	€177

<b>Level</b>	<b>Description</b>	<b>Size</b>	<b>NAV per sqm</b>	<b>Total</b>
0	Store	16.65	€27.34	€455.21
0	Warehouse	1,168.65	€27.34	€31,950.89
0	Yard	2223.35	€1.37	€3,045.99
	<b>Total</b>	388.14		<b>€35,452.08</b>
	<b>RV @ .005</b>			<b>€177.26</b>
	<b>RV say</b>			<b>€177</b>

#### Commentary on Comparison 4

1. This property is located in the Clash Industrial Estate circa 100m from the subject property under appeal. This property is 300 metres from the respondent's comparison 4.
2. Warehouse and store valued at €27.34 per square metre which is similar to subject property at €27.30 per square metre.
3. Comparison 3 is a modern property of construction similar to the subject property under appeal.

#### 8.7 Relevant Authorities cited by Respondents.

##### 8.7.1 VA 20/1/0016 Maguire Dental Care Vs Commissioner of Valuation

The above appeal was a Revision Tribunal appeal regarding a retail premises in Westmeath rating authority area. (Respondent's Appendix with full judgement refers). The main grounds of appeal are summarized as follows:

1. The property should be valued as a dental surgery, not a retail shop.
2. All other dental practices in town have not been named as retail, rather offices and medical.

Part 10.3 of the Tribunal’s findings state the following.

*“10.3 The onus of proof in appeals before the Tribunal rests with the Appellant following. VA00/2/032 Proudlane Ltd t/a Plaza Hotel; VA07/3/054 William Savage Construction and VA 09/01/018 O’Sullivan’s Marine Ltd.”*

Part 10.4 of the above appeal’s Judgement states the following.

*“10.4 While the Tribunal is cognizant of the fact that lay Appellants do not always have the technical insights or on occasions the resources of the Respondent, they are, nonetheless, bound by the rules of the Valuation Tribunal. In this case the Appellants did not provide any comparable evidence, nor did they provide any valuation methodology to support their claim.”*

Part 10.5 of the above appeal states the following:

*“10.5 The Respondents relied upon several strong tone of the list comparable from within the same parade as the subject property and accordingly the Tribunal affirms the Valuation of €30,200.”*

## **8.8 The Respondent’s Opinion of Value**

<b>Use</b>	<b>Floor</b>	<b>Sqm</b>	<b>NAV €</b>	<b>Total NAV €(sm)</b>
Office	0	217.58	41.00	8,920.78
Office	1	195.11	41.00	7,999.51
Office	2	195.11	41.00	7,991.51
Warehouse	0	2,374.42	27.30	64,821.66
Weighbridge	0	2 (units)	1000	2,000
Yard/concrete	2	2,500	1.37	3,425.00
<b>Total NAV</b>				<b>95,166.46</b>
<b>RV @ .005</b>				<b>475.85</b>
<b>RV say</b>				<b>470.00</b>

8.8.1 Mr. Murphy states that he has investigated all of the particulars of the appeal, considered both the grounds and the evidence of the appellant and has agreed any matters of fact which were in dispute.

8.8.2 Mr. Murphy asserts, taking account of final agreement on areas with the Appellant, that the Tone of the List evidence he has adduced in his submission, supports a valuation of the subject property of €150.

**8.8.3 Tribunal request dated 10.2.2024 seeking further information/clarifications from the parties.**



- a) That the parties would agree floor areas.
- b) That the Respondent's Valuation Report on the subject, (as referred by Appellant at 7.1 above), would be provided to the Tribunal.
- c) That the parties would clearly identify and confirm the basis of grounds for Revision to the Tribunal.

#### **8.10 Responses to Tribunal requests**

- a) The Respondents Valuation Report was provided. (Appendix A, N/A to public)
- b) Floor Areas formally agreed (Appendix B, N/A to public)
- c) Basis for Material Change of Circumstances was provided. (Appendix B, N/A to public)

### **9. FINDINGS AND CONCLUSIONS**

- 9.1 On this appeal the Tribunal has to determine whether the value of the Property accords with that which is required to be achieved by section 49 of the Act, namely a value that is relative to the value of other properties on the valuation list of rating authority area of Kerry County Council, referred to as "Tone of the List."
- 9.2 The onus of proof in appeals before the Tribunal rests with the Appellant following VA00/2/032 Proudlane Ltd t/a Plaza Hotel VA07/3/054 William Savage Construction and VA09/01/018 O'Sullivan's Marine Ltd.
- 9.3 The Tribunal notes that the Appellants are contending for a rate for the subject that reflects the specific business/use to which the unit is being put, as compared with uses being carried out in comparator units. The Tribunal finds that little weight can be placed upon this approach, relative to the importance of assessing if the Tone of the List as it relates to the subject property has been demonstrated by the Respondents. The Tribunal finds that the classification of Warehouse has an established Tone of the List in the locality with which the Warehouse rate of the subject unit is consistent.
- 9.4 The Tribunal notes that the Appellants put forward four comparator properties, three of which had Office content within them, but notes that no specific reference was made to this use classification in their evidence, i.e. in terms of comparison with the Office element of the subject. The Respondents listed four NAV comparisons, but only one of which had any Office content. The Tribunal finds that the Respondents in their evidence did not adequately demonstrate evidence of a Tone of the List for the category of Office in an industrial context. The Tribunal also notes that the Appellants in their evidence did not contend for or challenge the Respondents evidence as to whether it adequately demonstrated a Tone of the List for Office use within an industrial context. The Tribunal finds that the Appellants have adduced three comparisons in which there is an Office component, whereas the Respondents evidence adduces one comparison containing an Office component. The Respondents would have had an opportunity to inspect the Appellants comparisons and to offer alternative evidence but elected not to.

The Tribunal finds that the Appellants ‘Tone’ for the Office category contained in their evidence is more compelling.

- 9.5 The Appellants contested the rate applied by the VO to the Yard space, again in terms of the specific use. The Tribunal finds that little weight can be placed upon this approach. The Tribunal finds that the classification of Yard has an established Tone of the List in the locality with which the Yard rate of the subject unit is consistent.
- 9.6 The Tribunal notes that the Appellants challenged the correctness of the floor areas as measured by the Valuation Office. The Tribunal also notes that the parties have now reached agreement on this item and that accordingly it is no longer an issue in dispute.
- 9.7 The Tribunal notes that despite the Respondents contention that the Appellants comparisons were not comparable to the subject property in terms of size, location and type, nevertheless they were utilised to support the Respondents Rate as applied to the subject.
- 9.8 The Tribunal notes a contention by the Respondents witness that the appellant’s precis of evidence “*does not comply with the Rules of the Valuation Tribunal.*” This statement is not further supported or explained in the Respondents evidence so the Tribunal cannot place any weight on this contention.

**10. DETERMINATION:**

- 10.1 Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €440.00 {four hundred and forty euro}.

Use	Floor	Sqm	NAV €	Total NAV €(sm)
Office	0	217.58	30.74	6,688.41
Office	1	195.11	30.74	5,997.68
Office	2	195.11	30.74	5,997.68
Warehouse	0	2,374.42	27.30	64,821.66
Weighbridge	0	2 (units)	1000	2,000.00
Yard/concrete	2	2,500	1.37	3,425.00
<b>Total NAV</b>				<b>88,930.43</b>
<b>RV @ .005</b>				<b>444.65</b>
<b>RV say</b>				<b>440.00</b>

**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.