

Appeal No: VA19/5/1799

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

GURTEEN TAVERNS LIMITED

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 2008250, Pub at 40/24 The Mall, Bunclody, County Wexford.

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

BEFORE

John Stewart - FSCSI, FRICS, MCI Arb

Deputy Chairperson

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 14th 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 €30,400.

- 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 : *“This business has and is continuing to see a decline in turnover over the last 3 years as is evidenced by trading figures submitted for the years 2016 -465k, 2017-462k, 2018-441k. Net profit remains at c. 46% but with a rise in living costs, the owners see the value of their incomes declining significantly. The trading end of year is 31 July, they have been waiting on accounts from their Accountants and have not received at date of this submission. They should be available for their tax return within 6 weeks of this date. They envisaged a further decline in turnover in this trade. The local hotel has closed (Mill Race Hotel) in recent*

years leading to a decline in visitors to the town. Local and national trends for public houses and bars in rural towns and villages are generally in decline. A further 2 bars have closed in recent years O' Connors and Sinnotts with no evidence of an increase in turnover. A review of the valuation List is unlikely for a further 5 to 10 years, the owners see this as having a huge impact on their income and livelihoods and the potential of their business. They have no family interested in the property and fear when they intend to retire the business may not be saleable if not attractive. The owners seek a reduced but fair value indicative of their reduced turnover over the last 3 years and likely decline over the next 5 to 10 years til the next revaluation. A figure is required below as a data entry. Indicative figure submitted of 25,000 based on average decline in turnover of 8k pa over next 10 years."

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €25,000.

2. RE-VALUATION HISTORY

- 2.1 On the 29th day of March 2019 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 €38,000.
- 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 €30,400.
- 2.3 A Final Valuation Certificate issued on the 10th day of September,2019 stating a valuation of €30,400.
- 2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 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 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

- 4.1 The parties are agreed as to the following facts.
- 4.2 The subject property comprises a public house and the ground floor consists of an open bar and lounge area WC's and an outdoor smoking area and keg room. There is a bar and function room on the first floor and the second floor has two meeting rooms and toilet facilities.

5. ISSUES

- 5.1 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 Appellants indicated in their appeal that a large number of retailers and licenced premises in the town had closed and that a number of others had reduced opening hours. They stated that the public house trade had change whereby the traditional public house business had become gastropubs or evening only trading houses.

7.2 They stated that the revaluation had taken place in 2017 and the initial NAV was €38,000 and that this was reviewed in 2019 to €30,400.

7.3 They added that the subject property had declining trade turnover figures and there was no entertainment or music on the property, but the costs of Sky TV sports was approximately €1,254.50 per month.

7.4 They claimed that turnover was down approx. €90,000 from 2019 and that the turnover would continue to decline by approx. €8,000pa. They also provided turnover figures from 2019 to 2023.

7.5 They sought a revised NAV of €25,000.

8. RESPONDENT’S CASE

8.1 The Respondents stated that the subject property was located on the Mall on the Main Street in Bunclody Co. Wexford and that the town had a population in 2016 of 1984.

- 8.2 They confirmed that the subject property comprised a three storey public house with a ground floor bar and lounge and ancillary accommodation with a bar and function room on the first floor and the second floor comprised two meeting rooms and toilet facilities. No floor areas were provided.
- 8.3 They stated that the property was freehold.
- 8.4 The Respondents confirmed that at revaluation the proposed valuation certificate issued was for €38,000 and following representations the NAV was amended to €30,400 following receipt of certified accounts for the subject property.
- 8.5 The Respondents stated that there are approximately 430 pubs in Wexford County Council area and nine licence premises on the valuation list in Bunclody. The Respondents confirmed that none of the licenced premises completed and returned the S45 forms and of the nine licenced premises in the town three had made representations and two properties including the subject one were appealed to the Valuation Tribunal. The other property VA 19 5 1329 was agreed pre tribunal.
- 8.6 Addressing the grounds listed for appeal the Respondents stated that valuation date was 2017 and that for the pub sector the calculations were based on a percentage multiplier of the fair maintainable trade FMT. In relation to the subject property this was estimated at €435,000 based on the turnover figures supplied by the Appellant and certified by an accountant on the LP1 form. They further added that the percentage multipliers was based on an analysis of rents relative to turnover for pubs and at this percentage also had regard to the gross profit margins of the trading data provided. The Respondent stated that the Appellant was seeking valuation of €20,000 which would equate to a turnover of approximately €350,000 which is €110,000 less than the figures provided by the Appellant for 2016 and 2017 being the most relevant years preceding the valuation date of the 15th of September 2017. The Respondents noted that the Appellants also referred to the turnover declining by €90,000 from 2019 however as the valuation date is September 2017 the Respondents disregarded the post 2019 figures.

8.7 The Respondents noted that the Appellants had sought valuation of €20,000 at representation stage which was amended to €25,000 at appeal and Submission stage

8.8 The Respondents witness stated that having investigated the particulars of the appeal and considered both the grounds and evidence of the Appellant that she was of the opinion that the correct NAV for this property is €30,400.

Floor level	Additional items	Units	NAV/unit	Total NAV
0	Drink sales	€435,000	0.07	€30,400

She provided four comparable properties and details are included in the appendix (N/A to public).

8.9 In conclusion the Respondents stated that the valuation date of September 2017 was significant and that the Appellants had provided turnover figures pre and post the valuation dates. The FMT adopted was €435,000 which was 6.56% and 5.83% below the actual level of trade achieved in 2016 and 2017 respectively. She stated that the valuer must project the FMT going forward based solely on facts known to them at the valuation date. She stated that the FMT adopted was slightly below the turnover achieved in 2018 and demonstrates that the valuer had accurately projected forward at the valuation date. She added that the onus of proof lies with the Appellant and that he had not provided any evidence to show to support a reduction in the NAV.

9. LEGAL 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 Wexford County Council
- 10.2 The methodology adopted by the Respondents in determining the NAV has not been challenged by the Appellants and accordingly the Tribunal finds that it must be accepted.
- 10.3 The Appellants sought to rely on turnover figures for 2019 to 2023 however as rightly pointed out by the Respondents this information would not have been available at the date of valuation which was September 2017. Accordingly, the Tribunal has disregarded the turnover figures for this period and relying on the turnover figures for 2016 and 2017 confirms that the Respondents have correctly determined the FMT at €435,000 and accordingly the NAV of €30,400.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent as stated in the valuation certificate to €30,400.

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.