

Appeal No: VA20/4/0105

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

DPB LEGAL SERVICES LIMITED

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 5015863, Solicitor's Office at Kelly's Quay, Shore Road, Killybegs, County Donegal.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF MAY, 2024**

BEFORE

Thomas J Kearns - B.Sc. (Surv), MRICS

Tribunal Member

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 8th day of December, 2020 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 €111.
- 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 of other comparable properties, as appearing on the valuation list for the rating authority area wherein the Property is situated.
- 1.3 The grounds of appeal as set out in the Notice of Appeal is that the valuation

of the Property is “*Excessive and unfair and as a result has led to an excessive demand for rates*” and does not accord with that required to be achieved by section 49 of the Valuation Acts 2001- 2020 because:

“Other Grounds” set out in the Notice of Appeal

The office which we previously occupied on Bridge Street, Killybegs was the same business providing the same services, being a building of the same size with the same public use in the same town. Both offices have one single door for public entrance, a reception, the same amount of private offices and one space for meeting clients. Accordingly, we believe the rates should remain the same.”

- 1.4 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €38.09.

2. VALUATION HISTORY

- 2.1 There is no evidence before the Tribunal as to when, or by whom, an application was made to the Respondent for the appointment of a revision manager to exercise powers under section 28(4) of the Act in relation to the Property on the basis that a material change of circumstances had occurred since a valuation under section 19 was last carried out in relation to the rating authority area of Donegal Co Council and that the valuation of the property ought to be amended.
- 2.2 The valuation milestones set out at Paragraph 4.1 and copy of proposed valuation certificate in Appendix 1 of Mr Cremin’s precis, indicate that on the 11th day of November, 2019 a copy of the proposed valuation certificate issued under section 29 of the Act as amended, in relation to the Property was sent to the Appellant indicating a valuation of €111.
- 2.3 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 not consider it appropriate to provide for a lower valuation.
- 2.4 A final valuation certificate issued on the 16th day of November, 2020 stating a valuation of €111.

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.
- 3.3 Following additional information sought by the Tribunal, the Respondent confirmed that they were in agreement with the floor area/floor plans as submitted by the Appellant and that DPB Legal services had taken occupation of the newly constructed first floor offices from 7th May 2019 following completion of construction works which commenced on 1st June 2018.

4. **FACTS**

- 4.1 The parties are agreed as to the following facts.
- 4.2 The property is located on Kelly's Quay in Killybegs town and forms part of a small business development fronting onto Shore road within approximately 500m from the town centre.
- 4.3 The property comprises a modern two storey, semi-detached office building of steel frame and concrete wall construction with insulated, metal deck roof cladding. The building is in good condition and includes shared car parking area for staff and customers within the business development.
- 4.4 The agreed floor area is as follows;

Level	Use	Area (m2)
0	Offices	143.37
1	Offices	128.58
Total Area		271.95

5. **ISSUE(S)**

The sole issue is one of quantum.

6. **RELEVANT STATUTORY PROVISIONS:**

- 6.1 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.
- 6.2 The updating of any individual property's valuation during the lifetime of a Valuation List is known as a revision and is governed by Section 49 of the Valuation Acts 2001-2020.

6.3 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.

(2) For purposes of subsection (1), if there are no properties comparable to the first-mentioned property situated in the same rating authority area as it is situated in then-

(a) In case a valuation list is in force in relation to that area, the determination referred to in subsection (1) in respect of the first-mentioned property shall be made by the means specified in section 48(1), but the amount estimated by those means to be the property's net annual value shall, in so far as is reasonably practicable, be adjusted so that amount determined to be the property's value is the amount that would have been determined to be its value if the determination had been made by reference to the date specified in the relevant valuation order for the purposes of section 20,

7. APPELLANT'S CASE

7.1 The Appellant case is that the NAV assigned to the subject property “is excessive and unfair and as a result has led to an excessive demand for rates”.

7.2 The Appellant relies on evidence submitted in letter dated 17th Jan 2024 by Gallagher McCarthy Barry Solicitors in support of its appeal.

7.3 This letter includes one comparison at 3 Bridge Street, Killybegs which is described as a similar building to the subject and previously occupied by the Appellant. The NAV is €38.09 amounting to an annual rates bill of €2,735.24 as per rates bill notice dated 7/Jan/2020.

7.4 The letter also states that “the Appellants previous premises at Bridge St, Killybegs and the current premises at Shore Rd, being the premises the subject of the appeal are the same size, used for the same purpose, namely a solicitors practice, from which the same service was provided. Both premises had the same public use in the same town approximately 300 metres apart furthermore, both premises have one single door for public entrance reception, the same number of private offices and one open space from meeting clients.

- 7.5 The Appellant also includes a copy of an earlier Rates bill in relation to the subject property stating, “the subject of this appeal has been revalued under a different valuation method and the current rates demanded in respect of the premises are €4,918”.
- 7.6 The Appellant submits that, “there is no valid reason for the difference in the Net Assessable Valuation between the previous premises and Shore Rd premises and the Net Assessable Valuation assigned to the Shore Road premises is excessive and unfair and as a result has led to an excessive demand for rates”.

8. RESPONDENT’S CASE

- 8.1 Mr Cremin on behalf of the Respondent, described the property and its location using photographs and plans contained in his submission. He notes the subject property is located at Kelly's Quay, Shore Rd overlooking Killybegs harbour and describes the property as a distinctive, modern well laid out two storey, office building which has been finished to a very high standard.
- 8.2 In response to the Appellant’s submission, Mr Cremin notes that the only part of the Appellant’s case that is correct when comparing PN 2005300, the Appellants former office property with subject property PN 5015863, “is that both properties are used as offices by a legal practice, and they are approximately 300 metres apart”. He states that “the properties could not be more different in many respects”.
- 8.3 Mr Cremin states that “the appellant’s former office on Bridge Street is a terraced property, which is part of a redevelopment that took place more than 20 years ago and which subsequently became a building with ground floor and part first floor office and multiple apartments around it”. Mr Cremin provided floor area details of PN 2005300, Bridge Street with a total floor area of 142.78 m2, including Ground Floor offices 123.1 m2 and 1st Floor offices 19.68 m2.
- 8.4 Mr Cremin has put forward 5 NAV comparisons as follows:

Property No	Occupier	NAV psm	RV (€)
2005362	H Kee & Sons Conlin Rd Killybegs	€82	€40
2171922	Glenard Fish The Pier Killybegs	€82	€12
2165455	Sinbad Marine B Na M, Killybegs	€68.34	€40

2005349	KFO B Na M, Killybegs	€68.34	€117
2005377	J Cunningham Quat St Killybegs	€54.6	€158.72

8.5 Mr Cremin seeks an RV of €103, calculated as set out hereunder;

Level	Use	Area	NAV psm	Total NAV €
0	Offices	152.17	82	12,477.94
0	Offices	(3.91)	82	(320.62)
0	Offices	(4.89)	82	(400.98)
1	Offices	165.59	68.34	11,316.42
1	Offices	(25.53)	68.34	(1,744.72)
1	Offices	(11.48)	68.34	(784.54)
Total		271.95	NAV	20,543.50
			RV	€102.72
			RV	Say €103

9. SUBMISSIONS

9.1 There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

- 10.1 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 Donegal Co Council rating authority area.
- 10.2 The Appellant's case is that the NAV assigned to the subject property "is excessive and unfair and as a result has led to an excessive demand for rates". The Appellant contends that there is no valid reason for the difference in the Net Assessable Valuation between the previous premises occupied by the Appellant on Bridge St and Shore Rd premises and that both properties should be the same with an RV of €38.09.
- 10.3 The Respondent has put forward 5 NAV comparisons including a mix of modern and older offices in the town centre and on the town's outskirts within close distance to the subject property. It is noticeable that the photographs provided by the Respondent of the subject property show a very modern office building with a good quality finish and design.
These comparisons (1) PN 2005362, (2) 2171922 (3) 2165455 (4) 2005349 (5) 2005377 support an NAV €/per m2 range of €54.60 to €82.

- 10.4 Information and floor areas are also included in the Respondents evidence in relation to the Appellant's previous offices at Bridge St, Property No 2005300. This information confirms a substantially lower total floor area of 143 sqm for Appellant's previous office compared to a total floor area of 271.95sqm for the subject property.
- 10.5 The Appellant's evidence is very limited and excluding incorrect details in relation to a previous property occupied at Bridge Street, Killybegs, has failed to include any comparable evidence in the area to support its case. The Tribunal does not consider the evidence put forward by the Appellant to be of assistance in arriving at its decision. The Appellant has made no submission in respect of the Respondents NAV comparisons.
- 10.6 The Tribunal finds the Respondents, Comparison No 1 (PN 2005362) with an NAV rate of €82 per sq.m. to be the most helpful evidence available in arriving at its decision. While this comparison has a more central town centre location and smaller size when compared to the subject, the superior modern quality and prominent position with shared car parking facilities of the subject property are balancing factors. The Tribunal also agrees with the inconsistency highlighted by the Respondent and the amendment of the first floor NAV to €68.34 per m2 to reflect the absence of a lift serving the first floor offices.
- 10.7 The onus in an appeal to the Tribunal is on the Appellant to discharge the burden of proving that the valuation placed on the property should be disturbed and the Tribunal find that the Appellant has failed to discharge this burden of proof.
- 10.8 For the reasons outlined above, the Tribunal finds that the Appellant has not provided sufficient, or any, truly comparable evidence to show that the Respondent's Valuation was unfair and unreasonable having regard to the Tone of the List when compared to other office buildings in the rating authority area.

11. DETERMINATION:

- 11.1 Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the Respondent's RV of €103 calculated as set out below,

Level	Use	Area(m2)	NAV psm	Total NAV €
0	Offices	143.37	€82	€11,756.34
1	Offices	128.58	€68.34	€8,787.16
Total		271.95	NAV	20,543.50
			RV @ 0.005	
			RV	€102.72
			RV	Say €103

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.