

**Appeal No: VA19/5/0178**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Barry McCrystal**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of  
Property No. 5016319, Retail (Shops) at Main Street, Virginia, County Cavan.**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 15<sup>TH</sup> DAY OF JULY, 2024**

**BEFORE**

**Liam G. Daly - MSCSI, MRICS**

**Tribunal Member**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 03<sup>rd</sup> 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 €19,490.

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

*"Valuation is incorrect"*

*"Excessive, inequitable and bad-in-law"*

1.2 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,425.

## **2. RE-VALUATION HISTORY**

- 2.1 On the 15<sup>th</sup> 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 €19,490.00.
- 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 10th day of September, 2019, stating a valuation of €19,490.00..
- 2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is the 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 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 From the evidence adduced by the parties, the Tribunal finds the following facts.
- 4.2 The property is located on Main Street in Virginia Co Cavan. Virginia is a commuter town which is approximately 29km from Cavan town and approximately 80km from Dublin City.
- 4.3 The subject property is a ground floor retail unit in use as a Pharmacy. There is a B&B on the floor above the Pharmacy. The shop was originally part of property PN 1989834 Conway Foodstores and Hotel and was subdivided at Revision 2018 into: PN 5016319 (Subject), PN 1989834, and PN 5017639.
- 4.4 The accommodation has not been agreed between the parties.

## 5. ISSUES

The sole matter at issue 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 appointed Mr. Tadhg Donnelly, Donnelly & Associates to act on their behalf. Mr. Donnelly’s precis began by outlining the following:

- Basis of Valuation Net Annual Value *“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 expected to let from year to year, on the assumption that the probable average 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.”*
- Date of Valuation: 15<sup>th</sup> September 2017.

- Publication Date: 17<sup>th</sup> September 2019.

7.2 The Appellant’s precis detailed how a proposed valuation certificate was issued to the Appellant on the 15<sup>th</sup> March 2019. The valuation stated was €19,490.00. A final certificate was issued on the 10<sup>th</sup> September 2019 and the figure remained unchanged. The Appellant’s representative, Mr. Donnelly, had been instructed to appeal this valuation to the Valuation Tribunal.

7.3 The Appellant’s precis described the subject property as a well-established pharmacy which has been established in the town of Virginia, Co. Cavan in 2018. The property is located on the main street. It is a Pharmacy that provides health and medical services for the surrounding area. It is a two-storey building with a car park with limited spaces at the back. The subject property was formerly part of a supermarket but now is a separate business. The Appellant’s measurement of the subject property was outlined as follows:

Floor Level	Floor use	Floor Area M <sup>2</sup>
0	Retail Shop	42.00
0	Treatment room	27.16
0	Dispense	10.13
0	Prep/Stores	63.40
0	Canteen Office	14.33
Frontage	Stores	13.8
	Side Stores	5.60

7.4 According to the Appellant’s precis, the property is held freehold (This is contradicted in the Respondent’s precis which included leasehold details).

7.5 The Appellant’s representative, Mr. Donnelly, put forward the following as being the appropriate valuation of the subject property:

FLOOR USE	FLOOR USE	AREA M <sup>2</sup>	NAV (C) PER M <sup>2</sup>	NAV (C)
0	Shop	92.0	80.00	7360.00 0

0	Treatment Room	27.16	40.00	1086.00 0
0	Dispensary	10.13	20.00	202.00 0
0	Stores	63.40	10.00	634.00
0	Canteen/Office	14.33	10.00	143.3

It was Mr. Donnelly's opinion that this equated to a valuation of €9,425.00. Mr Donnelly provided reasoning as to how this figure was determined by explaining that, the subject property was located in the town of Virginia, Co Cavan. It was Mr. Donnelly's belief, the subject property only had access to limited street parking on what he described as a busy main street. It was also Mr. Donnelly's opinion that the first floor of the subject property is disused and in a poor state (of condition).

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

8.1 The Respondent's precis was prepared by Ms. Ita McNally on behalf of the Commissioner of Valuations. The precis commences with general background information as to the revaluation procedure, namely, Revaluation and its purpose, statutory provisions governing Revaluation, market information sources, and Revaluation in Cavan County Council. The precis then moves to more specifics in terms of the subject property, where the Respondent explains, that the property is located on Main Street in Virginia Co Cavan. The Respondent describes Virginia as a commuter town approximately 29km from Cavan Town and approximately 80km from Dublin City. The Respondent quotes the 2016 census and states the population of the town to be 2,648. The Respondent identifies the property as being located beside a large Costcutter Shop that is separately valued under Property PN 1989834, and benefiting from a shared car park to the rear.

8.2 The Respondent's precis provides the following details in respect of the subject property. It is a ground-floor retail unit in use as a pharmacy, and there is a B&B on the floor above the pharmacy. The Respondent's precis explained how the shop was originally part of property PN 1989834 Conway Foodstores and Hotel and was subdivided at Revision 2018 into: PN 5016319 (Subject) McCrystal's Pharmacy, PN

1989834 Costcutter Supermarket PN 5017639, and Skelly's B&B at the ground and first-floor level, the side of the subject.

8.3 It was Ms.McNally's opinion that the property is in excellent condition and was extensively refurbished in 2017/18, with full height glazing to front and high quality fit out to the interior.

8.4 The floor area provided in the Respondent's precis were as follows:

	Floor Areas Floor	M2
RETAIL ZONE A	0	-0.15
RETAIL ZONE A	0	28.44
RETAIL ZONE A	0	39.28
RETAIL ZONE B	0	-0.49
RETAIL ZONE B	0	48.40
RETAIL ZONE C	0	39.44
RETAIL ZONE REMAINDER	0	59.50
RETAIL ZONE REMAINDER	0	4.32
Total		210.1

It was noted in the Respondent's precis that the floor areas had not been agreed upon with the Appellant's agent.

8.5 According to the Respondent, the property is held Leasehold. A 10-year lease commenced 1st June 2018. The information relating to the tenure was provided by the occupier on the day of the Revision Inspection on 25/10/2018. Please see Appendix 1 for further details (N/A to public).

8.6 The Respondent's precis provided information relating to the Representations Stage of the process and the evidence that was put before the Valuation Manager. According to the Respondent, the Appellant proposed an opinion of value of €9,425.00 at Representations stage with a floor area of 207.02sqm compared to the Valuation Office's floor of 210.1sqm. The opinion of value in the Representations was calculated using overall room areas rather than zoning the retail shop, as adopted by

the commissioner for all other retail units. The Appellant's agent, valued the shop area at €80 per sq. m and the treatment room at €40 per sq. m. and the dispensary at €20 per sq. m. and the canteen and stores at a level of €10 per sq. m. The supporting evidence of comparable properties submitted comprised of screen shots of neighbouring properties from the Daft.ie website. It was the Commissioner's opinion, that these were asking rents which would be subject to negotiation, therefore they did not confirm the rents of these comparable properties.

8.7 The Respondent's precis explained how the evidence provided at the representation was considered along with all other evidence submitted by other occupiers. During the representation stage, the agent (Mr Donnelly) had proposed a floor area of 207.02 sqm. compared to the Valuation Office floor area that is on the proposed Certificate of Valuation of 210.1 sqm. It was outlined, that Mr. Donnelly's opinion of value was calculated on an overall floor area basis rather than zoning the property as adopted by the Commissioner, for retail units. It was the Respondent's contention that the subject property is a pharmacy and the main shop, dispensary area, and consultation room are not separated by structural walls, and therefore all areas are zoned. The Respondent notes, there is a structural wall between the main shop and the adjoining shop unit that is in use by the pharmacy as a treatment room and store. These areas had also been zoned on the proposed valuation as this is a shop unit with a shop front that is in use as a storeroom and treatment room. The shop front remains but the shop access door has been removed. The Respondent disregarded Mr. Donnelly's opinion of value as it was not supported by sufficient evidence. The Commissioner had reconsidered the valuation in light of the number of representations made and the additional evidence provided during the Representations phase. This had resulted amendment, and the subject valuation was reduced at Representations as associated representations. The Zone A rate of €200 per sq. m. was reduced to €180 per sq. m. as associated Representations in line with the valuation levels fixed on similar properties in the area/category.

8.8 In considering the Appellant's precis, the Respondent provided the following commentary:

It was the Respondent's opinion that the Appellant's précis was limited and did not contain comparable properties or comparable rents. Also, it did not provide any evidence to support the opinion of value calculation which values the shop on an overall

basis of €80 per sq. m and the treatment room at €40 per sq. m, Dispensary at €20 per sq. m. and Stores/Office at €10 per sq. m.

It was the Respondent's view, that the main shop area and the dispensary are open plan and should therefore be zoned as one space. Also, the walls between the main shop area and the consultation room and the office and kitchen are non-structural and should therefore all be included the Zoned Retail area.

The Respondent noted that there is a structural wall between the main shop area and the store and treatment room. The Respondent commented that Mr. Donnelly had valued this area at a rate of €40 per sq. m for the treatment room and €10 per sq. m for the store. It was however the Respondent's opinion, that these two rooms were divided by a non-structural wall and together are part of the shop unit that has a shop frontage however the entrance door to that shop unit has been removed. As this is still a shop unit with shop frontage this area should be zoned also.

The Respondent stated, the subject property is located on Main Street in Virginia, Co Cavan, and has been valued in line with the County Revaluation scheme which has a Zone A level of €180 per sq. m. (This is part of the Benchmark for Retail Properties in Co Cavan and was reduced at Representations stage from €200 per sq. m.).

- 8.9 The Respondent disagreed with the Appellant on the tenure of the subject property. According to the Appellant's precis, the property is held freehold. The Respondent disputes this on the basis that during their Revision inspection on the 25<sup>th</sup> October 2018, they had been furnished with lease agreement details by the occupier.
- 8.10 The Respondent disputed the Appellant claim that the subject property had limited parking. The Respondent highlighted that property has access to 32 share car spaces with the Costcutter supermarket.
- 8.11 The Respondent included three Key Rental Transactions (Appendix 2, N/A to public) and four Net Annual Values (Appendix 3, N/A to public) to demonstrate how the Net Annual Value was determined.
- 8.12 The Respondent's summary reiterated the points previously discussed in their precis. The Respondent rejected the Appellant's proposal that the property should be valued on an overall basis, the Commissioner maintained the subject property was a shop unit and was capable of being zoned. The Respondent also highlighted that of the four NAV



comparables used in the precis, they were all categorized as retail, they were all on the ground floor, and none were subject to representation or appeal to the Tribunal.

## **9. 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 Cavan County Council.
- 10.2 The Tribunal finds that the Commissioner has been consistent in their use of zoning for other retail units within the town and was not presented with sufficient evidence as to why the subject property should be considered differently. The subject property is a retail unit and is capable of being zoned.
- 10.3 The Appellant has proposed a valuation of €9,425.00 for the subject property. The Tribunal has not been provided with any evidence to substantiate this figure in any meaningful way. The Appellant's precis contains no comparable evidence. The Tribunal acknowledges the Appellants submitted what they deemed to be comparable evidence during the representative stage, however, the Tribunal agrees with the Commissioner that this is insufficient.

## **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.