

**Appeal No: VA19/5/0300**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**VINCENZO NOVELLI**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1278005, Industrial Uses at 24A1 North Strand, Drogheda, County Louth

**B E F O R E**

**Hugh Markey – FRICS, FSCSI**

**Úna Ní Chatháin - BL**

**TJ Kearns - B.Sc. (Surv), MRICS**

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 17<sup>TH</sup> DAY OF JULY, 2024**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 9<sup>th</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 **€13,090**.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the Property ought to have been excluded from the relevant Valuation List because: "The property is not fit for use, roof leaking and unsafe overall".

1.3 On that basis, the Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

**2. REVALUATION 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 €13,090

2.2 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September, 2019 stating a valuation of €13,090.

2.3 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. THE HEARING**

3.1 The Appeal was first listed for hearing on 16 June 2023. The Appellant was substituted and the hearing was adjourned by the Tribunal to allow for submission of a précis by the correct Appellant, who had been abroad. The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 30<sup>th</sup> day of August, 2023. At the hearing, the Appellant Mr Vincenzo Novelli appeared in person and the Respondent was represented by Mr Terry Devlin of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath or affirmed, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

### **4. ISSUES**

4.1 The single issue arising on this appeal is whether the Property ought to be included in the Valuation List or whether it is exempt from rating.

### **5. RELEVANT STATUTORY PROVISIONS:**

5.1 The provisions of the Valuation Act 2001 in so far as relevant to this appeal are set out below for ease of reference. All references hereinafter 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.

5.2 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.”

5.3 Section 15 of the Valuation Act provides that subject to limited statutory exceptions, relevant property shall be rateable. Schedule 3 to the Valuation Act 2001, “Relevant Property” provides

“1. —Property (of whatever estate or tenure) which falls within any of the following categories and complies with the condition referred to in paragraph 2 of this Schedule shall be relevant property for the purposes of this Act:

(a) buildings,

...

2.—The condition mentioned in paragraph 1 of this Schedule is that the property concerned—

(a) is occupied and the nature of that occupation is such as to constitute rateable occupation of the property, that is to say, occupation of the nature which, under the enactments in force immediately before the commencement of this Act (whether repealed enactments or not), was a prerequisite for the making of a rate in respect of occupied property, or

(b) is unoccupied but capable of being the subject of rateable occupation by the owner of the property.”

## **6. APPELLANT’S CASE**

6.1 Mr Novelli was not permitted to rely on an unsigned Survey of Commercial premises at North Strand, Drogheda, Co. Louth by Drafttech Architectural Services, based on an inspection carried out on 2 February 2016. He submitted a 21 page précis consisting of his own written submissions and photographs, both taken by himself and copied from Mr Devlin’s précis, and gave oral evidence. Mr Novelli’s evidence related only to the warehouse of the subject Property.

6.2 Mr Novelli stated that the reasons for his appeal were:

(1) Structural reasons: some structural beams need to be replaced immediately due to rust corrosion;

(2) Roof structural conditions: the roof is sagging due to extensive weight caused by vegetation. It could collapse in some parts.

(3) Roof leakages: the roof lacks 3 protective sheets, resulting in rainwater pouring inside.

(4) Door hinges and main door safety: rusted hinges have broken, preventing the main door from opening and risking collapse.

(5) Faulty gutters: the gutters need to be replaced due to extensive rust.

6.3 Mr Novelli said that the property was in utter disrepair and not capable of occupation. He stated that the beams of the property were significantly rusted, which jeopardised their stability and increased the risk of collapse. He stated that eight beams were damaged and four beams were in immediate need of repair, one of which was at risk of collapse at any time. He adduced a map and four photographs of the beams in support of same.

6.4 Mr Novelli stated that the roof exhibited significant sagging and that the vegetation growing on it had already caused two roof sheets to collapse. Vegetation was growing through in parts. The north part of the roof was covered with plants and more roof sheets could collapse. In addition to the missing roof panels, there were holes allowing rainwater to penetrate. Mr Novelli stated that this issue damaged the property and rendered it uninhabitable and unfit for storage, in particular during rainy weather. There were six photographs of the roof. Mr Devlin’s précis said that no roof panel was noted as missing but one of his photographs showed a missing roof panel.

6.5 Mr Novelli said that the door hinges of the large main door were corroded by rust and non-functional. The door was a significant safety hazard as it could not be opened without risking collapse. The Property could only be entered through the small door. There were four photographs of the door and hinges.

6.6 Mr Novelli said that the gutters were rusted and in a state of disrepair, which led to water accumulation and damage to the structure. The gutters needed to be replaced. Mr Novelli adduced three photographs of the gutters and walls.

6.7 Mr Novelli distinguished NAV Comparator 1 of the Respondent as being in pristine condition with no leakage or faulty roof, as well as benefitting from an office and toilet. Five photographs of same were adduced.

6.8 Mr Novelli disputed that the property was capable of occupation as contended for by Mr Devlin, stating that Mr Devlin's photographs showed objects of no value – the car was left there by a previous tenant and used only for parts. The worn tyres were there when the building was purchased. Mr Novelli also stated that what Mr Devlin described as clear panels were actually missing panels.

6.9 In conclusion, Mr Novelli stated that the visual evidence showed that the building was in total disrepair. He did not understand how Mr Devlin could have missed missing roof panels on an inspection. The Property was used for storage. The main door could not be opened. The roof was leaking. He had tried to rent the building to the mechanic next door but it was not possible to come to an agreement. There was no electricity but the building was connected to water.

6.10 In cross-examination, Mr Novelli accepted that the sole issue in the appeal was the question of rateability and that the quantum of valuation of the property had not been appealed on the notice of appeal. He stated that he had not submitted an engineer's report in evidence as he had totally restructured five properties since 2012 and worked with a lot of engineers. The photos submitted were self-evident. He could assess the Property himself. He agreed he was not a chartered surveyor or engineer but stated that he led whole projects of engineers and builders. He stated that some photographs in his précis had been taken by himself and he had also used Mr Devlin's. He accepted that in one of Mr Devlin's photos, although it looked like no roof panel was there, in fact a roof panel was there. He stated that three roof panels were missing, one for a long time. When asked why he was trying to let a property with missing roof panels rather than remedy the issue, he stated that money was an issue. He said there was no point replacing a roof panel without carrying out structural work. He agreed that carrying out remedial works would help in getting a tenant and agreed that he had not submitted costings or a report in respect of the costs of the works required, as an engineer had told him to pull it down. He accepted that the engineer was not present to give evidence.

6.11 When asked on what authority he said the Property was likely to fall down at any time, Mr Novelli stated that one beam was totally eaten by rust and could collapse at any time. He confirmed that the Local Authority had not served any notice or communicated with him in respect of the Property being derelict or demolished. They had inspected the property and told him he could keep paying half rates. The Property had previously been connected to electricity and it would be necessary to go to the ESB to get it connected.

6.12 It was put to Mr Novelli that this was his own opinion, based on his own experience. Mr Novelli stated that his evidence was clear and he previously had engineers and builders inspect the

Property. When it was put to Mr Novelli that the property was in fact capable of use and was used for storage, he replied that stools, a ladder and a wheelbarrow were stored in a dry area and some areas of the building. Only objects of no value could be put in the open space. It was mostly rubbish in the photos, put there by tenants of an adjacent commercial space. They had asked for permission to store tools there at no cost. It was mostly rubbish in the property, if you wanted to call that occupation – storing a wheelbarrow, ladder and other items in an open space.

## **7. RESPONDENT'S CASE**

7.1 Mr Devlin, having adopted his précis and described the location and construction of the subject property, stated that it was “in fair condition”. He had adduced photographs in his précis which showed the property from the main road and various external views. An interior photograph showed vegetation on the ground which Mr Devlin stated was growing out of a mechanic’s pit which had not been filled in. Several other photographs showed various items stored in the subject property including furniture, tyres, tools and a car.

7.2 Mr Devlin stated that the only ground of appeal raised was that the subject property should be excluded from the valuation list on the grounds that it was not fit for use and unsafe, and not capable of occupation. On inspection in March 2023, he found the property to be accessible, capable of occupation and indeed being used for the storage of some objects. The Appellant provided no evidence to show that the property was incapable of occupation. There was no expert evidence submitted and nothing to suggest the property was in danger of collapse. Mr Novelli had not adduced any evidence in support of his assertions, despite having been afforded an opportunity to do so. He had not produced costings for removal of vegetation, repair of the door or leaks, or any information to suggest their impact on renting the Property. There was insufficient evidence to exclude the Property from the valuation list.

7.3 Mr Devlin had not recorded any missing roof panels on the day of inspection. It was possible that the missing roof panel had transpired subsequent to his inspection. The Property was used for storage. In order to be used for storage, there was no requirement that the objects stored be of value.

7.4 Mr Devlin gave evidence of comparable properties. NAV Comparison 1, PN 1277999 was located adjacent to the property and consisted of a showroom (valued at €56.40 per sq. m) and an old warehouse/workshop and office valued at €47 per sq. m., for a total NAV of €34,700. NAV Comparison 2, PN 1277763 was an old industrial store located directly opposite the Property, 208.80 sq. m in size, valued at €47 per sq. m for a total NAV of €9,810. NAV Comparison 3, PN 1278006 was a modern warehouse with canopy and yard, located adjacent to the Property. The workshop was valued at €52 per sq. m for a total NAV of €12,760. NAV Comparison 4, PN 1277775 was an old industrial workshop located close to the Property, valued at €47 per sq. m for a total NAV of €10,080. NAV Comparison 5, PN 1277973 was located across from the subject and consisted of an office and old industrial stores, valued at €47 per sq. m for a total NAV of €8,650.

7.5 In conclusion Mr Devlin stated that the Appellant had had two opportunities to provide evidence in support of his proposition that the property was not capable of occupation and had

failed to do so. He had not carried out remedial works to the property. The property was capable of beneficial occupation and was being occupied. The property had been assessed in line with adjacent comparable properties. He sought that the valuation on the list be affirmed.

7.6 In cross-examination, Mr Devlin stated that he was not an engineer but a chartered surveyor. He stated that in his inspection he had measured the Property, taken photographs and made notes of its size, location and condition in order to form his valuation. He carried out a visual inspection and was not an engineer and did not assess the strength of beams. An engineer's report would have been helpful in assessing the structure. The building was in use, being accessed, and the Council had not categorised it as derelict. He stated that he did not remember a missing panel.

## **8. FACTS**

8.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

8.2 The subject property is located on the North Strand Road on the north side of the River Boyne, approx. 650m from Drogheda town centre. The property is situated in a predominantly industrial area, just behind Merchants Quay. The subject property comprises of two separate commercial storage/warehouse units accessed via a gated entrance from the road. The smaller unit is constructed with concrete block walls to full height on one side and back of the unit, the larger unit is of portal steel framework and cladding panels construction. The roof is also constructed of cladding panels with interspersed use of clear light panels.

8.3 The floor area of the smaller unit is 27.72 sq. m and the floor area of the larger unit is 250.83 sq. m, a total of 278.55 sq. m.

8.4 Two units adjacent to the property, on the North Strand Road, are occupied by commercial tenants.

## **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 Louth County Council.

10.2 It was not in dispute that the smaller concrete block unit was capable of rateable occupation. The Appellant's evidence was in respect of the larger portal steel framework and cladding panels warehouse. It was conceded that parts of the warehouse were used for the storage of tools and other items.

10.3 The Appellant's case is that the property was in utter disrepair and not capable of occupation.

10.4 By the terms of para. 2 of Schedule 3 of the Act, property is relevant property if it is a building which is occupied and the nature of that occupation is such as to constitute rateable occupation, or is unoccupied but capable of being the subject of rateable occupation by the owner of the property.

10.5 It was clear from the evidence adduced that the warehouse was accessible, connected to water, and used for storage. While the Appellant gave evidence that the property was in disrepair, there was no expert evidence to suggest the property was incapable of occupation or in danger of collapse. The Appellant accepted that he had not carried out remedial works to effect a letting of the property; he did not adduce any expert evidence or costings in respect of remedial works; and he did not submit any evidence in respect of the impact on letting the property of the issues he referred to. The Appellant confirmed that the Local Authority had not served any notice or communicated with him in respect of the Property being derelict or demolished.

10.6 The onus of proof in appeals before the Tribunal rests with the Appellant. This onus has not been discharged on this appeal. The Tribunal is not satisfied on the evidence before it that the property in its actual state is incapable of rateable occupation.

10.7 The Appellant did not put forward an alternative ground of appeal, in the event the claim for exemption from rating failed, that the valuation of the Property was incorrect.

#### **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.