

Appeal No: VA23/5/0085

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Lowry's

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1170142, Hospitality at Market Street, Clifden, County Galway.

B E F O R E

Majella Twomey, BL

Chairperson

Annamaria Gallivan, FRICS, FSCSI, MPhil SEE

Member

Martin Connolly, MAgrSc, MSc, MSCSI, FCInstArb

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 3RD DAY OF JULY, 2024

1. THE APPEAL

1.1 By Notice of Appeal received on the 3rd day of October, 2023 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 €52,500.

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:

"(a) The Valuation is Incorrect

1. The subject property's valuation is excessive and inequitable owing to its trading data. The occupier is 3rd generation and formally took over the property in 2012. At the time of the transfer, the property's trade was just €380,000 per annum. Whilst the occupier undoubtedly benefited from improved economic conditions in the hospitality market from 2012-2019, there is a significant amount of his personalised goodwill and acumen alongside this. The subject property is just 75 sq.m. trading area and is therefore not by any stretch one of the best pubs in Clifden. As in particular, it is not better than PN 1170147 (Tom King's) valued at €35,000 NAV.

2. Turnover collapsed during Covid. Even as the market recovered in 2021, turnover was effectively the same as it had been in 2012.

3. It should be noted that the occupier's mother still resides in the premises and that there is no strict division between the commercial and the residential which would not be attractive to the hypothetical tenant.

4. There is a sewage issue in the property owing to the layout of the towns sewers which join immediately in front of the property and back up periodically. The hypothetical tenant would be unable to solve this problem and would take account of it in his rental bid.

5. Based on rental evidence from the town, there does not appear to be any pubs let since Covid and those let before do not back up an FMT of €750,000. In our opinion, an FMT of €460,000 could not be exceeded by the hypothetical tenant. "

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €32,200.

2. REVALUATION HISTORY

2.1 On the 23rd day of September, 2022 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 €57,400.

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 €52,500.

2.3 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €52,500.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September, 2019.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 7th day of February, 2024. At the hearing the Appellant was represented by the David Halpin M.Sc. (Real Estate) BA (Mod) and the Respondent was represented by Sean Donnellan, MSCSI, MRICS, BSc Hons in Property Valuation and Management 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, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

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

4.2 The subject property is located on Market Street, Clifden, County Galway. The subject property is located on the north side of Market Street and close to Market Square. Clifden largely depends on tourism in the short summer season for survival as a tourist destination on the Wild Atlantic Way. Clifden, the largest town in Connemara, is situated between the Twelve Bens Mountain range and the Atlantic Ocean, at the mouth of Clifden Bay. It is located c. 75 km from Galway city on the N59 road.

4.3 The subject property is a ground floor bar, one single room, with toilets and ancillary storage. The upper floors of the property are residential (occupied). The subject property is a traditional ground floor pub of a mid-terrace 2-storey property. There is ancillary first-floor keg room and store to the pub which is at ground floor level for keg deliveries from Caryn Place to the rear of the property.

4.4 The property is in good condition throughout. Based on photographic evidence of both parties, the decor both externally and internally is in the old style, of a very high standard, the best of any of the premises put forward in evidence.

4.5 The property is held freehold.

4.6 The floor measurement of the individual areas was not agreed, however there was agreement on the overall area of 158.31 SQM.

5. ISSUES

The sole issue for Determination by the Tribunal in this appeal is 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 Mr Halpin, for the Appellant, described the location of the property as on Market Street, in the centre of Clifden with a population of 1,259 (although small it is still one of the largest towns in the region). He explained Clifden as relying on a short tourism season for survival and he said that without tourism it would be in a very bad way. He described the property as a small pub ground floor bar, totalling 75 SQM, in one single room. He clarified the upper floors of the property as residential (in which a relation of the occupier’s resides).

7.2 Mr Halpin had an external and internal photo in his précis and in his testimony, laid out a table of turnover, spanning 12 years (in Appendices, N/A to public). The turnover is employed to illustrate the effect of the pandemic on the business but also the new operator (whom he believes developed the trade quite strongly).

7.3 It was Mr Halpin's opinion that a fundamental issue exists concerning the approach to the relevant year of trading. He explained that in the normal course, the applicable years are the 3 years prior to the Valuation Date (1st February 2022), which would be 2019, 2020 and 2021. The actual average of those 3 years is low in comparison to pre and post Covid trading. He described trade during the years 2020 and 2021 as "severely affected by closures of an unprecedented nature". He stated that in this context, the hypothetical tenant may have a unique approach to estimating FMT (Fair Maintainable Turnover) – either make use of the years of 2019, 2020 and 2021 and forecast a significant uplift (as trading is unlikely to ever be as bad again), or take the years prior to Covid (2017, 2018, 2019) and apply a significant reduction (owing to the state of the market and uncertainty, relative to those years). He was of the strong belief that these adjustments were harder to define, owing to the lack of a functioning market in the years 2020 and 2021, as there are almost no rental comparisons on which to make judgements. He further outlined the question arising under Section 19 (5) as to how an approach to FMT could be equitable or uniform at a time when the market was in substantial flux and the relevant occupiers were probably not asked to provide all the information, which he now be deemed relevant. He has assumed that the Commissioner did not go back to the other occupiers and ask them for updated data, judging different properties with different metrics and therefore producing an unequitable/ non-uniform Tone of the List.

7.4 Mr Halpin said if you looked around the town, there was no other pub, whether big or small, capable of doing this turnover, which is exceptional. He was of the view that if they moved to another premises the operator would take that turnover with them.

7.5 Mr Halpin stated that the ground floor pub, located at Market Street, Clifden (the subject) is overtrading, and hence over-assessed in terms of its FMT. He believed that this was evident because, the Turnover increased nearly 56% or by 2.26 times in the period 2011 (the year prior to the current occupier took over) to 2018 and the occupier shows exceptional business acumen as 3rd generation and possesses generational goodwill that is not transferable to the hypothetical tenant. The result is that one of the smallest pubs in Clifden (the subject) has been assessed with one of the highest NAVs, noting that no locational goodwill was applied to others in the town.

7.6 Mr Halpin specified that there were 11 trading premises and 3 hotels in the centre of Clifden. He went through a table he had compiled of the 11-trading premises and 3 hotels, which was included in his précis, which comprised the estimated trading area, distance from the subject and valuation (in Appendices, N/A to public). He believes that, from the table, it is evident that the subject is one of the smallest (if not the smallest) pub in Clifden and the subject has a higher valuation than 7 of the other pubs in the town, and 2 hotels – and has the highest valuation of all serving drink only (no food or accommodation). He contends that the list demonstrates that the Commissioner is suggesting that the hypothetical tenant would pay more for the subject (a 75 SQM bar) than he would for a 25 bed 3-star hotel (with dedicated bar, restaurant and function room spanning 500 SQM).

7.7 Mr Halpin made use of 10 NAV comparisons.

	Property	PN	NAV
1.	Tom King's Bar & Snug, The Square, Clifden	PN1170147	€35,000
2.	Mannion's Seafood Bar & Restaurant, Market Street, Clifden	PN1170133	€36,900
3.	Vaughans Pub, Bistro And B&B, Market St, Clifden	PN1170118	€21,200
4.	The Central Bar and B&B, Main Street, Clifden	PN1170029	€28,400
5.	The Darcy, Main Street, Clifden	PN1170014	€35,000
6.	Mc McGrath's, Bridge Street, Clifden	PN1170181	€35,000
7.	Griffin's Bar, Main Street, Clifden	PN1170035	€50,000
8.	EJ Kings Bar & Restaurant, Market Square, Clifden	PN1170026	€67,000
9.	Ravi's Bar & Restaurant, Market Street, Clifden	PN1170088	€100,000
10.	Guys Bar, Main Street, Clifden	PN1170028	€69,000 (under appeal)

Property no 1. was noted by Mr Halpin as the most comparable pub in the town, which he contends is currently leased at €700/week (€36,400 per annum) and indicates the value of an equivalent sized pub in the local market.

7.8 It was Mr Halpin's stated opinion that if the hypothetical tenant was faced with the choice between a 25-bed, 3-star hotel or the subject at 70 SQM, then the hotel wins, hands down, every time. Ultimately, one can serve drink in the hotel bar, which is probably larger, than the subject and then one has all the other elements that one can obtain turnover from, such as functions, the accommodation (for tourism purposes or repurpose the rooms for asylum seekers) or any other

number of uses that would generate an income. So, more is more in this context, according to Mr Halpin. He acknowledged that the Commissioner would not envisage Hotels and Pubs as comparable. Mr Halpin was perplexed as to why the Commissioner had chosen just three comparisons from the town to make his case, pointing to the coincidence that two of them were also valued at €35,000 which could indicate this an estimated level, nonetheless. He made the observation that the Commissioner would suggest that in the same location you could rent three pubs for the same as the subject.

7.9 Mr Halpin corrected a mistake in his précis and closed by contending for a FMT of €460,000 at 7% or NAV of €32,200

7.10 Under cross examination Mr Halpin was unable to give a clear explanation as to where his FMT figure of €460,000 had been obtained. He assumed that it was largely informed by the comparisons or the equivalent NAV's, and that, he had worked backwards. When it was pointed out that the pre-pandemic and post-pandemic turnovers of the subject were higher than that figure, he drew attention to the fact that the hypothetical tenant would not have the post pandemic figure, but he acknowledged there was a difficulty in relation the where the figure had arisen from. He was of the opinion that, in the strictest sense, the years 2019,2020 and 2021 turnovers should be utilised but accepted that the pandemic would have to be adjusted for.

In relation to the multiple of 7% it was his understanding that the Commissioner had used a multiple of 7% for Clifden, but he acknowledged if it was 8% then it was 8% that should be utilised, he was happy to use the Commissioner's multiple. When asked about his use of 75 SQM in his précis, he explained it was trading area only (or in terms of the ability to trade) and did not include ancillary areas (WC, stores, etc), . He said this was the case in relation to all other properties and was a method in common use. In relation to the residential accommodation, he confirmed there was a separate external access but there was also an internal access from the bar.

When asked about his perspective in relation to the growth of the business by the Appellant from 2011 onwards, and his contention that the growth was produced by an exceptional trader, he explained that was when comparing the subject against other pubs, particularly in the context of the size of the premises. He considered probable turnover ranges in the town of Clifden are between €200,000 and €800,000 per annum. He said that he would be very surprised if another operator could double that. When asked about the growth rate in relation to turnover of 2.26

times from 2011 to 2019 and whether he had compared that rate to anywhere else or interrogated CSO data or Revenue data, he said he had not.

Mr Halpin was asked to clarify what he meant by the term “generational good will”. It was his opinion that, essentially, as a pub transfers between generations, it becomes known for its reputation and for having a particular family behind the bar. He said this could have both a positive and negative effect, that is, if not run well, it will count against the premises, in that, generational bad will can transfer (but chances are those businesses fail and they transfer to another who can run it better). This pub, he stated, however, is known as an institution, because it is transferred through three generations. It was his contention that a property with new operators cannot instantly get to know everyone in the town, and their father, father's father. When he was questioned on the fact that Clifden was a popular tourist destination and tourists would not have a connection to any specific premises, he agreed, however he said the subject had a good reputation and that stands to it, versus others, and tourism only counts for a short part of the year, probably between April and September. The subject property opens at lunchtime every day so it has to have a local trade and the question is how can one harness that local trade and indeed by the subject's turnover versus the others, it doesn't appear the other properties in the town can harness the trade the same way.

When asked if he had any proof for his statement that the occupier could do the same trade in another premises, Mr Halpin said no. He said that ultimately, the Appellant has no need of occupation of a second premises because he occupies his own, and the question is - does he feel himself, if he moved to another premises, that he could he do the same trade and he believes he can. He only trades out of his own premises, it is evident that he is an exceptional operator, and he believed that the Appellant has the ability to do that trade in another premises. He further stated that he could not offer proof because there is a no way of proving that. He said that he would say 99.9% of publicans across Ireland do not operate two pubs in a town, and he said that across in his lifetime, he could not think of any.

When asked about the trading figures presented, Mr Halpin confirmed that they had provided extra turnover detail, because frankly, it was thought that it would be useful to go back as far as they could, the older information was to show the trend and show the impact of the new operator on trading. He confirmed that the Appellant's first year of trading was 2012 and the property was operating to its full potential. He confirmed the turnovers provided were certified

data and 2023 was not yet certified so could not be provided and also not relevant because it is after the valuation date. When asked to confirm the turnover for 2022, he confirmed the figure.

8. RESPONDENT'S CASE

8.1 Mr Donnellan, for the Respondent, through his précis detailed the dates and the purpose of the Revaluation, Statutory provisions and market information sources. He gave a profile of the County the revaluation statistics especially in relation to pubs. He noted that there were 382 pubs in County Galway with 42 Appeals to the Tribunal.

8.2 Mr Donnellan described the location of the subject property as being on the north side of Market Street and close to Market Square in Clifden, Co. Galway. Clifden is a tourist destination on the Wild Atlantic Way. He described Clifden, the largest town in Connemara, situated between the Twelve Bens Mountain range and the Atlantic Ocean, at the mouth of Clifden Bay, c. 75 km from Galway city on the N59 road. His précis included a location map.

8.3 Mr Donnellan described the property as a traditional ground floor pub, mid-terrace 2-storey property with an ancillary, first-floor keg room. There is a store at ground floor level for keg deliveries from Caryn Place to the rear of the property. He confirmed that the property is in excellent condition throughout.

8.4 Mr Donnellan laid out the floor areas in a table and a hand drawn block plan:

	Floor	SQM
Bar	0	87.22
Customer Toilets	0	14.58
Store	0	36.87
Keg Room and Store	1	19.64
Total	-	158.31

8.5 Mr Donnellan's précis included internal and external photographs. He advised that the property was held freehold. P& L trading figures were included for 2013 to 2021.

8.6 Mr Donnellan made use of 2 KRT's (in Appendices, N/A to public) and 3 NAV comparisons.

Comp	Property	Number	NAV	FMT
1	Greenway Hotels Ltd t/a Tom Kings Bar	1170147	€35,000	In appendices (N/A to public)
2	MacDara's Bar	1170088	€100,000	No financial information was provided in this case therefore the valuation of €100,000 was estimated.
3	EJ Kings Bar Ltd t/a EJ Kings Bar	1170026	€67,000	In appendices (N/A to public)

8.7 Mr Donnellan clarified the use of percentages in relation to turnover as being two different types based on gross profit margins. Those with higher gross profits are analysed and assessed at 8% and 7% for those below a certain level. In relation to the subject in 2022 there was a gross profit of 66% and even in the Covid years there were high gross profits of 64% and 65% in 2018, 63%. He confirmed that these are considered on the higher side, and therefore warranted the higher percentage of 8%.

8.8 Mr Donnellan explained that in their assessment, there is evidence of what is generally considered high entertainment costs, driving drink sales, so that was factored into the valuation, by giving the allowance, which is in the summary. The reason being is the subject is known as a music bar in the area and he said that entertainment comes at a cost.

8.9 Mr Donnellan contended for an NAV of €52,500 which was based on an FMT of €750,000 and an allowance for entertainment.

8.10 Under cross examination, Mr Donnellan confirmed the use of the 1% entertainment allowance as 'long established, standard practice', and that he had not seen it at a higher level. He could not clarify where that practice originated. He believed there had to be an allowance and it could not be any higher, although this particular premises relied heavily on entertainment, and it was a factor driving the trade. He confirmed that premises that spend under 5% of turnover on entertainment do not get an allowance.

8.11 When Mr Donnellan was why, (when he had access to the entire tone of the list), he had only presented three, he replied that those presented were the three nearest comparisons to subject property and the most relevant. Mr Halpin had asked questions in relation to trading years or what information Mr Donnellan had. There was agreement (by the two parties, so the Tribunal allowed it) for the Respondent to summarise Mr Halpin's comparisons based on the assertion that it would make matters clearer. Mr Donnellan confirmed that Mr Halpin had produced 13 comparisons, the last three are hotels which Mr Donnellan believed, are not relevant as a different category of property. He then listed the information available to him, as follows;

- The subject property produced trading information for the years 2016 to 2022, originally 2016 to 2019 and then at representation stage occupiers were asked to provide information from 2018 to 2022.
- Tom King's Bar: 2016 to 2021
- Mannion's Bar: 2016 to 2022
- Vaughan's: 2016 to 2019
- Central Bar: 2016 to 2018
- The Darcy: no trading information
- McGrath's: no trading information
- Griffin's Bar: no trading information
- EJ Kings: 2016 to 2022
- Ravi's: no trading information
- Guy's Bar: 2021 to 2022

Mr Donnellan was of the view that having trading information of 6 of the 10 was in his opinion a "substantial amount of information". When asked by Mr Halpin, - if 4 of the 10 comparisons gave no information, how he squared that with the Tone of the List, Mr Donnellan replied by pointing out that they had a basket of information drawn from requests to all properties and engagement with occupiers through walk-in clinics. He explained that they had made an effort to exhaust all avenues for information including leases and brochures. He said that they looked for assessment of further years to be provided to help inform if there could be any adjustment on the back of that, and they did not ignore the scheme at representation stage. There was a full review of properties again, where there were representations, and were either adjusted upwards or downwards. According to Mr Donnellan, when they reach Tribunal stage, they must become compliant.

8.12 Mr Donnellan was asked for the reason why he did not provide as a KRT the letting of PN 1170088, Ravi's Bar (formerly MacDara's), Market Street, Clifden. This was letting at €23,200 per annum from 1/3/2020 on a 4-year, 9-month lease. It was Mr Halpin's understanding that this property had an identical NAV under the 1988 basis which in his opinion indicated that they may be similarly sized. In reply, Mr Donnellan confirmed he was not aware of the letting although it was on the lease register and was also given as part of submissions in relation to the subject (according to Mr Halpin). Mr Donnellan pointed out that when the draft certificate was sent out there were no representations so it was his belief that there must be some other reason in relation to that property for the NAV. He said that had not been the person who dealt with it. When asked a follow up question as to how many properties he had dealt with of the 10 comparisons in the town, he replied that it was 5 out of 11 (that included the subject).

8.13 Mr Halpin asked why Mr Donnellan believed that in the earlier years 2012 to 2014, the property had not been trading to its full potential, Mr Donnellan was of the opinion that it was known as being a good bar in the town and as a result, attracts high levels of trade which he did not think was down essentially to the to the operator themselves. He said that anyone could take over the property and the business would enjoy similar levels of trade.

8.14 Mr Donnellan was asked for his opinion in relation to the property directly across the road from the subject property, a 10-bed hotel and the fact that the subject property was being valued at a higher rate. He was also asked if the occupier of the subject property made use of the rooms upstairs for accommodation would it be worth more or less. Mr Donnellan said that the subject property with accommodation would be worth more. Mr Donnellan was unaware of the details of the hotel and its condition and was unable to comment about different aspects which were unknown, commenting that drink sales would be quite low in relation to the subject. Mr Halpin pointed out that there was no reason why the operator of the subject could not take his business acumen and do the same business across the road, to which Mr Donnellan replied, 'I don't think he would'.

Mr Donnellan was asked to explain why he believed that, anyone could take over the subject property and do the same turnover, but the operator of the subject could not do the same trade elsewhere. It was his explanation, in relation to the subject, that anyone could take that over and be a successful and he didn't think the current occupier would go across the road and operate to the same trade as the subject is a traditional type of bar, with charm and character

and as a result more attractive to both people living locally and tourists, being traditional and providing live music.

9. SUBMISSIONS

9.1 There were no 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 Galway County Council.

10.2 The Tribunal makes the following comments in relation to the NAV comparisons and KRT's.

NAV comparisons produced by the Appellant:

- Tom King's Bar & Snug, The Square, Clifden: PN1170147: – The Tribunal found this helpful as it is similarly circumstanced to the subject property.
- Mannion's Seafood Bar & Restaurant, Market Street, Clifden: PN1170133: No FMT figure.
- Vaughans Pub, Bistro And B&B, Market St, Clifden: PN1170118: No FMT figure.
- The Central Bar and B&B, Main Street, Clifden: PN1170029: No FMT figure.
- The Darcy, Main Street, Clifden: PN1170014: No FMT figure.
- Mc McGrath's, Bridge Street, Clifden: PN1170181: No FMT figure.
- Griffin's Bar, Main Street, Clifden: PN1170035: No FMT figure.
- EJ Kings Bar & Restaurant, Market Square, Clifden: PN1170026: No FMT figure.
- Ravi's Bar & Restaurant, Market Street, Clifden PN1170088: No FMT figure.
- Guys Bar, Main Street, Clifden: PN1170028: (under appeal): estimated FMT figure. Comparisons with Hotels are less helpful.

KRT's and NAV comparisons produced by the Respondent.

- Greenway Hotels Ltd t/a Tom King's Bar, Market Street Clifden: PN1170147: Located close to the Property, with a lease date, 03 March 2022, close to the valuation date. The NER at 1.06% of the NAV lends credence to the valuation scheme. (See Appendix, N/A to public)

- The Old Brewery, Oranmore: PN 1117682: Not in the immediate location and thus of no direct assistance. Lease was in 2022 and the NER at 114.1% of the NAV lends support to the valuation scheme.
- Greenway Hotels Ltd t/a Tom Kings Bar PN 1170147: FMT figure in appendices (N/A to public) this was helpful.
- MacDara's Bar PN1170088: No financial information was provided in this case therefore the valuation of €100,000 was estimated.
- EJ Kings Bar Ltd t/a EJ Kings Bar PN1170026: FMT in appendices (N/A to public), this was helpful.

10.3 The Tribunal finds that Respondent has made a persuasive argument in relation to the subject property being especially attractive to the public being a traditional type of bar with live music daily and also made the case that the turnover appears to be in excess of other comparable premises. However, the Tribunal finds the Appellants reasoned argument in relation to the letting in 2020 of PN 1170088, Ravi's Bar (formerly MacDara's), Market Street, Clifden - €23,400 per annum which is on the commercial lease register, (believed to be similarly circumstances to the subject) could have been included in the KRT's, although with a NAV of €100,000. The Tribunal finds Mr Halpin's argument in relation to the operator has merit and his particular skills have had some impact on trading.

10.4 The Tribunal finds that the methodology used for the figure put forward by Mr Halpin in relation to the FMT is not clear or coherent. No evidence or clear explanation was given as to where the figure of €460,000 came from.

10.5 The Tribunal finds the Respondents FMT figure is a better starting point as it reflects the figures submitted in evidence. However, it is the Tribunal's opinion that an allowance should have been made for the REO (reasonably efficient operator). That is, the operator of the subject does appear to be an outlier in relation to turnover as there is no evidence before the Tribunal of any other property being similar in terms of turnover. Therefore, as we have no objective or clear evidence for the FMT of €460,000 and it appears to the Tribunal that no allowance was made for the expertise of the operator, we reduce the Respondent's FMT as set out in the calculation of NAV in the Appendix (N/A to public).

10.6 The Tribunal finds that the Respondent's estimate of FMT is a reasonable starting point. It reflects the figures submitted in evidence. However, the Tribunal also sees merit in Mr

Halpin's contention that since the Appellant took over the business in 2012 growth in turnover in the pre Covid period, 12.4% per annum, was exceptional, even allowing for the undoubted upturn in tourism economy generally in that time. Mr Halpin contended for a reduction in FMT to €460,000 to reflect the Appellant's exceptional business acumen. However, he put forward no objective data to support this reduction and in the Tribunal's view, in those circumstances, the figure is too great. The limited trading data provided to the Tribunal indicated FMTs of €437,500 and €600,000 in adjacent largely similarly circumstanced premises. Having regard to these, but also to the particularly attractive nature of the Property, the Tribunal finds that the FMT for the Property should be reduced as set out in the calculation of NAV in the Appendix (N/A to public).

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to € 46,200, with the calculations shown in appendices (N/A to public).

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.