

Appeal No: VA23/5/0369

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ORIGINS FURNITURE LTD T/A SILVERWOOD JEWELLERY APPELLANT

and

COMMISSIONER OF VALUATION RESPONDENT

In relation to the valuation of

Property No. 2164235, Retail (Shops) at 9.10 (PT) (Local 4/5) (GR FL Centre) High Street,
Galway, County Galway.

B E F O R E

John Stewart - FSCSI, FRICS, MCI Arb

Deputy Chairperson

Orla Coyne - Solicitor

Member

Mema Byrne - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 2nd DAY OF SEPTEMBER, 2024

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th 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 €22,200.

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: *“The valuation of €22,000 exceeds the annual rent of €18,000*

and is therefore overvalued in accordance with Clause 48, Part 11 of the Valuations Act. (see attached) lease and rental amendment letter also attached. Please note Paula O' Meara, founder of Origins, died in 2016 and ownership passed to her husband, James Maher.

Also attached is a list of comparisons to similar properties in better locations but with lower valuations.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €13,935.

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 €27,800.

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 €22,200.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €22,200.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 1st day of February 2022.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 8th day of July 2024. At the hearing, the Appellant was represented by Ms. Katie O' Neill and the Respondent was represented by Ms. Kathy Farrelly B.Sc. (Hons) of Tailte Eireann.

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 their précis as their 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 location and description of the subject property were agreed.

4.3 At the hearing the parties confirmed that the agreed floor area was Zone A 18.19sqm.

4.4 Both parties acknowledged that the property was held under a lease which commenced on 22nd June 2012 at €16,000pa and that the rent was reviewed under a new agreement as and from 22nd April 2019 to €18,000pa.

5. ISSUES

5.1 The 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 was represented by Kate O'Neill the occupier.

7.2 She argued that the present rent of €18,000 per annum was the correct market rental value for the subject property and was in line with three other High Street retail units leased in 2022 specifically referencing Nos 24, 25 and 17 High Street.

7.3 She argued that this level of rent in 2024 allowed continuity of tenancy in what she stated was a very unstable commercial environment. She added that recent increases in utility's, wages and for restaurants VAT were making trading untenable for some businesses. This she argued resulted in a large number of vacant units adding that most current rents are being advertised as negotiable. She provided details of various retail units in Galway which were available to let as of the 7th of May 2024 which included:

7 Shop Street - rent negotiable;

21 William Street - rent negotiable;

Ground floor retail unit 17 Eglinton Street - rent negotiable;

Unit 1/2 Edward Square - rent negotiable;

Unit 10 level 1 Corbett Court Shopping Centre - rent negotiable;

Unit 11 level 1 Corbett Court Shopping Centre - rent negotiable;

22/27 William Street - rent negotiable;

Ground & 1st floor 36 William Street - rent negotiable;

Pop-up shops Corbett Court Shopping Centre - rent negotiable;

Ground floor 124 Eyre Square rent negotiable;

Bonham Quay retail units - rent negotiable.

Unit 5A ground floor Corbett Court Shopping Centre - rent negotiable;

Unit 205 first floor Eyre Square Shopping Centre price on application or rent negotiable.

7.4 She provided an extract from The Property Services Regulatory Authority Commercial Lease Return Form for 24 High Street which stated inter alia that the ground floor retail area comprised 1,200sqm and the basement storage area comprised 1,000sqm. She stated that this lease was for a period of 10 years from the 7th of October 2022 at a rent of €70,000 per annum. She includes an extract from the Valuation Report Property Number 1158227 which indicated the following.

Level	Use	Area m ₂	NAV €/ m ₂	NAV €
0	Zone A	73.14	€1,200	€87,768.00
0	Zone B	40.13	€600	€24,078.00
-1	Store	119.92	€100	€11,992.00
Total				€123,838.00
Rateable Valuation				€123,800.00

She analysed the rent of €70,000pa for 24 High Street as contained in the PSRA report as follows:

Zone A 73.14sqm

Zone B 20.06sqm (being 50% of 40.13sqm) and

Store 9.99sqm (being 8.33% of 1/12th of Zone A)

Total 73.14 + 20.06 + 9.99 = 103.19sqm

$103.19 \times €678.36 = €70,000$ which she extrapolated as the Zone A level based on a rent of €70,000.

Based on the pre agreed Zone A area of 18.58sqm (for the subject property) $\times €678.36 = €12,603.93$ which she claimed was the market rent in 2022.

7.6 She also provided an extract from The Property Services Regulatory Authority Commercial Lease Return Form for 25 High Street which stated inter alia that the ground floor retail area comprised 1,200sqm and the basement storage area comprised 1,000sqm. She stated that this lease was for a period of 10 years from the 7th of October 2022 at a rent of €70,000 per annum. She acknowledged that there was no reported rent for 17 High Street.

7.7 She provided a copy of her revaluation appeal notice wherein she stated that the valuation of the subject property ought to be €13,935. She referenced the Dublin metropolitan area with a

population of 1.27 million and provided a schedule of seven properties in Dublin, four in Limerick metropolitan area population 104,952 and three in Waterford population 82,963 and referring to Galway metropolitan area population 82,963 she stated that in her opinion the rate of €1,200 Zone A was excessive for Galway when compared particularly to the Dublin rates listed below.

Dublin

Prop. No.	Area/sqm	€/Sqm	Location
839271	Zone A 20.83	€1,800	50 Nassau St. -1 door from Grafton Street
	Zone B .52	€900	
839270	Zone A 44.86	€1,200	48/9 Nassau St. 2 doors from Grafton Street
	Zone B 3.91	€600	
839832	Zone A 15.5	€1,000	19a South Anne St. 2 doors from Grafton St.
787118	Zone A 25.62	€1,200	55 South King St. 1 door from Grafton Street
	Zone B 12.7	€600	
787100	Zone A 12.19	€600	31 South King St. just off Grafton Street
	Zone B 6.6	€300	
787956	Zone A 32.94	€1,200	55 South King St. 1 door from Grafton Street
	Zone B 30.64	€600	35 Wicklow St.

Limerick

Prop. No.	Area/sqm	€/Sqm	Location
1060388	Zone A 36.95	€650	8 O'Connell St.
	Zone B 25.92	€325	
1060031	Zone A 41.91	€430	28 Cruises St.
	Zone B 3.91	€215	
1050217	Zone A 37.5	€430	32b Cruises St.
2194122	Zone A 38.06	€500	3 Bedford Row
	Zone B 12.7	€250	

Waterford

858112	Zone A 34.59	€500	4/5 Arundel Sq.
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	Zone B 19.08	€250	
857009	Zone A 31.72	€600	20 George's St.
	Zone B 3.91	€300	
856997	Zone A 28.73	€600	6 Barrow St.
	Zone B 56.83	€300	

7.8 She concluded by stating that subject property was located at the poorer end of High Street and there was virtually no Christmas trade. She added that this section of the street relied on the tourist season which ran for four to five months, and she argued that the Dublin rates for 48 Nassau Street two doors from Grafton street was valued at the same rate as a subject property in Galway which she claimed could not be equitable.

7.9 During cross-examination Ms O Neill confirmed that the lease effective date for the subject property was 2019. She also stated that her second comparison referred to No 25 High Street and her third comparison referred to No. 24 High Street.

RESPONDENT'S CASE

8.1 the Respondent's evidence was provided by Kathy Farrelly on behalf of the Commissioner. She adopted her precis.

8.2 Ms Farrelly described the location on High Street as a vibrant and bustling area of Galway city which offered a wide range of commercial activities with a mixture of retail, hospitality, and office accommodation. She stated this was one of the main shopping districts in Galway and comprised a mixture of local Irish retailers as well as top High Street brands. She noted that Galway city had a population of 84,414 in the 2022 census and that the city was well located in relation to the Wild Atlantic Way and was a very popular tourist location. She stated the street had been pedestrianised which allowed access to Eyre Square, William Street, Shop Street, High Street and Quay Street.

8.3 She provided a location map identifying the subject property and a photograph of the frontage of Silverwood which indicated a display window and a side entrance door. She stated that the subject property had a retail frontage of 3.23 metres to High Street and internally the unit had

timber flooring, and the walls were plastered. The agreed floor area was Zone A 18.19M². She provided a number of internal photographs taken in April 2024.

8.4 Ms Farrelly provided a schedule of the leasehold details which stated that the lease for the subject property had commenced on the 22nd of June 2012 and that the original lease was for a period of four years and six months and that the current rent was fixed on the 22nd of April 2019 at €18,000 per annum.

8.5 Ms Farrelly provided a case history referring to the various milestones from the 1st of February 2022 which is the valuation date noting that the Proposed Valuation Certificate issued was €27,800 and that following representations the Certificate was amended to €22,200.

8.6 Ms Farrelly addressed the grounds of appeal noting that the Appellant provided four separate valuations €14,955 at representation stage; €13,935 on notice of appeal and €18,000 and €12,603.93 in the Appellants submission. She summarised the grounds of appeal as follows:

The valuation of €22,000 on the property exceeded the annual rent of €18,000 and it is therefore overvalued in accordance with Clause 48 Part 11 of the Valuation Act 2001;

No. 4/ 5 High Street Galway comprised 19.26 M² retail unit leased since the 22nd of May 2012 by Origin Furniture and that the present rent of €18,000 is the correct market rental value for this property and is in line with three other High Street retail units leased in 2022 and this level of rent allowed for continuity of tenancy in a difficult commercial environment.

Addressing the Appellant's key rental evidence, she stated that the rent on the subject property dated from 22nd of April 2019 which preceded the valuation date by two years and nine months and consequently was of little relevance. In relation to her two second comparisons Ms Farrelly stated that these referred to two units occupied by Carroll's Irish gifts and that the total rent was €140,000p.a. which dated 8 months after the valuation date and that the current NAV was €123,800 which was lower than the combined rent being paid. She added that the final comparison provided by the Appellant did not show any rental evidence.

8.7 Ms Farrelly relied on four key rental transactions to support her opinion in relation to the NAV. Details are included in the Appendix (N/A to public) as required by the Act. She stated the first

KRT property is located on the same street as the subject property and the lease dated from October 2022 eight months after the valuation date of 1st February 2022. She stated that representations had been made for this property by an agent, but no appeal had been made to the Tribunal. The analysis of the rent provided, before amalgamation of Nos 24 and 25 provided a Zone A retail rate of €1,113.36/sqm, a Zone B rate of €556.68/sqm and a basement store €100/sqm. The corresponding NAV values were €1,200/sqm, €600/sqm and €100/sqm.

8.8 Analysis of the second KRT dated October 2022 which was also located on the same street as the subject property provided a Retail Zone A of €1,700/sqm a Retail Zone B of €850/sqm and a basement store rate of €100/sqm and the corresponding NAV's were €1200/sqm, Zone B 600/sqm and €100/sqm.

8.9 Analysis of the third KRT which was also located on the same street as the subject property referred to a letting from November 2021 and provided a Retail Zone A of €1,318.08/sqm; a Retail Zone B of €659.04/sqm and a basement store rate of €100/sqm and the corresponding NAV's were €1,200/sqm, Zone B €600/sqm and €100/sqm.

8.10 The final key rental transaction referred to a property with dual frontage to High Street and Cross Street Upper from June 2021. This unit comprised a small ground floor area and the Zone A analysis of the rent was €1,400/sqm and the NAV was €1,200/sqm.

8.11 Ms Farrelly provided three NAV comparisons as follows:

NAV Comparison 1

Property Number	1158270
Occupier	Tom Nally's Barber Shop
Address	14 High Street Galway H91 K12N
Total Floor area	26.35sqm
NAV	€30,200

Level	Description	Size /SQM	NAV/SQM
0	Retail Zone A	24.05	€1,200

0	Retail Zone B	2.3	€600
	Total	26.35	€30,200

This property is located on the same street as a subject property and representations were received but lease details were not provided.

NAV Comparison 2

Property Number	2164236
Occupier	Lucy Simson
Address	4/5 High Street Galway H91 HX3D
Total Floor area	34.06sqm
NAV	€27,300

Level	Description	Size /SQM	NAV/SQM
0	Retail Zone A	16.85	€1,200
0	Retail Zone B	10.65	€600
0	Store	6.56	€120
	Total	34.06	€27,300

This property is located on the same street as a subject property and representations were received but the lease detail were from 2011 and not relevant.

NAV Comparison 3

Property Number	1158218
Occupier	Ladbrokes Ireland Ltd
Address	7 Hill Street Galway H91 D9P2
Total Floor area	18sqm
NAV	€35,000

Level	Description	Size /SQM	NAV/SQM
0	Retail Zone A	32.42	€1,200

0	Kitchen	4.71	€600
	Total	33.42	€35,000

8.12 Ms Farrelly concluded her evidence by stating that having considered the various rental and NAV comparisons that the NAV for the subject property considering the agreed floor area was €21,800.

8.13 There was no cross examination of the Respondent by the Appellant.

9. SUBMISSIONS

9.1 There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the net annual 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 Appellant's case relied on the passing rent of €18,000p.a. which dated from 22nd April 2019. The Tribunal finds that this rent was too remote from the Valuation date 1st February 2022 and consequently finds that it is not relevant to the case particularly when there is contemporary rental evidence in relation to properties on the same street as the subject property.

10.3 Ms O Neill relied on two extracts from the PSRA website which referred to 24 High Street and 25 High Street Galway. These extracts stated that the ground floor retail area of 24 High Street was 1,200sqm and that the basement comprised storage accommodation of 1,000sqm and that the property was let for a term of 10 years from the 7th October 2022 at €70,000 per annum. The second extract which referred to 25 High Street Galway also stated that the ground floor retail area comprised 1,200sqm and the basement store comprised 1,000sqm and that this lease was also for a term of 10 years from the 7th October 2022 with a rent of €70,000 per annum. Both parties accepted the stated floor areas in the PSRA documentation as incorrect and did not seek to analyse

the rental transactions based upon these stated floor areas. Ms O'Neill also referred to 17 High Street however no rental evidence was available for this property.

10.4 In her precis Ms O'Neill referred to property number 1158227 as No 24 High Street as comprising a retail Zone A area of 73.14sqm, a retail Zone B of 40.13sqm and a basement store of 119.92sqm. She then analysed the reported rent for 24 High Street of €70,000 based on these areas which produced a Zone A rate of €678.36/sqm. She multiplied this amount by the Zone A area of the subject property 18.58sqm (the area stated before an agreement of Zone A rate of 18.19sqm) which provided a valuation of €12,603.93 ($18.58 \times €678.36 = €12,603.93$) which she claimed was the market rent for the subject property in 2022.

10.5 Unfortunately, Ms O'Neill's calculations were based on an incorrect assessment of the size of number 24 High Street Property Number 1158277. She relied on the amalgamated floor areas of numbers 24 and 25 High Street but analysed a rent of only €70,000pa rather than the correct amount of €140,000pa. Had she adopted the correct rent of €140,000pa in her analysis for the two properties she would have arrived a value which would equate to approximately double her contended sum of €678.36 which is close to the Respondent's rate of €1,200/sqm. It is clear to the Tribunal that Ms O'Neill was not aware of the amalgamated floor areas, the Tribunal finds that the Appellant's calculations were based on an incorrect assessment of the floor areas, accordingly the Tribunal cannot accept her contention for a rate of €678.36/sqm.

10.6 Ms O'Neill also sought to compare Galway with Dublin, Limerick, and Waterford however it is well established practice in the Tribunal that comparator evidence is restricted to the rating area of the subject property.

10.7 Consequently as the onus of proof is on the Appellant the Tribunal finds that the Appellant has not established that the valuation is incorrect and confirms the valuation based on the agreed floor areas as follows:

Description	Floor Area SQM	NAV/SQM	NAV
Zone A	18.19	€1,200	€21,828
		Say	€21,800

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Valuation at €21,800.

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.