

Appeal No. VA02/4/034

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 2001**  
**VALUATION ACT, 2001**

**The Market Square Partnership**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Car park at Map Reference: Pt. 8.9.10.11., Market Place, Ennis, County Clare

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**Maurice Ahern - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 10TH DAY OF OCTOBER, 2003**

By Notice of Appeal dated 13 November 2002 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €304.74 on the above described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are:-

"That the valuation is excessive, inequitable and bad in law."

This appeal proceeded by way of an oral hearing held in the offices of Limerick County Council on the 4<sup>th</sup> March 2003. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), ASCS, ARICS, MIAVI, and the respondent by Mr. Noel Norris, B.Comm, MIAVI, ASCS, MRICS, a District Valuer in the Valuation Office. Prior to the hearing the valuers exchanged and submitted to the Tribunal précis of evidence and valuation which was subsequently received into evidence.

### **The Property**

The subject property comprises a recently built, multi-storey car park at Market Place, Ennis. The car park provides parking for 263 cars on 7 levels and has automatic entrance and exit lanes, with pay station and customer service offices at the exit. The car park is occupied by the appellant company under a lease for a term of 20 years and 3 months subject to an initial annual rent of €380,920.

### **Valuation History**

The subject property was first valued at the 2001/4 revision and assessed at a rateable valuation of €304.74. No change was made at first appeal stage and it is against this decision that the appeal to the Tribunal lies.

### **The Appellant's Evidence**

Mr. Halpin, having taken the oath, adopted his précis which had previously been received by the Tribunal as being his evidence-in-chief.

At the outset Mr. Halpin amended his opinion of Net Annual Value contained in his précis to reflect the fact that the parties had agreed that the number of spaces was 263 and not 302 as stated in his précis. Accordingly he put forward the following valuation.

263 spaces	@		€85 per space
Net Annual Value			€21,040
Rateable Valuation	@	0.4%	= €84

In support of his valuation Mr. Halpin introduced details of 7 car parks elsewhere in the country as set out in Appendix 1 attached to this judgement. In his evidence Mr. Halpin said that the construction of the subject car park was tax-driven and that the rent payable under the lease was not a market rent in the true sense of the term. Hence the rent payable was of no assistance in arriving at an opinion of Net Annual Value. Whilst he had produced a valuation on the receipts and expenditure method, he was not relying upon that valuation but had introduced it only to show the financial situation of the operating company. As a result he was relying solely upon the comparative method of valuation and had examined the assessments of a number of multi-storey car parks throughout the country in order to arrive at his opinion of Net Annual Value as set above.

Mr. Halpin in evidence went on to say that the subject property was the only multi-storey car park in Ennis. Generally speaking, he said, on and off-street car parking charges in Ennis were low and parking was poorly controlled. This somewhat benign regime acted as a deterrent to the operation of the subject property leading to a very low occupancy rate of 16.4%. A hypothetical tenant in the market, he said, would take this factor into account when arriving at an opinion of rental value.

Under cross-examination Mr. Halpin agreed that none of the comparisons which he had introduced were of much assistance but he said they indicated the levels of value attributed to car parks in much better locations than the subject and which operated at much higher levels of occupancy. Making such allowances as he considered appropriate for location and levels of occupancy he had come to the conclusion that his opinion of Net Annual Value was fair and reasonable.

### **The Respondent's Case**

Mr. Noel Norris, having taken the oath, adopted his précis of evidence which had previously been received by the Tribunal as being his evidence-in-chief. At the outset Mr. Norris also amended his opinion of Net Annual Value in the light of the agreement that the number of spaces was 263.

His amended valuation is set out below:

263 car spaces	@ €253.94 each	=	€66786.22
	@ 0.4%	=	€267.14
	Say		€267

In his evidence Mr. Norris said that Tralee was a town somewhat similar in size to Ennis and, in the absence of any directly comparable properties in Ennis, it was reasonable to rely upon comparisons drawn from another rating area.

Under cross-examination Mr. Norris did not agree that the parking conditions in Ennis were easier than Tralee. Mr. Norris said the two towns were similar in size and the level of commercial activity in both towns was also similar. Nonetheless, Mr. Norris did concede that the subject property operated at a low level of occupation and agreed that this was something a hypothetical tenant in the market would take into account and would perhaps adjust his opinion of rental value downwards from the established level found in Tralee.

## Findings

The Tribunal has carefully considered all the evidence and argument adduced by the parties and makes the following findings.

1. It is common case that the rent payable under the lease is not a market rent and hence of no assistance in determining Net Annual Value. Similarly no assistance can be drawn from the trading accounts of the operating company.
2. It is common case that the only method of valuation available is the comparative method and it is common case that there are no directly comparable properties in Ennis. In such circumstances it is reasonable to look at the assessments of similar properties in other rating areas.
3. In formulating an opinion of rental value a hypothetical tenant would have regard to the current low level of usage of the subject property but, nonetheless, would take a view that the occupancy rate could and would improve in time.

4. The Tribunal prefers the comparisons introduced by Mr. Norris. It is however of the view that the rate per space adopted there needs to be adjusted downwards to reflect the low level of usage in the subject property.

### **Determination**

Having regard to the above the Tribunal determines the Net Annual Value of the subject property as set out below:

263 spaces	@	€197.72 per space	
Net Annual Value	=	€52,000	
Rateable valuation	@	0.4%	= €208