

**Status of Judgment: Distributed**

Appeal No. VA98/2/059

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL  
AN tACHT LUACHÁLA, 1988  
VALUATION ACT, 1988**

**Gowan Motors (Merrion Ltd.)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Showroom at Lot No. 133-145 inc. 1, 3, 5 Herbert Avenue/1, Merrion Road, (Ward: Pembroke East D), (incl. 1,3,5 Herbert Avenue), Dublin 4. County Borough of Dublin  
Quantum

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Ann Hargaden - FRICS.FSCS**

**Member**

**Finian Brannigan - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 23RD DAY OF FEBRUARY, 1999**

By Notice of Appeal dated the 29th April 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £375 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that "the rateable valuation assessed on the property is excessive, inequitable and unjust. Evidence of a previous appeal in 1994 agreed with the Valuation Office on part of the subject property was not taken into account in determining the appeal".

The appeal proceeded by way of an oral hearing, which took place in the Tribunal Offices in Dublin on the 2<sup>nd</sup> day of December 1998. The appellant was represented by Mr. Nicholas Corson MIAVI ASCS ARICS, a director of Finnegan Menton. Mr. Peter Conroy, District Valuer in the Valuation Office represented the respondent.

Prior to the oral hearing written submission were received from Mr. Corson on behalf of Gowan Motors and from Mr. Conroy on behalf of the Commissioner of Valuation. At the oral hearing both valuers adopted their written submissions as their evidence-in-chief given under oath.

From the evidence so tendered the following facts either agreed or so found are considered by the Tribunal to be relevant to this appeal.

The property comprises a service yard and car showrooms with ancillary office and canteen areas and a display forecourt of circa 465 sq m (5,000 sq ft). The building comprises an original workshop and office building constructed in the late 1970's together with the ground floor showroom of a two storey building built in 1993 and extended in 1994. There are offices at first floor, which are valued separately.

The property is located on the Merrion Road at the intersection with Herbert Avenue adjoining St Vincent's Hospital and approximately 3 miles south east of Dublin City Centre.

### **Valuation History**

The property was originally in two separate Lots, 145 Merrion Road and 133 to 143 Merrion Road (including 1, 3 & 5 Herbert Avenue). Lot 145 Merrion Road was first valued in 1969 when it was in use as an off licence shop. The valuation then was £30. The property was first rated to Gowan Motors in 1991 but the RV was not changed, as works had not commenced on the conversion to showrooms on ground floor and offices on first floor. In 1993 the new development was valued at £120 but reduced to £65 at first appeal.

Lots 133/143 Merrion Road including 1, 3 & 5 Herbert Avenue were first valued as a petrol filling station in 1961 with a valuation of £55. In 1981 following improvements the valuation was increased to £170.

In 1997 both lots were amalgamated to 133 to 145 Merrion Road including 1, 3 & 5 Herbert Avenue and the valuation was fixed at £475. This was divided as £375 on the ground floor showrooms, workshops and yards and £100 on the first floor offices. The valuation of £100 on the offices has been agreed at first appeal but the remaining £375 is in dispute and is the subject of this appeal.

### **SUBMISSIONS OF THE PARTIES**

Mr. Corson indicated that he had agreed the floor areas with the District Valuer but that both parties had adopted a different approach to valuation on the display forecourt.

Mr Corson said that the property was located in a mixed area surrounded by institutional and secondary commercial uses, especially when compared to the centre of Ballsbridge where a number of comparisons mentioned by the respondent were located. He stated that it is also located in an area zoned for residential purposes and that planning permission for the showrooms was obtained in 1993. The configuration of the new premises was restricted to the configuration of the former cottages on site. As a result the showrooms are just wide enough to take one car for display purposes. There is limited display frontage via one small display window. The other parts of the property date from the 1970s and are not to the same modern standards as the newer showrooms constructed in recent years.

Mr Corson said that before the present showroom was extended, the ground floor of the subject premises was assessed at £6 per sq ft in 1994 at first appeal. He pointed out that it is in the same condition now as it was then.

He then outlined some details in relation to his comparisons (see Appendix). Mr Conroy objected to the use of Comparison 5 as he stated that it was under appeal to the Tribunal however Mr Corson pointed out that he was submitting only the 1991/2 revision as evidence

to the Tribunal and would prefer to present this evidence as of that date. Mr. Corson said that in his opinion a fair rateable valuation on the subject premises was £238.

Mr Peter Conroy in cross-examination of Mr Corson mentioned that Gowan Motors (Dorset) Limited had purchased the property from Gowan Motors (Merrion) Limited on 19th December 1995 for the sum of £716,699. Gowan Motors (Merrion) Limited then leased the property back for a term of 21 years from 1st January 1996 at £115,000 per annum of which £33,000 per annum was attributable to the first floor which is not the subject of the appeal. He then asked Mr Corson whether any importance had been attached to the passing rents on the subject properties, even though they were inter-company leases. Mr Corson confirmed that the rent was £115,000 per annum including the first floor at £33,000 per annum and that they were Open Market Rents at that time. Mr Conroy indicated that he believed the 1996 rent was relevant and that he had applied a 27% discount to this rent, by reference to the Jones Lang Wootton indices in order to arrive at his valuation. Mr Corson indicated that in his view this discount was low.

Mr Conroy then asked about the various alternative uses the property might have and Mr Corson indicated that the site was difficult, his clients had been restricted by the town planners in their development of the site. He confirmed that the property had a profile but that the showrooms had only 16 ft frontage and with “freedom” his clients would not have constructed this configuration.

Mr Conroy then asked if, in Mr Corson’s view, the front showrooms had materially changed because of the extension, in that the operation of the business as a car showrooms is much more efficient than it was. Mr Corson indicated that it had changed and that it was wider at the rear but that the front had remained the same and that there should be a reduction for quantum because of the larger size. In his view a precedent of £6.00 per sq ft had been set for the unit on its own.

Mr Conroy then questioned Mr Corson on his comparisons;

Comparison 6, Esmond Motors in Stillorgan was disputed by Mr. Conroy. He stated that the file indicated that the NAV was the same but that the floor areas were less and the rental rates higher. Mr Corson subsequently confirmed on 14th of January 1999 following correspondence with Donal O’Buachalla & Co. who had acted for the Appellant in that case that in fact the analysis of the NAV was not agreed but that the NAV was correct.

Mr Conroy then referred to the agreement on the first floor NAV and asked whether Mr Corson thought it was appropriate to have the ground floor at the same rate as the first floor. Mr Corson stated that it was appropriate, as the first floor is a self-contained office suite fitted out to an excellent standard. Mr Conroy then asked whether Mr Corson had come across many ground and first floors rented at similar rates and Mr Corson indicated that each property should be taken on its own merit in this regard.

Mr Peter Conroy pointed out that the premises had been a retail shop/off licence and a new development was completed in 1993 which altered the premises from one small restricted showroom on its own to a larger comprehensive showroom. He stated that the passing rent agreed under the terms of the lease at £115,000 p.a. must be taken into account. He confirmed that the lease was submitted to the Stamps Office and was confirmed as an Open Market Rental Value at that time. He stated that he had taken the passing rent of £82,000 pa and applied the Jones Lang Wootton retail and industrial indices average of 73% which arrived at the reduction to the NAV as calculated. He stated that there was a major difference in the rental rates which were applicable to the showrooms as opposed to the offices and the canteen and workshops. To support his valuation he submitted comparisons (see Appendix Two) and he outlined the details in relation to these.

He then referred to the first floor offices and a case heard by the Tribunal; Appeal No VA/90/2/15 – *DID Electrical* where it was claimed that a ground floor premises should be at least 2 to 3 times greater in value than a first floor premises and that this differential should be reflected in this Appeal.

Mr Conroy was then cross-examined by Mr Corson who queried whether the Jones Lang Wootton indices was relevant to showrooms as there were no showrooms included in this index. He then queried Mr Conroy's analysis of the parts workshop area at £3.50 per sq ft even though it had a lower headroom than the main workshop. Mr Conroy said this was mainly attributable to the partitioned area, which included reception.

Mr Corson then asked Mr Conroy how he had arrived at £500 on the car spaces when his comparison of Ballsbridge Motors allowed a rate per car space of £300. Mr Conroy referred to the 14 cars spaces attaching to the Toyota showrooms, which were analysed at £588 per space. However Mr Corson stated that he felt that these were more akin to spaces attaching to an office complex and Mr Conroy agreed but confirmed that he had been generous in the space allocated to each car space.

Mr Corson queried Mr Conroy's use of the case heard by the Tribunal which allowed a difference between first floor and ground floor and indicated that the first floor in that instance had a snooker game use and that different values would apply. Mr Conroy suggested that the Tribunal Judgement in this case was not clear and stated that the first floor was now agreed at a passing rent of £7 per sq ft whereas it had been agreed at £6 per sq ft in 1994 and that when the showroom was added it materially altered the capacity to trade. He stated that he believed that these were high profile car showrooms, which could not be missed as you drive along the Merrion Road and he did not think that the configuration would materially affect the value because of this profile. Mr Corson stated that Ballsbridge Motors had frontage of 200 ft to the road and that it would make a significant difference if they only had 16 ft frontage.

### **Determination**

There is no doubt that this premises is a high profile premises situated on a very busy traffic thoroughfare but it is restricted by limited display windows and frontage and the potential trader would take this into account. The extension of the showrooms however has increased the capacity to trade. The ancillary workshops and canteen are older and inferior to the majority of the comparisons used in the vicinity. This area of Merrion Road is also more secondary in nature when compared to the commercial hub of Ballsbridge where the Toyota

and Ballsbridge Motors comparisons are located. There is no doubt that the best evidence of NAV is the Open Market passing rent and this is of relevance to the Tribunal's decision, however the application of the Jones Lang Wootton index is not appropriate as these indices do not cover this type of property in the portfolio monitored. The point raised in relation to the differing rates applying to first floor and ground floor is not entirely appropriate as the precedent referred to compared a ground floor retail premises with a first floor snooker hall. In the light of all these factors the Tribunal determines that the following NAV applies to the property:

<b>Showrooms</b>	2,789 sq ft @ £9.00 per sq ft	£25,101.00
<b>Offices</b>	630 sq ft @ £5.00 per sq ft	£ 3,150.00
<b>Workshop</b>	1,755 sq ft @ £2.75 per sq ft	£ 4,826.25
<b>Workshop</b>	3,684 sq ft @ £2.75 per sq ft	£10,131.00
<b>Canteen</b>	233 sq ft @ £2.00 per sq ft	£ 466.00
<b>Cars</b>	20 spaces @ £300 per space	<u>£ 6,000.00</u>
<b>Total</b>		£49,674.25 @ 0.63% = £312.94 <b>SAY £313 RV</b>

The Tribunal therefore determines that the rateable valuation of the subject premises is £313.