

Appeal No. VA10/4/005

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

**Young's Garage Ltd**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2204097, Showroom at Lot No. 9D/1, Belleville, Templemore,  
Templemore UD, North Tipperary, County Tipperary.

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

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

**Member**

**Tony Taaffe - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 10TH DAY OF JUNE, 2011**

By Notice of Appeal dated 20th day of December, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €4.00 on the above-described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal, a copy which is attached at Appendix 1 to this judgment.

This appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 16<sup>th</sup> day of February, 2011. The appellant was represented by Mr. Henry Young. Mr. Tomás Cassidy, BSc (Property Management & Valuation Surveying), a District Valuer represented the Valuation Office. In accordance with the rules of the Tribunal the parties had in advance of the hearing, exchanged written submissions and submitted same to the Tribunal.

### **Location**

The subject property is located in the town of Templemore. It is situated on a minor road off the N62 which forms Templemore's Main Street and Patrick Street. The unit is conveniently located, however, has no presence on the N62 largely due to tree screening.

### **Description**

The subject property is a new purpose-built detached showroom facility with a floodlit tarmac yard used for display/storage purposes. The property is held freehold. The property is finished to an excellent standard throughout.

### **Valuation History**

The property was listed for revision by Templemore Town Council. The property was assessed as having a rateable valuation of €60. This valuation was challenged at Representations stage. On foot of the representation lodged, the RV was revised downwards to €54. An appeal was made against the valuation on the 4<sup>th</sup> June 2010. The decision of the Commissioner of Valuation was to affirm the valuation of €54.00. The Commissioner's decision was appealed to the Valuation Tribunal on 20<sup>th</sup> December 2011.

### **Areas**

The agreed areas, measured on a Gross Internal Area basis, are as follows:

Floor Area: 374.45 sq. metres

Tarmac Yard: 750 sq. metres

### **The Appellant's Case**

Mr. Young took the oath and adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission. Mr. Young stated that he is a director of the appellant company and was representing his son, who is the owner of the property. He stated that the

subject property was built on a flood plane and was prone to flooding and that planning permission should not have been granted there. Mr. Young stated that the subject property is located on a by-road, off a main road and that the road leading to the business has been closed on many occasions due to serious flooding from the river, which is a tributary of the River Suir that runs beside and bounds the subject property. Mr. Young stated that this area of Belleville is a well known flood plain and has been that way for all his lifetime. Mr. Young stated that the appellant company is the main Mitsubishi dealer in the area, employing 13 people, and that for business reasons the company had felt compelled to apply for planning permission to extend the subject premises. In the Notice of Appeal, the appellant company contended for an RV of nil. However, when questioned by the Tribunal on this point, Mr Young stated that he felt an RV of €25 would be fair and reasonable.

### **Comparisons**

Mr. Young put forward no comparisons in support of an RV of either nil or €25. He stated that the subject showroom has been built on a flood plain and it cannot be compared to any other properties in the town.

### **Cross-Examination**

When questioned by Mr. Cassidy as to whether the new showrooms had ever flooded since being built, Mr. Young answered in the negative.

### **Respondent's Evidence**

Mr. Cassidy, having taken the oath, adopted his précis as his evidence-in-chief. He outlined the location, description, tenure, floor area and valuation history of the subject property. He then outlined his valuation methodology. The rateable valuation was assessed at 0.5% of the Net Annual Value, which is in line with the basis adopted for the determination of other revised properties in the same Rating Authority area. Mr. Cassidy stated that the valuation on the subject property was assessed by reference to the values of comparable properties appearing on the valuation list for the Templemore Town Council area.

Mr. Cassidy contended for a rateable valuation of €54, calculated as follows:

GF Showroom	292.86 sq. metres @	€34.16 per sq. metre
Mezzanine	81.60 sq. metres @	€7.00 per sq. metre

Yard	750.00 sq. metres @	€1.00 per sq. metre
NAV	€1,325.29 x 0.5%	= €6.62
RV = €4 (to reflect flooding)		

Mr. Cassidy stated that a reduction of 4.5% had been applied to the RV to reflect the problem of flooding in the area where the subject property is located.

### **Comparisons**

In support of his assessment of rateable valuation, Mr. Cassidy put forward the following 2 comparisons (details of which are attached at Appendix 2 to this judgment):

1. Templemore Motor Works Ltd. (Car Showroom, Shop and Filling station)  
RV €265
2. Centenary Co-Operative Society Ltd (Co-Op, formerly a filling station) RV €305

In respect of his first comparison, Mr. Cassidy gave evidence that when the property was revised in 2001, a reduction of circa 4% had been allowed to address the problem of flooding.

In relation to the problem of flooding, Mr. Cassidy stated that he had looked at maps from 1904 to 2004 and that, in his opinion, there was no indication that the field where the subject property was built is a flood plain. He further stated that a condition of the planning permission granted for the subject property was that the said field be raised one metre above an adjoining field.

### **Cross-Examination**

In the course of cross-examination, Mr. Young challenged the appropriateness of the respondent's comparisons, asserting that Templemore Motors was a prime site and that the Centenary Co-op was never prone to flooding.

### **Findings**

Having considered carefully all the evidence and arguments submitted and adduced by the parties, the Tribunal finds as follows:

1. The statutory basis for valuing property on foot of a request for revision of valuation is set down in section 49(1) of the Valuation Act, 2001 which states:

*“If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28 (4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property”*

In other words the valuation of the property concerned is to be determined in accordance with what is known as the “tone of the list”, although this expression is not explicitly referred to in the Act.

2. In accordance with rating law and practice the onus of proving that a valuation of a property appearing on the valuation list is incorrect lies with the appellant. In this case, the Tribunal notes that the appellant gave evidence only in relation to the issue of flooding and submitted no comparative evidence.
3. The Tribunal notes that the respondent reduced the RV of the subject property by approximately 4.5% to take account of the problem of flooding in the area in which the subject property is located and that this approach was the same as that adopted by the respondent in relation to a similar situation which pertained in respect of one of the respondent’s comparison properties.

### **Determination**

Having regard to all of the foregoing, the Tribunal determines that the decision of the Commissioner of Valuation be upheld and that the rateable valuation on the subject property be affirmed at €54.

And the Tribunal so determines.