

Appeal No. VA97/2/005

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

**Toyota (Ireland) Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Showrooms at Map Reference 20, 22, 24, 28, 30/Unit 1 Merrion Road, Ward: Pembroke East A, County Borough of Dublin  
Quantum

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Barry Smyth - FRICS.FSCS**

**Member**

**Finian Brannigan - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 8TH DAY OF APRIL, 1998**

By Notice of Appeal dated the 9th day of April 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £580 on the above described hereditament.

The Grounds of appeal as set out in the Notice of Appeal are that

- "1. The valuation is excessive and inequitable
2. The valuation is bad in law."

The relevant valuation history is that the subject property was revised at the request of the local authority and the R.V. was fixed at £580. At first appeal this valuation was marked unchanged.

The property consists of ground floor showroom and offices facing onto the Merrion Road. The agreed floor area is 5,554 sq.ft. There are 16 car spaces attached to the premises at its rear.

A written submission prepared by Mr. Desmond Killen FRICS, FSCS, IRRV, a Director of Donal O'Buachalla & Company Limited on behalf of the Respondent was received by the Tribunal on 16th October 1997. On the 23rd day of October 1997 the Tribunal received from Mr. Killen written details of the planning application for the subject premises and the planning permission granted for the subject. Also on the same date the Tribunal received a copy letter from Mr. Killen written to Mr. Deegan the representative of the Respondent. This copy letter inter alia set out the expenditure on the subject premises amounting to £330,000.

Mr. Killen's written submission set out physical details for the subject property and also details of the lease. The written submission stated that the property could only be used as a showroom for cars under the terms of the lease.

Mr. Killen's written submission stated that the appropriate way to value the subject was by way of comparison to Ballsbridge Motors located nearby on Shelbourne Road. This premises had been redeveloped at a cost of £1,021,000 in 1993/4 and after first appeal a rateable valuation of £1,100 had been fixed on it.

Mr. Killen's written submission using his analysis of the Ballsbridge Motors premises fixed a rateable valuation as follows on the subject premises.

	<b>Sq ft</b>		<b>£</b>	<b>£</b>
Showroom, offices etc.	5,554	@	12.50	69,425
16 Car Spaces		@	350.00	<u>5,600</u>

N.A.V.	75,025
R.V.	473
Say	475

A written submission prepared by Mr. Patrick Deegan on behalf of the Respondent was received by the Tribunal on 20th October 1997. Mr. Deegan is a B.A. and Barrister at Law with 20 years experience as a Valuer in the Valuation Office.

Mr. Deegan's valuation was based on the market rent for the premises. This lease commenced on 1st January 1995 for 35 years with 5 year reviews. The initial rent was £118,000. Mr. Deegan then used two property indices to bring the market rent back to 1988. The indices were the Jones Lang Wooton retail index and the Jones Lang Wooton Office index. Mr. Deegan then took an average of the two results by the indices to obtain an N.A.V. Then applying the agreed fraction of 0.63% Mr. Deegan arrived at a rateable valuation of £580 for the subject premises.

The full calculation was as follows;

**Method 1:**

$$\begin{array}{rcl} \text{Basis :} & \text{£118,000 x 387/469} & = \text{£97,000} \\ & \text{x 0.63\%} & = \text{£ } \underline{611} \end{array}$$

**Method 2:**

$$\begin{array}{rcl} \text{Basis :} & \text{£118,000 x 352/473} & = \text{£88,000} \\ & \text{x0.63\%} & = \text{£ } \underline{554} \end{array}$$

To arrive at N.A.V. an average is taken, i.e. £92,500.

$$\begin{array}{rcl} \text{N.A.V.} & \text{£ 92,500 x 0.63\%} & = \text{£ } 582 \\ & \text{Say} & = \text{£ } \underline{580} \end{array}$$

In a letter dated 30th October 1997 Mr. Deegan provided the Tribunal with details for car parking rent per annum in 1995. At the prior oral hearing of the appeal by the Tribunal Mr.

Killen had approved this procedure for the provision of this information to the Tribunal. Mr. Deegan undertook to provide this information also to Mr. Killen. The letter stated that the Commissioner considered that car parking would rent for circa £900.00 per annum in 1995.

The oral hearing of the appeal took place in Dublin on 29th day of October 1997.

In his sworn testimony Mr. Killen adopted his written submission as his evidence to the Tribunal. In his evidence Mr. Killen stated the premises had a narrow frontage to the Merrion Road mounting to 24.5 ft. On the side road off the Merrion Road there was access to the premises by way of a ramp for cars. There one can look at the showroom and access the building by way of a small back door.

Mr. Killen stated that at the time of the revision there were only 14 car spaces allocated to the subject property. Mr. Killen further stated that under the terms of the lease the building could only be used as a showroom. Retailing of cars was prohibited.

In his sworn testimony Mr. Killen stated there was no evidence for rent of showrooms in 1988. He stated his valuation was based on the comparative method, in this case Ballsbridge Motors. In support of this proposition Mr. Killen quoted the *Roadstone Case [1961 I.R. 239]*.

Mr. Killen stated that Ballsbridge Motors had a street frontage of 157 ft. Additionally there were no double yellow lines on the roadway outside it unlike the subject property. Mr. Killen had analysed the rate per square foot for Ballsbridge Motors and obtained a figure of £11 p.s.f. for showrooms and £9.00 p.s.f. for reception/offices. Using these figures as a guide Mr. Killen had arrived at his valuation for the subject.

In his evidence Mr. Killen accepted that the location of the subject was superior to Ballsbridge Motors. In giving further evidence Mr. Killen disputed Mr. Deegan's use of indices. He stated there was no index for showrooms. Mr. Killen stated that while the subject property is eye catching there was better access for pedestrians to the display at Ballsbridge Motors.

Mr. Killen stated in his evidence that the subject property was used to bring cars to the attention of the public. He further stated that the property was largely used by members of the public who welcomed the opportunity to inspect the cars undisturbed by the attentions of

car salespersons. Finally Mr. Killen stated that he believed the rent for the premises was an open market rent.

In his sworn testimony to the Tribunal Mr. Deegan adopted his written submissions as his evidence to the Tribunal. Mr. Deegan stated his valuation was based on the passing rent for the premises. In support of this approach he quoted the Tribunal decision in the *Ray Murray Case VA96/4/035* where at paragraph 15 it is stated that a passing rent determined by market forces should be taken as the basis for calculating the N.A.V. Mr. Deegan also stated that the same case at paragraph 14 advanced the proposition that there needed to be evidence of a number of properties in order to establish an evidential base for a tone of the list. Mr. Deegan further stated that the indices he used in arriving at a valuation were based on an analysis of market forces.

Mr. Deegan in his sworn testimony referred to the letter from the appellants agent dated 23rd October 1997 which showed expenditure of £330,000 on the premises. In Mr. Deegan's opinion this indicated that the tenant had taken the premises in a shell condition.

In his evidence Mr. Deegan stated that the location of the subject is far superior to Ballsbridge Motors. Therefore in Mr. Deegan's opinion this comparison could not be used and the rent must be followed. Mr. Deegan further stated that if the rent for the subject was divided by the area a figure of £21 p.s.f. was arrived at.

Under cross examination by Mr. Killen, Mr. Deegan stated one of his indices dealt with shops and the other with offices. Mr. Deegan further stated that he used an average of the two indices for fairness. Again under cross examination Mr. Deegan admitted there was no index for showrooms. He stated, however, that a showroom is analogous to the display function of a shop.

Under further cross examination Mr. Deegan stated that the subject had a unique location and gave the tenant an opportunity to display its full range of cars including the top of the range models.

Mr. Deegan admitted that in putting a figure of £21 p.s.f. for the subject he had not included the 14 car spaces. As against this, however, he said something could be factored in for the £330,000 of improvements and he had not done this.

At the conclusion of the hearing a discussion arose between Mr. Killen and Mr. Deegan as to the rental value of car spaces in 1995. Mr. Killen contended that the value for this was £600 - £700 per car space per annum. Mr. Deegan stated he would deal with this matter in writing and this has been described already in this judgment.

The Tribunal has considered the submissions and the evidence of the appellant and the respondent. It considers that in this case the evidence and submissions of Mr. Deegan on behalf of the Respondent are to be preferred.

The subject property has an excellent location and cannot be properly compared to Ballsbridge Motors. In the absence of appropriate comparisons the Tribunal must base its decision on the passing rent as proposed by the Respondent. Furthermore the Tribunal considers the application of the indices by the Respondent as reasonable in arriving at a valuation. The Tribunal accepts the Respondent's argument that showroom use is analogous to the display use of a shop.

The Tribunal notes that at the time of revision there were 14 car parking spaces at the subject premises, a reduction of two in the number contained in the lease. The Tribunal considers that a rental value of £750 for each car space per annum in 1995 is appropriate. The Tribunal therefore would amend Mr. Deegan's valuation as follows by deducting £1,500 indexed back to 1988 using both of Mr. Deegan's indices and deducting the result from his existing N.A.V.'s.

Method 1 - Jones Lang Wooton retail index

	N.A.V. £97,368
	minus <u>£ 1,237</u>
	£96,131
x 0.63%	£, 605

Method 2 - Jones Lang Wooton office index N.A.V. £87,814

	minus <u>£ 1,116</u>
	£86,698
x 0.63%	£ 546

To arrive at N.A.V. an average

is taken	average N.A.V.	£91,414
	x 0.63%	£ 576
	Say	£ 580

The Tribunal therefore determines the rateable valuation of the subject premises to be £580 and affirms the decision of the Commissioner of Valuation.