

Appeal No. VA97/2/039

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

**Quinn Family Partnership**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Car Park at Map Reference 80.82/C, Townland: Market Cross Shopping Centre, Kilkenny No. 1 Urban, UD: Kilkenny, Co. Kilkenny

**B E F O R E**

**Liam McKechnie - Senior Counsel**

**Chairman**

**Rita Tynan - Solicitor**

**Member**

**Finian Brannigan - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 28TH DAY OF JANUARY, 2000**

By Notice of Appeal dated the 11th April 1997, the appellant partnership, above so named, appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £750 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".

1. The appellant partnership was represented by Mr. Owen Hickey B.L, Ms. Sheelagh O’Buachalla, B.A., an associate of the Society of Chartered Surveyors and a Director of Donal O’Buachalla & Company Limited gave evidence on behalf of the appellant and she was accompanied by Mr. Charles Costello, the manager of the Shopping Centre division in Superquinn, from whom evidence was also received. The respondent was represented by Mr. Eamonn Marray B.L. Mr. Denis Maher A.R.I.C.S., a District Valuer and Chartered Surveyor with 22 years experience in the Valuation Office gave evidence on behalf of the Commissioner of Valuation. Having exchanged their written précis and having submitted same to this Tribunal, both valuers, having taken the oath, adopted their said précis as being and as constituting their evidence in chief. This evidence was supplemented by additional evidence, either obtained directly or via cross-examination. Submissions then followed. From the above, the following essential facts have emerged as being both material and relevant to the issues, the subject matter of this appeal.
  
2.
  - (a) The hereditament in question is a car-park, on three levels, providing in total 520 parking spaces. It is in essence a reinforced concrete structure with a top level open to the elements.
  
  - (b) This hereditament is centrally positioned in Kilkenny city and is located immediately adjacent to the new Market Cross Shopping Centre. It is linked to the centre by way of a pedestrian crossing through James Street. Vehicular movements in and out of the car park are via a ramp style entrance off Parliament Street with control being achieved by the presence of a barrier and the operation of a ticket system.
  
  - (c) Its opening hours are as follows;

9.00 am – 7.00 pm	Monday – Tuesday
9.00 am – 9.00 pm	Wednesday – Friday
9.00 am – 6.00 pm	Saturday

Some dispute arose about the accuracy of these hours. It was suggested perhaps that from Monday to Wednesday the car park opened a half hour earlier and remained open for a half hour longer. It was also suggested that on Thursday and Friday the closing time was 10.00 pm. Nothing of real significance turns on these hours.

- (d) Its occupancy rate, given by Mr. Maher showed the following throughput;-

1,500 cars – Monday, Tuesday & Wednesday

2,000 cars – Thursday & Friday and 1,600 on Saturday

In all about 10,000 cars per week.

Again, expressed in a general way, some issue was taken with these figures. No alternative numbers were given. However, it was suggested in evidence that since its inception this car park has achieved only about 50% occupancy and that since that time it has operated at a loss.

- (e) As a newly constructed building, this hereditament following request, was listed for revision and was duly so revised in November 1994. A rateable valuation of £750 was placed thereon. An appeal to the Commissioner was unsuccessful as the first appeal results indicate. Hence, by notice dated 11<sup>th</sup> April 1997 an appeal to this Tribunal.

3. In addition to the foregoing it was also impressed upon us that this car park was operated mainly if not exclusively in conjunction with the new shopping centre and that in its absence such a centre could not effectively function; that steps had been taken to ensure easy linkage between the car park and the shopping centre; that post 6.00 pm this car park was free to those using the shopping centre; that the cost per hour was 30 pence and that this was in direct relationship to Local Authority charges; that such a charge was essential as otherwise visitors and local workers would avail of free car parking to the absolute detriment of would-be shoppers; that the third level had for a period or periods been

closed and that as no significant income derived from this enterprise it was not and could not operate successfully as a commercial entity.

4. On behalf of the partnership, and in the light of the evidence so tendered, it was submitted that the N.A.V. and thus the R.V. for this car park should be ascertained solely by reference to a combination of data above given and the relevant information with regard to the car park at the Blackrock Shopping Centre in Dublin (Superquinn) and the car park at the Dun Laoghaire Shopping Centre. Though two other car parks were also mentioned in the “listed comparisons” as furnished, no real reliance was placed thereon. Accordingly, Ms. O’Buachalla suggested that on the 520 car spaces available there should be placed an N.A.V. of £93 per space or £0.46 R.V. per space. Applying the agreed fraction of 0.5%, that gives a total R.V. of £240. A list of the comparisons so furnished is attached to and forms Appendix I to this judgment.
5. On behalf of the Commissioner Mr. Maher likewise relies on comparisons. In all, he has produced and relied upon eight. These are set forth in and form Appendix II to this judgment. With adjustments and allowing for location and size as well as the individual peculiarities of certain of the sites in question, he has concluded that each parking space should have an N.A.V. of £300 or an R.V. of £1.44. In conclusion he supported the appeal figure of £750. There is therefore, as one can see, a clear and major divergence between the suggested rates as given by and on behalf of the respective parties.
6. Mr. Maher on behalf of the Commissioner, when responding to the validity of the car park at the Blackrock Shopping Centre being a comparison, advanced two arguments. Firstly, he criticises the inconsistent approach being adopted by the appellant company to this car park. He gave evidence to the effect that at First Appeal stage the appellant had adopted the rental value per space at Blackrock, and then reduced it by 66% to allow for location and quantum before applying it to the subject car park. This gave a total valuation of £73 and an R.V. per space of £0.14. As this line of argument was not advanced during the course of the appeal before us, it is unnecessary to make any further

comment thereon, other than to say that such figures could not, under any circumstances, be maintainable.

7. His second ground of criticism is that for the reasons given Blackrock car park is wholly distinguishable from the subject car park. He said firstly that in Blackrock the first three hours parking from Monday to Wednesday and the first two hours from Thursday to Saturday were free of charge, secondly that outside these hours a nominal sum only was demanded and this simply to prevent the abuse of the facilities by office workers in and outside the area and thirdly as of 1991, when this rateable valuation was assessed it was submitted to and accepted by the authorities that no significant income derived from the car park and that it could not operate as a commercial venture. In his view none of these circumstances applied to the instant property and accordingly that comparison was not of any relevant evidential value to this Tribunal.
8. In Appendix III to this judgment, we set out in tabular form details of all comparisons referred to and submitted in evidence before us. These include in heavy print the suggested figures given, in this case, by the rating consultant and the appeal valuer. From this document it becomes immediately clear in our view, that both Blackrock and Dun Laoghaire are significantly out of line with all other car parks mentioned in this composite list. The nearest in terms of rateable valuation per space, is the Denmark Street car park in Limerick. This car park has a complicated and difficult access route to it and yet, it is valued at almost double Blackrock and at least 40% more than Dun Laoghaire. The other comparisons with the exception of Roches Stores car park in Galway, have an R.V. per space of between £1.50 and £2.50 . These are valued up to three or four times higher than Blackrock or DunLaoghaire. This, despite the fact that locations are as diversified as Waterford to Limerick and Cork to Galway. We cannot therefore accept that either Blackrock or Dun Laoghaire in any way represents a reliable basis upon which we should ascertain the N.A.V. in this case. We are satisfied beyond question that a rateable valuation of £220 on Blackrock, giving an R.V. per space of £0.56 and an N.A.V. per space of £88 cannot have any general application and must be confined to the facts, circumstances and evidence, as it existed, in relation to this car park

at the relevant time. This view equally applies to Dun Laoghaire. We cannot therefore see any justifiable basis for adopting these comparisons or a combination of them, over and above or to the exclusion of the other comparisons. We find from the evidence and persuasive argument so made, that in order to try and maintain even a broad tone of the list, it is essential that we evaluate and apply, with adjustments, the other comparisons and not create a further exception which could not be supported by the evidence.

9. In conclusion therefore and bearing in mind the necessity to establish net annual value in accordance with Section 11 of the 1852 Act as amended by Section 5 of the 1986 Act, it is our considered opinion that useful guidance and assistance can be obtained from the comparisons of similar car parks in Cork, Limerick and Waterford as set out in the table.

Accordingly the Tribunal concludes that the appropriate N.A.V. and thus R.V. on the subject hereditament should be as follows;

$$\begin{aligned} 520 \text{ car spaces} \times \text{£}280 \text{ per space (N.A.V.)} &= \text{£}145,600 \text{ (or £1.40 per space R.V.)} \\ &\times 0.5\% = \text{£}728 \text{ R.V.} \end{aligned}$$

And the Tribunal so determines.

Comparisons by Sheelagh O’Buachalla, Donal O’Buachalla & Company Limited

**1. Superquinn Ltd., Blackrock Shopping Centre**

Status : VA91/3/3  
 Desc : Carpark  
 RV : £220  
 NAV : £34,920

- 394 car spaces @ £88.00 per space

**2. Dunlaoghaire Shopping Centre**

Status : VA91/2/059 Erin Executor & Trustee Co. Ltd.  
 Desc : Carpark  
 RV : £200  
 NAV : £31,746

- Witness submits that the subject premises is similar to the carpark in Dunlaoghaire and would refer the Tribunal to the judgment therein.

Witness is aware of the following valuations in Galway City:

**3. Roches Stores**

Desc : Carpark  
 RV : £700  
 NAV : £111,110

- 584 car spaces @ £190.00 per space.

**4. Thomas McDonagh & Sons, Galway**

Status : 1995/4 First Appeal

Desc : Carpark

RV : £350

NAV : £55,555

- 157 car spaces @ £220 per space
- 215 car spaces @ £100 per space
- Both car parks are designated
- Source of information Hennigan & Co.

No.	Location	Reference	Nature	Spaces	R.V.	R.V. p
1.	Waterford	City Square Car-Park Ltd. 1993/4 First Appeal	Multi-Storey	466	£820	£1.75
2.	Galway	Eyre Square Shopping Centre 1992 1 <sup>st</sup> . Appeal	Multi-Storey	452	£678	£1.50
3.	Galway	Roches Stores Car-Park 1991 1 <sup>st</sup> . Appeal	Multi-Storey	584	£730	£1.25
4.	Cork	Cork West 1993/4 1 <sup>st</sup> . Appeal	Multi- Storey	419	£845	£2.00
5.	Cork	Roches Car-Park Merchant Street	Multi-Storey	612	£1350	£2.20
6.	Cork	North Main Street	Multi-Storey	419	£845	£2.00
7.	Limerick	Arthurs Quay Shopping Centre	Multi-Storey	570	£1050	£1.84
8.	Limerick	Denmark Street 1993/4 1 <sup>st</sup> . Appeal	Multi-Storey	345	£370	£1.07

No.	Location	Reference	Nature	Spaces	R.V.	R.V. p
Respondent's Comparisons						
1.	Waterford	City Square	Multi-Storey	466	£820	<b>£1.75</b>

		Car-Park Ltd. 1993/4 First Appeal				
<b>2.</b>	Galway	Eyre Square Shopping Centre 1992 1 <sup>st</sup> . Appeal	Multi-Storey	452	£678	<b>£1.50</b>
<b>3.</b>	Galway	Roches Stores Car-Park 1991 1 <sup>st</sup> . Appeal	Multi-Storey	584	£730	<b>£1.25</b>
<b>3(a)</b>	Appellant*	Valued same comparison @			£700	<b>or</b>
<b>4.</b>	Cork	Cork West 1993/4 1 <sup>st</sup> . Appeal	Multi- Storey	419	£845	<b>£2.00</b>
<b>5.</b>	Cork	Roches Car-Park Merchant Street	Multi-Storey	612	£1350	<b>£2.20</b>
<b>6.</b>	Cork	North Main Street	Multi-Storey	419	£845	<b>£2.00</b>
<b>7.</b>	Limerick	Arthurs Quay Shopping Centre	Multi-Storey	570	£1050	<b>£1.84</b>
<b>8.</b>	Limerick	Denmark Street 1993/4 1 <sup>st</sup> . Appeal	Multi-Storey	345	£370	<b>£1.07</b>
<b>Appellant's Comparisons</b>						
<b>9.</b>	Blackrock	Superquinn Ltd. Car-park		394	£220	<b>£0.55</b>
<b>10.</b>	DunLaoghaire	DunLaoghaire S.C. Car-park		327	£200	<b>£0.61</b>
<b>11.</b>	Galway	Thomas McDonagh & Sons Car-park		157 215	£350	
<b>Subject Premises</b>						
<b>Respondent</b> Kilkenny		Market Cross Shopping Centre	Multi-Storey	520	£750	<b>£1.50</b>
<b>Appellant</b> Kilkenny		Market Cross Shopping Centre	Multi-Storey	520	£240	<b>----</b>

