

Appeal No: VA17/5/146

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

MCCOY MOTORS

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. 444217, Retail (Warehouse) at Lucan By-Pass, County Dublin.**

B E F O R E

Niall O Hanlon BL

Deputy Chairperson

Claire Hogan BL

Member

Eoin McDermott FSCSI, FRICS, ACI Arb

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF NOVEMBER, 2018**

1. THE APPEAL

1.1 By Notice of Appeal received on 4th October 2017, the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €121,200.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because :

1. *“The Valuation of the subject property is excessive and inequitable. The property’s value as applied by the Commissioner is not in line with its actual rental capacity at the Valuation date.*

2. *The value applied to the yard is vastly excessive. While the site enjoys profile it only has indirect access. The majority of the yard is to the rear and side as hardcore and of very limited value. The front yard should not exceed 10% of the showroom level, and the rear yards should not exceed 10% of the workshop level.*
3. *The subject's buildings are old and basic by modern motor showroom standards. Further allowance needs to be made in this regard."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €60,500.

2. REVALUATION HISTORY

2.1 On 11th April 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 ("the Act") in relation to the Property was sent to the Appellant indicating a valuation of €158,100.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €121,200.

2.3 A Final Valuation Certificate issued on 7th September 2017 stating a valuation of €121,200.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is 30th October 2015.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on 8th October 2018. At the hearing the Appellant was represented by Mr Eamonn S. Halpin BSc (Surveying) MRICS, MSCSI and the Respondent was represented by Ms Andria Sloan of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted their précis as their evidence-in-chief in addition to giving oral evidence.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The subject property comprises a motor showroom with ancillary workshop and yards, constructed c. 1981. The property enjoys good profile to westbound traffic on the N4 but is located on a side road with no direct access from the N4.

4.3 The areas are agreed as follows: -

| Use | Area (sq. m.) |
|------------------------|----------------------|
| Showroom | 371.45 |
| Workshop | 471.35 |
| Office/Stores | 89.45 |
| Canopy | 70.07 |
| Yard (front, tarmac) | 300 |
| Yard (rear, tarmac) | 800 |
| Yard (front, hardcore) | 1,200 |

5. ISSUES

The issue that arises in this appeal is the quantum of value.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT’S CASE

7.1 Mr. Halpin, on behalf of the Appellant, opened his evidence by describing the location and layout of the property, using photographs contained in his précis. Mr. Halpin noted the good profile that the property enjoyed to the N4 but considered that the difficulty in accessing the property from the N4 negated this benefit. He estimated that the property had 30m of visible frontage to the N4.

The property consists of a car showroom and canopy, a workshop, a single storey brick building used as stores (described as offices by the Respondent) and three yards. There are two yards to the front of the property, one with a tarmac surface and good profile to the N4, the second with a hardcore surface and no profile as it is located behind a wall. The third yard has a tarmac surface and is located to the rear of the property. The facility was constructed in or around 1981 and was considered by Mr. Halpin to be quite dated when compared with more recently constructed car showrooms. It was also noted that there was a growing tendency for motor showroom occupiers to co-locate in purpose-built schemes, quoting Liffey Valley, Sandyford and Airside as examples. Evidence was also given of the change in dealership in 2013.

7.2 Mr. Halpin put forward 5 rental comparisons (see Appendix 1). These gave examples of motor showrooms let in or around the subject date at levels ranging from €84/m² to €36/m². Mr. Halpin made reference to the long-standing practice of valuing yards in similar premises at 10% of the showroom value, but believes that this should only apply to the front, high profile yard and that the yards to the rear and behind a wall should be valued at lesser levels.

7.3 Mr. Halpin put forward a further 5 Tone of the List comparisons (see Appendix 2) which he said demonstrated the wide variety of NAVs applied to car showrooms (€42/m² to €130/m²) and to yards (€0/m² to €10/m²).

7.4 The Appellant sought an NAV of €60,500 made up as follows: -

| Use | Area | NAV/m² | NAV |
|------------------------|-------------|--------------------------|---------------|
| Showroom | 371.45 | €80.00 | €29,716 |
| Workshop | 471.35 | €35.00 | €16,497 |
| Store | 89.45 | €35.00 | €3,131 |
| Canopy | 70.07 | €25.00 | €1,752 |
| Yard (front, tarmac) | 300 | €8.00 | €2,400 |
| Yard (rear, tarmac) | 800 | €3.50 | €2,800 |
| Yard (front, hardcore) | 1,200 | €3.50 | <u>€4,200</u> |

7.5 In response to cross-examination by the Respondent, Mr. Halpin accepted that the property had 60m of open frontage to the N4, with a further 60m behind the wall. He confirmed that he was unaware that the tenant in his first comparison had subsequently purchased the property in 2014 but stated that this did not affect the evidence of the 2012 lease.

In respect of the second comparison he accepted that 24 of the 42 car spaces were located underground. He did not agree that the location was inferior.

In respect of the third comparison, he did not accept that the property was an industrial showroom, as valued by the Respondent. He noted that it had been a car showroom for a long time and in his opinion the Respondent had altered the classification to ensure that the NAV was similar to the passing rent. The issue of classification also arose in discussions on the fourth, fifth, sixth, seventh and eighth comparisons.

In relation to the ninth comparison Mr. Halpin agreed that the access to the property was difficult but noted that this was a state of the art modern showroom and that the yard had not been separately charged. Finally, in relation to a query on the suitability of the tenth comparison, Mr. Halpin noted that it was located on the other side of the N4 from the property, had better access and a workshop valued at €30/m² with no charge for the yard.

7.6 In response to queries from the Tribunal, Mr. Halpin acknowledged the difference in the areas in respect of his first comparison, between those he sourced from the Commercial Lease Register and those taken from the Valuation List. He accepted that if the figures from the

Valuation List were correct the showroom/office/workshop valuation would devalue to approximately €77.40/m². In response to a further question from the Tribunal, he estimated that the market had risen by approximately 20% between the letting date in his first comparison and the valuation date.

8. RESPONDENT’S CASE

8.1 Ms. Sloan, on behalf of the Respondent, gave evidence on the location and layout of the property. One rental comparison was submitted (see Appendix 3). This was a modern showroom with a showroom valuation of €150/m² and warehouse valuation of €30/m².

8.2 Ms. Sloan put forward a further 5 NAV comparisons (see Appendix 4). Three of these showed showroom units being valued at €130/m² while two were at €150/m². Yards were generally valued at either €20/m² or €30/m².

8.3 The Respondent sought an NAV of €115,200 made up as follows: -

| Use | Area | NAV/m2 | NAV |
|------------------------|--------|---------|----------------|
| Showroom | 371.45 | €130.00 | €48,289 |
| Workshop | 471.35 | €45.00 | €21,211 |
| Offices | 89.45 | €45.00 | €4,025 |
| Canopy | 70.07 | €25.00 | €1,752 |
| Yard (tarmac/concrete) | 1,100 | €20.00 | €22,000 |
| Yard (hardcore) | 1,200 | €15.00 | <u>€18,000</u> |

8.4 In response to cross examination by the Appellant, Ms. Sloan accepted that the lack of rental evidence was an issue but stated that she had only been aware of the evidence contained in her submission.

She noted her research showed that the Appellant’s first comparison had been listed as owner occupied. She agreed that Liffey Valley Motor Mall was the prime motor showroom area in the locality and accepted that the Respondent’s comparison one had set the tone for the valuation scheme for motor showrooms in the South Dublin County Council area. She explained that motor showrooms had been valued at either €150/m², €130/m² or €110/m²

depending on the build quality and location of each unit and that each was decided on following discussion in the Valuation Office.

Mr. Halpin enquired whether the rental evidence he had put forward had been sufficient to change the Respondent's opinion, but Ms. Sloan said that in her opinion many of the Appellant's comparisons were not comparable. She accepted that the Appellant's comparison two was relevant but considered that the location of the subject was better. Mr. Halpin pointed out that he had put forward his comparison two at Representations stage and given that it had been brought to the Respondents attention, why had they not used it in their list of comparisons? Ms. Sloan said she was not aware of it. She was also not aware that another motor showroom had opened close to Appellants comparison two.

Mr. Halpin noted that the Respondent had originally valued the showroom in his comparison three at €130/m² but had reduced this to €30/m² when the rent details were provided to them. Ms. Sloan argued that Appellant's comparison three was an industrial showroom in an industrial estate. Mr. Halpin noted that it had been a car showroom for many years.

Mr. Halpin asked if the Respondent knew who had developed the property used as the Respondent's rental evidence. Mr. Halpin advised that it had been developed by the Killeen Group, the owners of the Toyota franchise in Ireland. Ms. Sloan said she was not aware of this. Mr. Halpin circulated advertising material produced by the building contractor, showing the Killen Group as the developer. He asked Ms. Sloan if, given that the facility was developed by the Killeen Group and let to a Toyota franchise, she was happy that the lease could be considered as an arms-length transaction. She indicated that she didn't have any evidence to the contrary and that it possibly was. She accepted that her comparison one was much better than the subject property but didn't accept Mr. Halpin's suggestion that it was 50% better.

8.5 In response to queries from the Tribunal, Ms. Sloan was unable to make any differentiation between the classifications of industrial showrooms and motor showrooms.

9. SUBMISSIONS

9.1 There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of South Dublin County Council.

10.2 The issue that arises in this appeal is the quantum of value.

10.3 The Tribunal accepts the Appellant's basic argument that the motor showroom market has seen significant changes over the last thirty years. There is now a tendency for motor dealers to co-locate and franchise holders are looking for more modern showrooms. This has a negative knock-on effect on older showrooms in less attractive locations.

10.4 The Tribunal noted the valuation scheme put forward by the Respondent. The Respondent accepted that it was driven very much by the evidence of the Respondent's comparison one. The Tribunal is not convinced that this was a fully arms-length transaction and therefore considers that little weight can be attached to it. The Tribunal also finds that scheme spread between €150/m² for the top of the range car showrooms in the best locations and €110/m² for the least attractive showrooms in the least attractive locations is not sufficiently broad to take account of the wide range of properties within this category.

10.5 The Tribunal noted the wide variety of rental evidence put forward by the Appellant, in particular, comparisons two and three. Comparison two is of a modern car showroom, with a better building than the subject property but without the benefit of workshop or yard. The property let in August 2015 at a rent of €40,000, which Mr. Halpin has devalued at €84/m² for the showroom and office. Comparison 3 is a well-established car showroom, with warehouse, stores and yard, which let in November 2015 at a rent of €36,000. This devalues to approximately €36/m² for the showroom and €25/m² for the yard. Evidence was given that this had been assessed by the Respondent at an initial NAV of €130/m² in respect of the showroom, but that this was reduced to €30/m² when the rent details were provided to the Respondent. Ms. Sloan indicated that the reduction was due to a change in category to that of an Industrial Showroom.

10.6 The Tribunal considers that the Appellant's comparison 2 gives the fairest reflection of rental values for the subject. It accepts the Appellant's view that the subject property is superior, but not significantly so, and has applied a 10% increase to the devalued rate of €84/m² for the showroom. The Tribunal also accepts the Appellant's suggestion of rents of €35/m in respect of the workshop and office/stores. The canopy was agreed by both parties at a rent of €25/m².

10.7 There was considerable discussion on the appropriate rate to be charged for yard space. The Tribunal finds that the tarmac yard to the front of the property is more valuable than either the tarmac yard to the rear or the hardcore yard to the side of the property but does not disagree with the level of rents applied by the Respondent. It has therefore applied a rate of €20/m² to the front tarmac yard and €15/m² to the rear and side yards.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €91,700 [**Ninety-One Thousand, Seven Hundred Euro**].

| Use | Area | NAV/m ² | NAV | |
|------------------------|--------|--------------------|----------------|------------|
| Showroom | 371.45 | €92.40 | €34,322 | |
| Workshop | 471.35 | €35.00 | €16,497 | |
| Offices/Stores | 89.45 | €35.00 | €3,131 | |
| Canopy | 70.07 | €25.00 | €1,752 | |
| Yard (front, tarmac) | 300 | €20.00 | €6,000 | |
| Yard (rear, tarmac) | 800 | €15.00 | €12,000 | |
| Yard (front, hardcore) | 1,200 | €15.00 | <u>€18,000</u> | €91,701.73 |

Say €91,700.

And the Tribunal so determines.