

Appeal No: VA17/5/289

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

LAHART GARAGES LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2187503, Retail (Warehouse) at Local No/Map Ref: 3 D, Springhill, Kilkenny, County Kilkenny.

B E F O R E

Hugh Markey – FSCSI, FRICS

Deputy Chairperson

Pat Riney – FSCSI, FRICS, ACI Arb, FIABCI, PC

Member

Allen Morgan – FSCSI, FRICS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF NOVEMBER, 2019**

1. THE APPEAL

1.1 By Notice of Appeal received on the 9th day of 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 €149,900.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- a) The Valuation of the subject property is excessive and inequitable. The property’s value as set by the Commissioner is not in line with its potential rental value.
- b) The Appellant considers that the valuation of the Property ought to have been determined in the sum of €69,100.

2. REVALUATION HISTORY

2.1 On the 11th day of May 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 €149,900.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7th day of September 2017 stating a valuation of €149,900.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th day of 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 the 7th day of March 2019. At the hearing the Appellant was represented by Mr Eamonn Halpin BSc (Surveying), MRICS MSCSI of Eamonn Halpin & Co Ltd and the Respondent was represented by Mr Terry Devlin BSc MSCSI MRICS 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 his précis as his 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 is situated on the southern outskirts of Kilkenny city, adjacent to the Waterford Road (N10), close to its intersection with the Kilkenny Ring Road. The subject property is one of a cluster of six car showrooms at this location and is also in close proximity to Kilkenny Retail Park.

4.3 The subject property is a modern (2005) motor showroom complex comprising two adjacent purpose-built showrooms on the same site; the larger one, a two-storey building, the second one a smaller single storey unit. The larger building, a motor showroom and overhead office, faces the main road with a service workshop located to the rear. Viewed from the main front elevation, the smaller building is situated to the immediate right of the main building, separated by a passageway. There are ancillary yards. .

4.4 Agreed Floor Areas:

Office	206.00 sqms
Showroom	950.50 sqms
Workshop	977.00 sqms
Yard (display)	1,210.00 sqms
Yard (concrete/tarmac)	1,450.00 sqms
Office (1 st flr)	248.00 sqms

4.5 Tenure:

Freehold

5. ISSUES

5.1 The single issue in this case is one of quantum.

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, referred to evidence of a general nature relating to motor showrooms in Kilkenny which had earlier been adduced in a contemporaneous appeal heard by the Tribunal on the same date, in respect of another motor showroom at the same location (VA17/5/242.)

7.2 He stated that:

The premises were built to suit a ‘boom’ economy.

That car dealers were “persuaded” to construct these facilities by the motor manufacturers at that time and were now too large for the new car sales market which had fallen significantly.

That if the Respondent’s evidence to the Tribunal, which is that NAVs for local retail warehousing, is deemed by the Tribunal to constitute valid comparative evidence, (which the appellant’s valuer disputes), then (if allowed) the NAV of motor showrooms, as a distinct and separate use type), should be discounted.

7.3 Mr Halpin stated that as yet there is no established ‘tone of the list’ for this use type; the appellant claimed in evidence that currently it is merely an ‘emerging tone’ because all other motor showroom properties in the environs of Kilkenny are also under appeal.

That it was appropriate to include rental evidence relating to motor showrooms to properties of the same use type in other counties, including the Greater Dublin Area.

7.4 **Comparisons:** Mr Halpin introduced 2 local rental comparisons; 3 ‘tone of the list’ comparisons- local; 4 ‘tone of the list’ comparisons – regional; 3 rental comparisons- Dublin and 3 rental comparisons – national.

Considering these in turn.

- Comparison 1 is under appeal and as such cannot be considered.
- Comparison 2 was included only to align this precis with others.
- Comparisons 3/4/5 were tone of the list comparisons demonstrating levels applied to retail warehousing <1,000sq. m. - €75 per sq. m.; >€1,000 sq. m. - €65 per sq. m.; showrooms of varying quality valued at €36/48 per sq. m.

- His comparisons 6 & 7 are motor showrooms located in Carlow Town, Co Laois and were valued by the Respondent at €60 per sq. m. His comparisons 8 & 9 are located in Portlaoise and are valued at €50 and €60 per sq. m. for the car showroom space.
- Mr Halpin's Dublin rental comparisons 10/11/12 analysed at rents varying of €33; €63.65 and €84 per sq. m.
- Finally, Mr Halpin's national rental evidence for motor showrooms suggested rates of €76 per sq. m. (Galway); €56 per sq. m. (Naas) and €56.60 per sq. m (Kilcock).
- Mr Halpin extrapolated from his evidence a scheme of valuation whereby he arrived at various rental levels for car showrooms in Kilkenny, depending on their age and size and further suggested a methodology of valuing the various elements as percentages of the derived showroom rate. He adopted this scheme of valuation in arriving at his opinion of Net Annual Value

7.5 Appellant's Opinion of Net Annual Value as of 30th October 2015.

Office	206.00 sqms @ €50.00 per sqm =	€10,300.00
Showroom	950.50 sqms @ €50.00 per sqm =	€47,525.00
Workshop	977.00 sqms @ €25.00 per sqm =	€24,425.00
Yard (display)	1,210.00 sqms @ €5.00 per sqm =	€6,050.00
Yard (concrete/tarmac)	1,450.00 sqms @ €2.50 per sqm =	€3,625.00
<u>Showroom Office (1st floor)</u>	<u>248.00 sqms @ €25.00 per sqm =</u>	<u>€6,200.00</u>
Total NAV		€98,125.00
say		€98,100.00

7.6 Under cross-examination by the respondent's valuer, Mr. Devlin, Mr Halpin referred back to evidence already made in an earlier case to the Tribunal on the same day relating to a similar type of property (VA17/5/242). In this earlier case, Mr Halpin had confirmed that there were 13 motor showrooms in Kilkenny, 9 of which were under appeal, of which 5 were at this location. In these circumstances he asserted that the tone was not established and that it was only 'emerging.'

7.7 Mr Halpin stated that whilst he agreed with the respondent's valuer that the premises themselves were fine properties, this was not the only measure of value, since a theoretical tenant would be required to lease both units even if there was only a business justification for

one unit. As such, the second unit could be described as being more of an additional overhead than an asset.

8. RESPONDENT'S CASE

8.1 Mr. Devlin, the Respondent's witness, stated that there was limited rental information available, and that properties of this type are generally owner occupied. However, he asserted that sufficient primary evidence, albeit not necessarily related to motor showrooms, does provide a valid platform of comparable evidence.

8.2 Mr Devlin relied on his two key rental transactions, one being a letting in Kilkenny Retail Park of a unit at a net effective rent of €74 per sqm. He stated that retail warehouses in Kilkenny Retail Park were valued at €65- €75 per sqm, depending on size.

8.3 He introduced evidence of two car showroom premises valued at €80 per sqm, but accepted that one was no longer in motor showroom use.

8.4 Mr. Devlin agreed with the Appellant's witness that there was little rental evidence for motor showrooms in the locality. He accepted that evidence from other local authority areas could be taken into consideration and had introduced a table of properties from 7 other counties detailing how, in most cases, motor showrooms were valued at almost identical rates to retail warehousing. He did not accept that a valuer should consider Dublin to be included in such a consideration.

8.5 He noted that the higher rate in Kilkenny of €75 per sqm was confined to properties of less than 1,000 sq.ms. but properties above this size were valued at €65 per sqm.

8.6 **Comparisons:** Mr Devlin introduced 2 local rental comparisons; 4 'tone of the list' motor showroom comparisons- local; 4 tone of the list retail warehouse comparisons - local, 8 'tone of the list' retail warehouse comparisons – regional.

Considering these in turn:

Comparison 1 Mr. Devlin relied on his key rental transaction, this being a letting in Kilkenny Retail Park of a unit at a net effective rent of €74psm. He noted that retail warehouses in Kilkenny Retail Park were valued at €65- €75 per sqm, depending on size.

Comparison 2 i.e. the subject premises, was included only to align this precis with others.

Comparisons 3/4/5/6 were ‘tone of the list’ comparisons of motor showroom premises, Of these four car showroom premises two were valued at €75 per sqm and two were valued at €80 per sqm, but he accepted that one of the latter was no longer in motor showroom use.

Comparisons 7-14 were ‘tone of the list’ comparisons of retail warehouse premises in Kilkenny in retail warehouse locations. Unit sizes ranged from less than 1,000 sqms up to almost 5,000 sqms. Rates for the four smaller units were given as €75 per sqm and the four larger units at €65 per sqm.

8.7 A broader list of 2017 Revaluation comparisons of both retail warehouses and motor showrooms is included in the Respondents Appendix to his report, listing properties in 7 adjoining counties. These show rates €per sqm as follows:

	Retail Warehouses	Motor Showrooms
Carlow -	30-50	45-80
Kildare	70-110	70-110
Offaly	55-70	55-70
Sligo	50/60	50/60
Westmeath	50-60	50-60
Roscommon	40-60	36-60
Longford	40-100	40-80

8.8 Respondent’s Opinion of NAV

Office	206.00 sqms @ €75.00 per sqm =	€15,450.00
Showroom	950.50 sqms @ €75.00 per sqm =	€71,287.50
Workshop	977.00 sqms @ €40.00 per sqm =	€39,080.00
Yard (display)	1,210.00 sqms @ €5.00 per sqm =	€7,260.00
Yard (concrete/tarmac)	1,450.00 sqms @ €2.50 per sqm =	€5,800.00
Showroom Office (1 st floor)	248.00 sqms @ €25.00 per sqm =	€15,40.00
Total NAV		€148,177.50
say		€148,700.00

8.9 When cross-examined by Mr. Halpin, he agreed that the two subject properties are good quality units, that the VW building was “very fine” and that the workshop section was of high quality.

8.10 Mr Halpin stated that while he accepted that the subject properties, at the time of their original construction, had a good profile and yard space, he contended that their initial prominence was now reduced through the subsequent erection of newer buildings close by.

9. FINDINGS

9.1 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 Kilkenny County Council.

9.2 The Tribunal is of the view on this appeal that the approach of comparing motor showroom values with those of ‘retail warehouse’ premises in retail parks and/or industrial warehouse-type storage units, is not the correct approach. It does not take cognisance of the very different market demand for these distinct uses. Some adjustment is required to arrive at an appropriate rate for motor showrooms and if there is no rental evidence in the immediate local authority area, then cognisance should be taken of other evidence in different areas and adjusted for the size of the market, etc. The Appellant’s valuer made this point in cross-examination and was this accepted by the Respondent’s valuer (but to the exclusion of Dublin). It was also noted in evidence that motor showrooms are, in planning terms, in a different planning use category to retail warehousing.

9.3 Whilst rental evidence of motor showrooms in the Kilkenny area is limited and the tone is still an emerging one, it is the view of the Tribunal that sufficient evidence of rental values in this ‘use’ category does exist to provide adequate guidance to determine an appropriate NAV for the subject property.

DETERMINATION

The Tribunal have considered all the evidence given at the Oral Hearing, and the submissions of both parties, and for the reasons stated above, the Tribunal allows the appeal and decreases the Valuation of the Property to €120,370.00 as set out hereunder:

Office	206.00 sqms @ €60.00 per sqm =	€12,360.00
Showroom	950.50 sqms @ €60.00 per sqm =	€57,030.00
Workshop	977.00 sqms @ €35.00 per sqm =	€34,195.00
Yard (display)	1,210.00 sqms @ €5.25 per sqm =	€6,352.50
Yard (concrete/tarmac)	1,450.00 sqms @ €3.50 per sqm =	€5,075.00
Showroom Office (1 st floor)	248.00 sqms @ €21.70 per sqm =	€5,381.60
Total NAV		€120,374.10
SAY		€120,370.00

And the Tribunal so determines.