

Appeal No: VA17/5/242

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

YOUNG MOTORS HOLDINGS (KILKENNY) LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2196251, Retail (Warehouse) at Local No/Map Ref: 3G, 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 €181,200.

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 (referring to the preliminary appeal information provided) that the valuation of the Property ought to have been determined in the sum of €60,000.

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 €181,200.

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 €181,200.

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 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 property is a motor showroom complex, constructed c. 2007. It comprises a main showroom to front and workshop to rear, with ancillary yard, used for display, sale and storage of motor vehicles.

4.4 Agreed Floor Areas:

Showroom	891.26 sqms
Showroom Offices	146.80 sqms
Offices (1st floor)	251.00 sqms
Store	264.20 sqms
Workshop (ground floor)	1,033.60 sqms
Workshop (1 st floor)	266.20 sqms
Yard (display)	670.00 sqms
Yard (storage)	3,471.00 sqms

4.5 Tenure:

Leasehold - 8 years from 1st December 2014

(In the s.45 return the tenant notes the rent as being €52,130 p.a. excl. VAT)

The lease provides that the rent will increase on 1st December 2021 to €105,000 p.a. plus VAT

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, on behalf of the Appellant, stated that:

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

That car dealers were “persuaded” to construct these facilities by the motor manufacturers and were now too large for the new car sales market which had fallen significantly. He also noted that the Land Rover and Opel franchises had been lost through a failure to meet the sales targets. 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 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.

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.

7.2 **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 précis 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 €60per 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 varying rents - €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).

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

The Appellant contended for a NAV as follows:

Showroom 891.26 sqms @ €50.00 per sqm	€44,563.00
Showroom Offices 146.80 sqms @ €50.00 per sqm	€7,340.00
Offices (1st floor) 251 sqms @ €25.00 per sqm	€6,275.00
Store 264.20 sqms @ €25.00 per sqm	€6,605.00
Workshop (ground floor) 1,033.60 sqms @ €25.00 per sqm	€25,840.00
Workshop (1 st floor) 266.20 sqms @ €10.00 per sqm	€2,662.00
Yard (display) 670 sqms @ €5.00 per sqm	€3,350.00
<u>Yard (storage) 3,471 sqms @ €2.50 per sqm</u>	<u>€8,678.00</u>
Total NAV	€105,313.00
	Say €105,000.00

7.4 Under cross-examination, Mr Halpin confirmed that there were 13 motor showrooms in Kilkenny, 9 of which were under appeal, and five at this location. In response to a question from the Respondent, he suggested that to a large extent the premises were used for servicing and there was no longer a need for the rear yard. He suggested that a hypothetical tenant would not require such a large rear yard. He also did not accept that this was the best located of all the 5 co-located motor showrooms nor did it have a particular advantage.

7.5 Mr Halpin accepted that retail warehouses were valued at €75 per sqm on the entire floor space but suggested that retail warehousing cannot be compared with motor showrooms.

8. RESPONDENT'S CASE

8.1 The Respondent asserts that sufficient primary evidence, albeit not necessarily related to motor showrooms, does provide a valid platform of comparable evidence.

8.2 Mr. Devlin asserted that the subject premises were “fine showrooms in a good location” although there was limited rental information available and that properties of this type are generally owner occupied.

8.3 **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 pré,cis 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.

8.4 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

8.5 Respondent's Opinion of NAV

Showroom 891.26 sqms @ €75.00 per sqm =	€66,844.50
Showroom Offices 146.80 sqms @ €75.00 per sqm =	€11,010.00
Offices (1st floor) 251 sqms @ €37.50 per sqm =	€9,412.50
Store 264.20 sqms @ €35.00 per sqm =	€9,247.00
Workshop (ground floor) 1,033.60 sqm @ €35.00 per sqm =	€36,176.00
Workshop (1 st floor) 266.20 sqm @ €35.00 per sqm =	€9,317.00
Display Yard 670.00 sqm @ €5.25 per sqm =	€3,517.50
<u>Yard (Concrete and Tarmac) 3,471 sqm @ €3.50 per sqm =</u>	<u>€12,148.50</u>
Total NAV	€157,673.00
	say €157,600.00

8.6 Under cross-examination, Mr Devlin accepted that there was little rental evidence for motor showrooms. 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.

8.7 He did not accept that a valuer should consider Dublin to be included in such a consideration.

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

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 note that while the Commissioner's Certificate of Valuation dated the 7th of September 2017 was €181,200, the Respondent, in his evidence to the Tribunal put forward a revised valuation of €157,600.

9.3 The Tribunal's view is that the Respondent valuer's opinion of €75per sqm for the showroom space is based upon a number of comparisons none of which were -appealed. Of these, Comparison 2 is a significantly smaller property, while in the Tribunal's opinion, based on the evidence adduced, Comparisons 3 and 4 are in a superior location. The question of quantum of rent also arises, in terms of 'affordability'. The Tribunal notes that the Respondent valuer's NAV Comparison 1 is of a similar size and location to the subject property and equivalent in terms of showroom space.

9.4 While empirical 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 guidance to determine an appropriate NAV for the subject property.

9.5 The Tribunal's view is that an adjustment is necessary to compare motor showroom values with those of 'retail warehouse' premises in retail parks and/or industrial warehouse-type storage units. If there is no rental evidence in the immediate local authority area, then cognisance should be taken of evidence in different areas and adjusted for the size of the market, etc. The Appellant's valuer made this point in cross-examination and this was accepted by the Respondent's valuer (but to the exclusion of Dublin). It was also noted, in response to a query from the Tribunal, that motor showrooms are in a different planning category to retail warehousing.

10. DETERMINATION

The Tribunal have considered all of the evidence offered at the Hearing and written submissions made by both parties. The Tribunal allows the appeal and decreases the Valuation of the Property as stated in the Valuation Certificate to €135,250.00 as set out hereunder:

Showroom 891.26 sqm @ €60.00 per sqm =	€53,475.60
Showroom Offices 146.80 sqm @ €60.00 per sqm =	€8,808.00
Offices (1st floor) 251.00 sqm @ €35.00 per sqm =	€8,785.00
Store 264.20 sqm @ €35.00 per sqm =	€9,247.00
Workshop (ground floor) 1,033.60 sqm @ €35.00 per sqm =	€36,176.00
Workshop (1 st floor) 266.20 sqm @ €17.50 per sqm =	€4,658.50
Yard (display) 670.00 sqm @ €5.50 per sqm =	€3,685.00

Yard (storage) 3,471.00 sqm @ €3.00 per sqm = €10,413.00

Total €135,248.10

SAY NAV €135,250.00

And the Tribunal so determines.