

**Appeal No: VA17/5/288**

**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. 210221, Retail (Warehouse) at Local No/Map Ref: 3C, 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 27<sup>TH</sup> DAY OF NOVEMBER, 2019.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 9<sup>th</sup> 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 €65,400.

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 €29,900.

## **2. REVALUATION HISTORY**

2.1 On the 11<sup>th</sup> 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 €65,400.

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 7<sup>th</sup> day of September 2017 stating a valuation of €65,400.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> 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 7<sup>th</sup> 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 two-storey purpose-built building. The motor showroom building faces the main road while the attached section occupied by the workshop abuts the showroom on the righthand side (viewed from the front elevation). According to the appellant's valuer's evidence the premises was originally constructed in 1973 and added to/upgraded in 1997. The yard areas, which encompass the building on three sides, comprise an open display area to the front with two secure side yards.

#### 4.4 Agreed Floor Areas:

The valuers had agreed the floor areas of the property with the exception of the canopy ( 135.2 sqms) which was not valued by the Appellant's valuer.

|                                |               |
|--------------------------------|---------------|
| Office                         | 47.16sqms     |
| Showroom                       | 380.74 sqms   |
| Store                          | 53.75 sqms    |
| Workshop                       | 349.93 sqms   |
| Canopy                         |               |
| Store (Mezz)                   | 92.04 sqms    |
| Display yard (concrete/tarmac) | 1,377.75 sqms |
| Yard (concrete/tarmac)         | 391.70 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, the Appellant’s witness, 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 purpose built c. 1973, were mostly unchanged but were now dated. That if the Respondents 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.

7.4 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.

7.5 **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 one 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 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).

#### 7.6 Appellant's Opinion of Nett Annual Value as of 30<sup>th</sup> October 2015.

The Appellant contended for a Net Annual Value calculated as follows:

|  |                   |
|--|-------------------|
| Office 47.16sqms @ €55per sqm =                                | €2,594.00         |
| Showroom 380.74 sqms @ €55 per sqm =                           | €20,941.00        |
| Store 53.75 sqms @ €27.50 =                                    | €1,478.12         |
| Workshop 349.30 sqms @ €27.50 per sqm =                        | €9,605.75         |
| <br>   |                   |
| Store (Mezz) 92.04 sqms @ €5.50 per sqm =                      | €506.00           |
| Display yard (concrete/tarmac) 1,377.75 sqms @ €5.50 per sqm = | €7,578.00         |
| <u>Yard (concrete/tarmac) 391.70 sqms @ €2.75 per sqm =</u>    | <u>1,077.00</u>   |
| <b>Total NAV</b>   | <b>€43,780.00</b> |
| <b>say</b>   | <b>€43,700.00</b> |

7.7 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 affirmed that there were 13 motor showrooms in Kilkenny, 9 of which were under appeal, and 5 of which were at this location. In these circumstances he asserted that the tone was not established and that it was only 'emerging.'

7.8 Mr Halpin claimed that the VO's starting point for their assessment was flawed. He asserted that more modern premises can be rented for €30,000 per annum. He also pointed out that the subject premises is being used as a van centre (i.e. for commercial vehicles) rather for car sales.

## 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 Respondent’s Appendix to his report, listing properties in 7 adjoining counties. These show rates €per sqm as follows:

|           | <b>Retail Warehouses</b> | <b>Motor Showrooms</b> |
|-----------|--------------------------|------------------------|
| 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 47.16sqms @ €70.00 per sqm =                            | €3,301.20         |
| Showroom 380.74 sqms @ €70.00 per sqm =                        | €26,651.80        |
| Store 53.75 sqms @ €40.00 per sqm =                            | €2,150.00         |
| Workshop 349.30 sqms @ €40.00 per sqm =                        | €13,972.00        |
| Canopy 135.2 sqms @ €6 per sqm =                               | €811.20           |
| Store 92.04 sqms @ €8.00 per sqm =                             | €736.32           |
| Display Yard (concrete/tarmac) 1,377.75 sqms @ €6.00 per sqm = | €8,266.50         |
| <u>Yard (concrete/tarmac) 391.70 sqms @ €4.00 per sqm =</u>    | <u>€1,566.80</u>  |
| <b>Total NAV</b>   | <b>€57,455.82</b> |
| <b>say</b>   | <b>€57,400.00</b> |

8.9 Under cross-examination by the Respondent’s valuer, Mr Devlin, Mr. Halpin noted that the subject property was older and inferior in quality than the other motor showrooms in the area and would thus attract a lesser theoretical rent. He noted that this factor had been reflected in the valuation. He also stated that this is borne out in that the Respondent is proposing a lower NAV for the property, compared to other showroom premises.

## **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 7<sup>th</sup> of September 2017 was €65,400, the Respondent, immediately prior to the Oral Hearing on the 7<sup>th</sup> of March 2019, reassessed the Valuation to a figure of €57,400.

9.3 The Tribunal's view is that the Respondent valuer's opinion of €70 per sqm for the showroom space is based upon a number (3) of comparisons - non-appealed NAV's. Of these, Comparison 2 is a significantly smaller property, while in the Tribunal's opinion, based on the evidence adduced, Comparison 3 is 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 and in terms of showroom space.

to the subject property,

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 on this appeal 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.



## DETERMINATION

The Tribunal has considered all of the evidence submitted at the Oral Hearing, and the submissions of both parties. The Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €50,276.29 say €50,275.00, as set out hereunder:

|  |                   |
|--|-------------------|
| Office 47.16sqms @ €60.00 per sqm =                            | €2,829.60         |
| Showroom 380.74 sqms @ €60.00 per sqm =                        | €22,844.40        |
| Store 53.75 sqms @ €35.00 per sqm =                            | €1,881.25         |
| Workshop 349.30 sqms @ €35.00 per sqm =                        | €12,225.50        |
| Canopy 135.2 sqms @ €6 per sqm =                               | €811.20           |
| Store 92.04 sqms @ €8.00 per sqm =                             | €736.32           |
| Display Yard (concrete/tarmac) 1,377.75 sqms @ €5.50 per sqm = | €7,577.632        |
| <u>Yard (concrete/tarmac) 391.70 sqms @ €3.50 per sqm =</u>    | <u>€1,370.95</u>  |
| <b>Total NAV</b>   | <b>€50,276.85</b> |
| <b>SAY</b>   | <b>€50,275.00</b> |

And the Tribunal so determines