

Appeal Nos: VA17/5/682 & 684

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

EVRA MOTORS

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 401757, Office at Long Mile Road, Clondalkin, County Dublin. & Property No. 2164547, Industrial Uses at Unit 4A Motokov Complex, Longmile Road, County Dublin.

B E F O R E

John Stewart – FSCSI, FRICS, MCI Arb

Deputy Chairperson

Kenneth Enright - Solicitor

Member

Allen Morgan – FSCSI, FRICS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF FEBRUARY, 2020.**

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th 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 €48,300.

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 subject property requires amalgamation with PN 2164547.*
2. *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 value.*

3. *Subject property is let at €65,000 per annum on a 5-year lease from the 1st March 2017 (This lease has already been provided to both the Valuation Office and Valuation Tribunal as part of VA16/4/026 & VA16/4/029). The landlord pays the rates on the yard (currently under PN 2164547), which must be deducted from the gross rent.*
4. *The Commissioner's estimate conflicts with all rental evidence from the site, namely PN 5001059, PN 2164551, PN 5008646, PN 401757 and PN 216454; as well as all the remainder of tone of the list evidence for the site namely PN 5001911, PN 401758 and PN 5001910.*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €60,000 (when amalgamated with PN 2164547.)

2. REVALUATION HISTORY

2.1 On the 13th day of April, 2017 and on the 22nd day of June, 2017 a copy of the valuation certificates proposed to be issued under section 24(1) of the Valuation Act 2001("the Act") in relation to the two Properties was sent to the Appellant indicating valuations of €68,000.00 (PN2164547) and €48,300.00, (PN401757), a total of €116,300.00.

2.2 Final Valuation Certificates issued on the 7th day of September 2017 stating valuations of €68,000.00 (PN2164547) and €48,300.00 (PN401757) respectively.

2.3 The date by reference to which the value of the properties, 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 15th day of August 2019. At the hearing the Appellant was represented by Mr. Eamonn S. Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Viorel Gogu PhD, MSc, Mecon SC, RICS, SCSi, IAAO 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.

Location

The subject property is located approximately 5 miles from Dublin city centre, in the former Motokov Complex, adjacent to the westbound carriageway of the R110 (Naas Road), with access from the Long Mile Road only. The property is situated within a former larger motor showroom complex which was subsequently subdivided into 6 no. separate commercial properties (all providing services connected to the motor trade).

Description

The property comprises a motor showroom (originally constructed as an office in the 1970's), store and yard. These elements are currently rated under two references - PN2164547 (portacabin and yard) and PN401757 (office, store and yard.).

Tenure

Let on a 5-year FRI lease from 1st March 2017 at €65,000 per annum, and which relates to both of the above referenced properties.

Accommodation (agreed)

Accommodation	M²
Showroom	372.76
Store	156.33
Portakabin	32.00
Yard	3,434

5. ISSUES

5.1 As stated at 1.2 above, the primary issue is one of quantum of the Net Annual Value. Having reviewed the respective evidence of both parties, it is noted that partial agreement has already been reached on the NAV of the Office/Showroom element at €54 per sqm and that of

the Portakabin at €22 per sqm. Whilst in negotiations the Commissioner has reduced the proposed NAV for the main Yard from €25 to €20 per sqm, the remaining dispute between the parties relates to still divergent opinions of NAV relating to the Yard areas, and the Store.

5.2 In addition, referring to the respective submissions made to the Tribunal by both parties, the Respondents agrees with the appellants' valuer's assertion that for rating purposes the two hereditaments, PN2164547 and PN401757, require amalgamation.

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 The Appellant's witness, Mr Halpin, having adopted his precis of evidence, proceeded to state that it is his client's contention that in this case, there is confusion in the Commissioner of Valuation's position i.e. that what is at issue is an appeal relating to a revaluation, not a revision.

7.2 Mr. Halpin stated that no key rental comparisons have been adduced by the Respondent's valuer, Mr. Gogu, in his evidence to the Tribunal.

7.3 Mr. Halpin argues that the subject premises comprise older type 1970's buildings and are not comparable with modern car showrooms and he claims that the lack of main dealers supports this claim. He also refers to the lack of access to the Naas Road as a further impediment to the car sales area as the site can only be accessed from the Long Mile Road. He states that the best rental evidence is the rent currently payable for the subject unit €65,000p.a. from 1st March 2017 which he analyses as an equivalent NER rent (FRI basis) of €48,378 p.a, to take account of the difference in dates and the fact that part of the rates outgoings of €8,505 (i.e. for the front yard), are paid by the landlord. He argues that buildings should not exceed €54.00/ M² based on comparative lettings and consequently yards should not exceed 10-15% of this level.

Accommodation	M²	€/M²	
Showroom	372.76	€54.00 Agreed	€20,129.04
Store	156.33	€45.00	€7,034.85
Portakabin	32.00	€22.00 Agreed	€704.00
Yard	3,434	€6.00	€20,604.00

7.4 In his evidence, Mr Halpin presented 5 rental comparisons, 4 situated in the same complex as the subject property (of which 3 are under appeal), and the fifth in Clondalkin Business Centre, being the subject of a recent decision of the Valuation Tribunal appeal wherein the Tribunal had reduced a value of €20.00/ M² on a yard to €6.00/M². Referring to the first four comparisons he stated that they were located on the same site and he provided an analysis of each comparison.

7.5 The first rental comparison was located on the same site and adjoined the subject property. It had been let for 1 year from 2015 @ €41,200pa which he analysed as follows:

Description	M²	€/ M²
Workshop	283.88	42.00
Office	18.30	42.00
Warehouse	624.68	42.00

Store	22.75	42.00
Yard	252.00	5.20

He also stated that the NAV of €45,460 closely mirrored the Rent of €41,200pa. While it is in two separate sections, A and B, the analysis is as follows:

Description	M²	€/ M²
Workshop A	283.88	50.00
Office A	18.30	50.00
Yard A	252.00	5.00
Warehouse B	624.68	45.00
Store B	22.75	45.00

7.6 The second rental comparison was also located on the same site and had been let on a rolling month to month lease at €720/month inclusive of VAT and he stated that this equated to an NER of €7,024. An on-site portacabin was not included in the letting as it was owned by the tenant. He analysed the rent as follows:

Description	M²	€/ M²
Store	26.98	30.00
Portakabin	37.20	-
Yard	991.82	6.27

In this instance he stated that the NAV of €26,400 was under appeal and it had been based on the following assessment.

Description	M²	€/ M²
Store	26.98	30.00
Portakabin	37.20	22.00
Yard	991.82	25.00

7.7 His third rental comparison also refers to a rolling month to month agreement from April 2014 on the same site. It was let for €400/month inclusive of vat which provided an NER of

€3,902pa and the portacabin was not included as it was owned by the tenants. He analysed this letting as follows:

Description	M²	€/ M²
Portakabin	18.30	-
Yard	589.70	6.62-

The NAV of this holding is €15,140 which is under appeal.

Description	M²	€/ M²
Portakabin	18.30	22.00
Yard	589.70	25.00

7.8 His fourth rental comparison also referred to a rolling month to month letting from 1st May 2015 on the same site at €400/month with an NER of €4,800pa. The NAV was €15,140 and is under appeal to the Tribunal. His analysis of the rent is as follows:

Description	M²	€/ M²
Yard	713	6.73

The NAV analysis is as follows:

Description	M²	€/ M²
Yard	713	25.00

7.9 His fifth rental comparison refers to a yard on Clondalkin Business Centre which was let for 10 years from September 2017 for €12,000pa which he analysed as follows:

Description	M²	€/ M²
Yard	2,000	6.00

The NAV was €20,000 which he stated indicates a rate per square metre of €10.00.

He has also provided seven tone of the list comparisons which he has analysed as follows:

7.10 A Car parts sales Long Mile Road Dublin 12 - NAV €58,300

Description	M²	€/ M²
Workshop	385.00	57.15
Store	501.64	45.00
Mezz store	296.43	9.00
Yard	2,457	4.50

This premises adjoins the subject property and Mr Halpin argues that it is absurd that the yard in this instance is valued at €4.50/ M² whereas the yard for the subject property can be valued at €25.00/ M².

7.11 B Car Dealer Naas Road Dublin 12 – NAV €21,600

His second tone of the list comparison refers to a Naas Road premises which is accessed from Robinhood Road had been accessed as follows:

Description	M²	€/ M²
Offices	47.76	45.00
Warehouse	380.38	45.00
Yard	530.00	4.50

Mr Halpin states that it is not equitable for a yard with Naas Road frontage to be valued at €4.50/ M² whereas €25.00/ M² is being applied to the yard to the subject property.

7.12 C Car Dealer Long Mile Road Dublin 12 – NAV €32,300

His third tone of the list comparison refers to a Long Mile Road premises 150m from the subject premises however no value was attributed to the yard in front of the property which had been accessed as follows:

Description	M²	€/ M²
Showroom	109.80	54.00
Workshop	455.67	45.00
1 st floor Showroom	109.80	54.00

Mr Halpin states that it is not equitable for a yard with direct Long Mile Road frontage to remain unvalued though there are cars for sale displayed whereas the yard whereas €25.00/ M² is being applied to the yard in the subject property.

7.13 D Commercial Vehicle sales Naas Road Dublin 12 – NAV €351,000

His fourth tone of the list comparison refers to an extensive Naas Road premises 500m from the subject premises with extensive road frontage. He argues that it comprises one of the most recognisable sales and display sites in the country, yet the yard area is valued at €3.50/ M² whereas the Commissioner is maintaining that the yard in the subject property should be valued at €25.00/ M². It had been assessed by the Commissioner as follows:

Description	M ²	€/ M ²
Offices	245.75	35.00
1 st floor offices	225.85	35.00
Warehouse	6,595.50	35.00
Portacabin	275.27	14.00
Yard	28,584	3.50

Mr Halpin argues that this site has a better profile than the subject one yet is valued at €3.50/ M² whereas the yard in the subject premises had been valued by the Commissioner at €25.00/ M².

7.14 E Yards Naas Road Dublin 12 – NAV €37,500

His fifth tone of the list comparison refers to a Naas Road premises 1,500m from the subject premises with direct access from the Naas Road opposite the Red Cow Hotel road frontage. He states that this property which has two separate valuations €37,500-A and €28,000-B has been classified as ‘Yard’ by the Commissioner and that the hardcore yard was offered to let in 2017 at €18,000pa without success. They have been assessed by the Commissioner as follows:

Description	M ²	€/ M ²
Workshop A	78	40.00
1 st floor offices - A	78	40.00
Steel container - A	72.60	8.00

Canopy - A	24	6.00
Yard - A	3,300	10.00
Yard - B	5,600	5.00

7.15 F Industrial unit Robinhood Road Dublin 12 – NAV €3,480

His sixth tone of the list comparison refers to a Robinhood Road premises comprising a yard. He states that it had previously been valued at €20.00/ M² but following a 70% reduction after a Valuation Tribunal appeal if applied to the front section of the subject property this would provide a level of €7.50/ M² to the yard in the subject premises. Mr Halpin regards the determination in this case as very significant. The Robinhood premises had been assessed as follows:

Description	M ²	€/ M ²
Yard	560	6.00

7.16 G Motor dealer Bluebell Industrial Estate Dublin 12 – NAV €52,500

His sixth tone of the list comparison refers to a Bluebell industrial Estate main dealership premises comprising a showroom, and ancillary workshops and yards. Mr Halpin argues that this premises is superior, but its location is poorer. It has been assessed by the Commissioner as follows:

Description	M ²	€/ M ²
Showroom	253.18	42.00
Warehouse	932.88	35.00
Mezzanine store	534.47	7.00
Yard	1,589	3.50

His evidence is that having carried out an analysis of NER values, his assessment was that in all of these cases the rates applied to yards fell within a range of €5- €7 per sqm.

Mr Halpin then listed 7 ‘tone of the list’ comparisons, 5 located in the immediate vicinity of the subject property, the remaining two also being located in Dublin 12 in Robinhood Road, Clondalkin and Bluebell Industrial Estate. Stated yard sizes varied between 500 sqms to 28,000 sqms, three of which lie in the range of 1,600 to 5,600 sqms. Mr Halpin’s evidence cites NAV’s relating to the last-mentioned ranging from €3.50-€5.00 per sqm.

Addressing the Tribunal Mr. Halpin asserted that the assessment of NAV put forward by the Respondent's witness for the subject property (presuming amalgamation) did not reflect and tally with the available rental evidences, firstly by reference to NER analysis of 4 other properties within the same complex. Mr. Halpin stated that these verified NER for offices showed a range between €37.20 - €42.00 per sqm, with associated yards showing a rental value in the range of €6.00-€7.00 per sqm. Three of these are under appeal given the disparity between the current NAV and the rent being paid. Mr. Halpin stated that the actual rents reportedly being paid for three other properties within the same complex as the subject property (already mentioned above) also do not support 'the tone of the list' comparisons adduced by the Respondent's witness, which he stated in his evidence show a different picture.

Mr. Halpin concluded his evidence by stating that the appellants are seeking to have the NAV determined in line with the passing rent and with the emerging tone of the list of comparable properties as follows:

Accommodation	M²	€/M²	
Showroom	372.76	€54.00 Agreed	€20,129
Store	156.33	€45.00	€7,035
Portakabin	32.00	€22.00 Agreed	€704
Yard	3,434	€6.00	€20,604
		Total	€48,472
			Say €48,400

Under cross-examination by the Respondent's witness, Mr. Gogu, Mr. Halpin stated that the two properties, previously assessed separately for rating purposes, were being re-amalgamated. Mr Halpin also pointed out that the outgoings, other than rates, are paid by the tenant, the rates being paid by the landlord. Mr Halpin said that an affidavit could be provided to that effect. He asserted that 'tone of the list' comparisons cannot be used to value a property.

Mr Gogu asserted that in the case of standalone yards, these were valued differently. Mr. Halpin said that he did not accept that this was an identical situation to the instant case and said that

what was under appeal here was a combined property. Mr Halpin claimed that five of his comparisons are combined properties, as is the subject property.

The Respondent's witness asked Mr Halpin to acknowledge that what was at issue here was the Respondent's assertion that the yard was the most valuable section of the site, and also constituted the largest physical section of the property. i.e. it was a car display yard as opposed to simply being used for storage. Mr Halpin continued to assert that there is direct evidence of yard value NAVs, and that a reduction by the Tribunal of the NAV of yard space in a recent similar case bore testimony to the correct NAV level that should apply to yard space.

Questions were exchanged as to the relevance of the 2005 revaluation, which Mr Halpin said he was prepared to accept the methodology adopted in that revaluation but said that it had no relevance to the 2015 revaluation. Mr Gogu said he did not accept Mr Halpin's analysis of deductions applied to arrive an NER of €48,378. Mr. Halpin in reply said that the Valuation Office routinely makes these adjustments had valued the property as an industrial premises with a yard.

In reply to a query from Mr. Gogu regarding his four primary rental value comparisons, Mr. Halpin advised the Tribunal that he could supply a copy of the lease on one property, but not in relation to the remaining three, positing they might be limited to monthly rental agreements.

Mr Gogu then proceeded to question Mr Halpin on the comparisons set out in the latter's written evidence. The questions focused on identifying in the case of each of Mr Halpin's comparisons, particular factors related to the particular operating uses that would serve to add a premium value to the respective associated yards (or otherwise.) In conclusion Mr Halpin stated that his working premise was that yards attached to commercial premises were normally assessed at 10% of the associated NAV of the commercial premises located thereon.

8. RESPONDENT'S CASE

8.1 The Respondent's witness, Mr. Gogu, stated that he was also adopting his precis of evidence. In his table 'Evidence of Equity and Uniformity', Mr Gogu listed 17 properties, in addition to the two subject properties. This schedule confirmed that of four other adjacent Motokov properties he had listed, three of were under appeal, and which Mr Halpin's evidence also confirmed. There is an referencing anomaly between the witnesses respective written

evidence on one case, this being that an appeal reference for one of the aforementioned properties - PN5008646 - (appeal determined), was cited by Mr. Halpin as being VA/17/5/679 whereas Mr Gogu cited the same property under an earlier-dated appeal reference - VA15/4/026. The two submissions confirm that both of these references relate to the same property.

8.2 Mr Gogu stated that he had focused on presenting comparisons which were related to car sales and/or yard only. He stated that most were close to the subject property, and that the yards had NAVs of €25 per sqm. He stated that like the subject property the yards are the most valuable element. He provided 17 tone of the list comparables.

No.1 Part of Motokov Complex Yard standalone

Level	Use	M ²	NAV / M ²	Total NAV €
0	Yard (concrete/tar	547.00	25.00	€13,675.00

No.2 Part of Motokov Complex Yard standalone - appealed to Valuation Tribunal-unchanged

Level	Use	M ²	NAV / M ²	Total NAV €
0	Yard (concrete/tar)	713.00	25.00	€17,825.00

No.3 Part of Motokov Complex Yard standalone - appealed to Valuation Tribunal NAV agreed by Mr Halpin.

Level	Use	M ²	NAV / M ²	Total NAV €
0	Portakabin	18.30	22.00	€402.60
0	Yard	589.70	25.00	€14,742.50

No.4 Part of Motokov Complex Yard standalone - appealed to Valuation Tribunal NAV agreed by Mr Halpin.

Level	Use	M ²	NAV / M ²	Total NAV €
0	Portakabin	37.20	22.00	€818.40
0	Store	26.98	30.00	€809.40
0	Yard	981.82	25.00	€24,795.50

No.5 Yard 3 Naas Road Clondalkin standalone.

Level	Use	M ²	NAV / M ²	Total NAV €
0	Yard (concrete/tar)	774	25.00	€19,350.00

No.6 Yard 4 Naas Road Clondalkin standalone.

Level	Use	M ²	NAV / M ²	Total NAV €
0	Yard (concrete/tar)	525	25.00	€13,125.00

No.7 Yard 5 Naas Road Clondalkin standalone.

Level	Use	M ²	NAV / M ²	Total NAV €
0	Yard (concrete/tar)	675	25.00	€16,875.00

No.8 Naas Road Clondalkin yard standalone.

Level	Use	M ²	NAV / M ²	Total NAV €
0	Office	28.72	55.00	€1,579.60
0	workshop	M ²	55.00	€1,980.00
0	Yard (concrete/tar)	525	25.00	€5,670.00

No.9 Naas Road Clondalkin yard standalone.

Level	Use	M ²	NAV / M ²	Total NAV €
0	Office	86.70	55.00	€4,768.50
0	Steel container	38.61	11.00	€424.71
0	Yard (concrete/tar)	850.47	25.00	€21,261.75

No.10 Naas Road Clondalkin standalone.

Level	Use	M ²	NAV / M ²	Total NAV €
0	Yard (concrete/tar)	801	25.00	€20,025.00

No.11 Robinhood Road Clondalkin standalone – note inferior location

Level	Use	M ²	NAV / M ²	Total NAV €
0	Yard (concrete/tar)	784	20.00	€15,680.00

No.12 Robinhood Road Clondalkin standalone.

Level	Use	M ²	NAV / M ²	Total NAV €
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0	Yard (concrete/tar)	625	25.00	€15,625.00
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No.13 Robinhood Industrial Estate Clondalkin standalone – note inferior location

Level	Use	M ²	NAV / M ²	Total NAV €
0	Yard (standalone)	99.20	25.00	€2,480.00

No.14 Turnpike Road Clondalkin standalone. – note inferior location

Level	Use	M ²	NAV / M ²	Total NAV €
0	Offices	95.43	60.00	€5,725.80
0	Yard (concrete/tar)	1,245.50	25.00	€31,137.50

No.15 Turnpike Road Clondalkin standalone – note inferior location

Level	Use	M ²	NAV / M ²	Total NAV €
0	Portakabin	18.42	22.00	€405.00
0	Store	165.25	55.00	€9,088.75
0	Yard (concrete/tar)	1,814.26	25.00	€45,356.50

No.16 Turnpike Road Clondalkin standalone – note inferior location

Level	Use	M ²	NAV / M ²	Total NAV €
0	Steel container	28.80	11.00	€316.80
0	Store	60.00	55.00	€3,300.00
0	Yard (concrete/tar)	517.20	20.00	€10,344.00

No.17 Ballymount Road Walkinstown standalone – note inferior location

Level	Use	M ²	NAV / M ²	Total NAV €
0	Offices	80.45	55.00	€4,424.75
0	Yard (concrete/tar)	60.00	25.00	€7,925.00

8.3 Mr Gogu stated that he did not agree that most yards associated with car sales have a 10% value relationship to the buildings.

8.4 Under cross-examination by the Appellants witness, Mr. Gogu agreed that many of his comparisons were for yards only, rather than, as Mr Halpin pointed out, the subject property which is a combined property. Mr Halpin noted that most of the other comparisons in the Motokov complex were under appeal and that as such, little weight could be placed upon them.

8.5 Mr Halpin asked further questions about comparability of Mr Gogu's individual comparisons, including the subject property's building profile relative to others, the specific user type, e.g. a car breaker as compared with car sales, and asked Mr Gogu to agree that an accepted value relationship between offices and yard was typically in a range of 10-15% for the latter category. Mr Gogu did not agree.

8.6 Mr Halpin commented that it was his view that there was no key rental evidence provided by the Commissioner and that he was relying on 'tone of the list' comparisons.

8.7 Mr Halpin asked Mr Gogu for his views on one of his tone of the list comparisons, a car sales business in Bluebell industrial estate. In that case Mr Halpin drew Mr Gogu's attention to what he said was on one hand the superior quality of the building, but the inferior profile of the premises as compared with the subject property yet with the Commissioner's assessment that there was a justification for the substantial differential between the NAVs of the two yards.

8.8 Mr Halpin concluded his cross questioning by again alluding to a lack of actual rental evidence.

8.9 The Respondent assessed the amalgamated NAV to be:

Accommodation	M ²	€/M ²	
Showroom	372.76	€54.00	€20,129.04
Store	156.33	€30.00	€4,689.90
Portakabin	32.00	€22.00	€704.00
Yard-front	2,000	€20.00	€40,000
Yard rear	1,434	€9.75	€13,981.50
		Total	€79,504.44

			Say €79,500
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9. FINDINGS AND CONCLUSIONS

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 South Dublin County Council.

The Tribunal notes that the parties are already agreed upon the NAV's for the showrooms and portakabin at €54 per sqm and €22 per sqm respectively.

The Tribunal notes reference in the Respondent's evidence to three 2014 Valuation Tribunal appeal cases VA16/4/026, VA15/4/063 and VA15/5/061 which, inter alia, relate to yards in the Motokov complex. The witnesses evidence states that these cases were determined on appeal at NAV's of €25, €22 and €22 per sqm. respectively.

The Tribunal notes that of the four rental comparisons cited by the Respondent, one of these - Ref. VA17/5/679 - was also cited by the Appellant, but further notes from the latter's evidence that this case is "under appeal".

The Respondent's written evidence this referred to the following extract from the Act:

"The valuation is based on the premise of a hypothetical tenant paying a rent for exclusive occupation, one year after another, for a property in its actual state on the assumption that the probable cost of repairs, insurance and any other expenditure necessary to maintain the property in that state including rates and other taxes are borne by the tenant.

The actual rent for any individual property may be material in deriving that estimate but is not in itself conclusive of *Nett Annual Value* (NAV) in the context of Section 48 and s19(5). Accordingly, the estimate of value arrived at for this property is what a hypothetical tenant would pay by way of rent in accordance with section 48, not necessarily what any particular tenant is paying.

Analysis of a number of market rents assists in deriving the estimate of net annual value and mitigates the impact of outlying rents that may not represent what a hypothetical tenant would bid.”

In the above context the Tribunal notes that no market rental comparisons were adduced by the Commissioner.

In relation to the Store, only limited evidence was provided by the two parties; it is noted that an NAV figure of €45 was referenced and proposed in relation to the adjoining store by the Appellant’s witness, and that other than this, limited alternative evidence provided for stores. The Tribunal finds that a NAV of €45/m² is appropriate.

As regards the yard areas, the Valuation Tribunal notes that there is very limited rental evidence. The Tribunal has concluded that differences in value as between standalone yards and yards which are constituent parts of overall commercial entities need to be distinguished. The Tribunal finds that the subject property comprises an overall property and not a standalone site. The rental evidence is very limited however the Tribunal attaches weight to the 2017 letting of the subject property which is common to both parties and appears to be an arm’s length transaction. This is a lease from March 2017 at €65,000pa on a full repairing and insuring basis and the lease stated that the tenant was liable for all rates. The Tribunal has accepted Mr Halpin’s indexation deduction of €8,117 which was not challenged and accordingly finds the NER to be €56,883. This lease includes a three year landlord break option and a Deed of Renunciation. € Mr Halpin’s first rental comparison refers to an adjoining/attached property where the rental value and NAV are very close and it accepts the devaluation of the NAV as provided with particular reference to the store at €45.00/M². This property is not subject to a Valuation Tribunal appeal.

The Valuation Tribunal agrees with the Commissioner whereby he differentiates between the front and rear yards and finds that the various yard rates included in Mr Halpin’s NAV comparisons are informative as they have been determined by discounting the stores/warehouse rate by 10% and it had noted the Commissioner’s analysis whereby he had moved below the originally contended amount of €25.00/M² to €20.00M² and €9.75/M² respectively. The Tribunal notes the rates applied to yards with associated buildings varies considerably from €3.50/M² for a very large and prominent vehicle display and sales yard to €25.00/M² for

standalone yards with little or no buildings. It has taking account of the actual letting of the subject property in 2017 discounted for the later date and it finds that the front yard has more commercial potential whereas the rear yard has limited sales potential and is used for staff parking and car storage rather than sales.

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 €56,500.00

Description	M ²	€/ M ²	€
Showroom	372.60	€54.00	€20,120.40
Store	156.33	€45.00	€7,034.85
Portacabin	32	€22.00	€704.00
Yard front	2,000	€10.00	€20,000.00
Yard rear	1,434	€6.00	€8,604.00
			€56,463.25
			Say €56,500

Total NAV €56,463.25

say €56,500.00

And the Tribunal so determines.