

Appeal No: VA17/5/760

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Kawasaki Distributors (Irl) Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 451327, Retail (Warehouse) at 1 Longmile Road, Clondalkin, Dublin 12.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF JUNE, 2023**

BEFORE

Eoin McDermott - FSCSI, FRICS, ACI Arb

Deputy Chairperson

1. THE APPEAL

- 1.1 By Notice of Appeal received on 12th 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 €203,000
- 1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *“We have a Savills Valuation which is different.”*
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €78,176.

2. RE-VALUATION HISTORY

- 2.1 On 13th 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 €221,000.

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 €203,000.

2.3 A Final Valuation Certificate issued on 7th September 2017, stating a valuation of €203,000.

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. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal. The Appellant's summary consisted of a valuation by Savills dated 7th April 2014 together with further information provided by Mr. Les Griffin, a manager of the Appellant. The Respondents summary was prepared by Mr. Oliver Parkinson. The Appellant was offered the opportunity to comment on the Respondents summary, but no response was received.

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 The property is located on Long Mile Road, close to its junction with the Naas Road and some 6km southwest of Dublin City Centre.

4.3 The property is a detached 1970s style industrial facility which was refurbished approximately 20 years ago. It is of metal frame construction with a twin span metal deck roof and concrete block walls, incorporating cladding to the rear and sides. The front of the property is a fully glazed display area. There is also a structural mezzanine floor covering almost the entirety of the property.

4.4 The area of the property is as follows: -

Level	Use	Area (m ²)
0	Showroom	586.55
0	Offices	332.12
0	Store	121.00
0	Store	436.10
0	Workshop	182.50
0	Loading Bay	79.29
0	Yard	1104.00
1	Offices	202.13
1	Shop	579.90
1	Store	722.51
Mezz	Store	116.40

5. ISSUES

5.1 The issue 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.”

6.3 Section 19(5) (inserted by section 7(b) of the 2015 Act) of the 2001 Act provides:(5) *The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue*

of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable) —

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list,

and so that (as regards the matters referred to in paragraph (b) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.

7. APPELLANT'S CASE

7.1 The Appellant put forward a valuation and report undertaken by Savills in March 2014.

The report suggested a rental value for the property of €100,000 and the Appellant notes that an investment transaction was undertaken following receipt of the report. The Appellant notes the significant difference between the rental value put forward by Savills and the NAV suggested by the Respondent

7.2 The Savills report describes the location, construction, and layout of the property. The areas put forward are different to those agreed but not significantly so. It is noted that permission was granted in 1997 to convert the use of the premises to a motor service retail outlet. It also notes that the Rateable Value on the property as at March 2014 was €321,000.

7.3 The report puts forward three pieces of comparable rental evidence used in assessing the rental value, included at Appendix A (n/a to public). Two of the comparisons are located in Parkwest Industrial Park and the third is in the M50 Business Park. All the comparisons date from 2013. The report notes the over-supply in the Dublin industrial sector as at the valuation date and describes the market as subdued. The report states that rental levels for prime industrial properties as of March 2014 are in the region of €45 to €55 per m².

7.4 The report makes specific mention of the bespoke nature of the layout and the consequent lack of appeal to traditional occupiers. It draws attention to what it sees as the negative impact of the mezzanine floor on the use and value of the ground floor level.

7.5 The approximate breakdown of the rental valuation of €100,000 is as follows: -

Use	Area (m ²)	NAV/m2	NAV
Ground Floor	1646.00	€43.00	€70,778.00
First Floor	1404.00	€16.15	€22,674.60
Yard	1012.00	€5.00	€5,060.00
			€98,512.60
		Say	€100,000.00

8. RESPONDENT'S CASE

8.1 Mr. Parkinson, on behalf of the Respondent, described the property and its location using photographs and plans contained in his submission. He describes the property as a detached retail warehouse type showroom with retail aspect to the front, workshop to the rear and offices to the side. The first floor is described as being retail to the front with stores and offices to the rear and side. The condition of the property is described as good. It is stated that the floor areas were agreed with the Appellant in a phone conversation

8.2 In response to the Appellants submission, Mr. Parkinson states that the Savills report should be disregarded as it was undertaken for advisory purposes and not for rateable valuation purposes. He says that the rental comparisons in Parkwest should be ignored because they are located in a different rating area to the subject property and that the three comparisons are not relevant because they are located in areas classified by the Respondent as Industrial Estate/Business Park settings, whereas the subject property is categorized as a Retail (Warehouse) showroom.

8.3 Mr. Parkinson notes that properties that are “similarly circumstanced” are considered comparable. He defines this as meaning that they share characteristics such as use, size, location and/or construction. Reference is made to market evidence underpinning the valuation scheme, although no such evidence is provided. He puts forward 4 NAV comparisons as follows: -

PN	Address	Area M2	NAV per sqm	NAV
401792	Naas Road, Clondalkin, Dublin 22	1,302.30	Showroom @ €150psqm Offices @ €100psqm	€111,800
409391	Naas Road, Clondalkin, Dublin 22	949.39	Showroom @ €150psqm Offices @ €96 psqm	€127,600
407914	Newlands Cross, Clondalkin, Dublin 22	1,284.89	Showroom @ €150psqm Offices @ €95 psqm	€120,000

404496	Newlands Cross, Clondalkin, Dublin 22	736.76	Showroom @ €150psqm Offices @ €95psqm	€92,300
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8.4 Mr. Parkinson seeks a valuation of €203,000, calculated as follows: -

Level	Use	Area (m ²)	NAV/m2	NAV
0	Showroom	586.55	€130.00	€76,251.50
0	Offices	332.12	€55.00	€18,266.60
0	Store	121.00	€10.00	€1,210.00
0	Store	436.10	€55.00	€23,985.50
0	Workshop	182.50	€55.00	€10,037.50
0	Loading Bay	79.29	€55.00	€4,360.95
0	Yard	1,104.00	€20.00	€22,080.00
1	Offices	202.13	€55.00	€11,117.15
1	Shop	579.90	€27.00	€15,657.30
1	Store	722.51	€27.00	€19,507.77
Mezz	Store	116.40	€10.00	<u>€1,164.00</u>
				€203,638.27
			Say	€203,000.00

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 Appellants case is that they have a valuation, from a reputable valuation firm, that suggests a rental value of €100,000 for the subject property as of March 2014. They query how the Respondent could assess the NAV of the same property at €203,000 as of October 2015.

10.3 The Respondents case is that the Savills report should be ignored because it was not done for rating purposes, that the comparisons quoted in that report are not similarly circumstanced properties and two of them are located in a separate rating area, that the

Respondent has put forward four NAV comparisons that are located within the same rating authority and fall within the same category as the subject property and that these comparisons support the NAV sought.

10.4 The Tribunal notes that the Respondent has chosen not to put forward any market evidence underpinning the valuation scheme for the subject property. The Tribunal accepts that market evidence was limited as at the time of the revaluation but would query this approach given that they seek to dismiss the market evidence put forward by the Appellant. The Tribunal is of the opinion that the market evidence is of relevance and should be considered.

10.5 The Appellant has put forward, via the Savills report, three pieces of evidence, all of which date from 2013. The first piece of evidence is a modern warehouse unit of 897 m² located in a modern industrial estate in the Dublin City Council area. This was let in September 2013 and the rent is analysed at breaking down at €55.74 per m². The second piece of evidence is described as a detached warehouse unit of 2,285 m² located in a modern industrial estate in the Dublin City Council area. This was let in Q1 2013, and the rent is analysed at breaking down at €42 per m². The third and final piece of evidence is described as a modern unit of 2,590 m² located in a modern industrial estate in the South Dublin County Council area. The unit has a showroom element to the front, and it is observed that this comparison is more modern, of better quality and has more functionality than the subject property. This was let in Q3 2013, and the rent is analysed at breaking down at €53.53 per m².

10.6 It cannot be claimed that these comparisons are directly comparable to the subject property. Firstly, they all date from 2013, two years before the relevant valuation date and the Appellant has failed to consider how changes in the market between the report date and the valuation date would affect those valuations. Secondly, the valuation report from Savills appears to be predicated on the property returning to industrial use, rather than retaining a use as a motor service retail outlet. It is arguable that this serves to lower the value of the property as at the valuation date, although it is perfectly understandable in the context of March 2014. Finally, the comparisons are variously described as being more modern, better quality and more functional than the subject. Taken together, the Tribunal is satisfied that the comparisons provide a useful snapshot of the market in the locality of

the subject property as at a point in time while being cognisant of the adjustments that will need to be made for factors such as timing, use, size and functionality.

10.7 The Respondent has put forward four NAV valuations as evidence. The Tribunal notes that all four comparisons are significantly smaller than the subject property and all appear to be purpose-built motor dealerships. The Respondent points out that in each case the showrooms in the comparisons are valued at €150 per m² while the showrooms in the subject property are valued at €130 per m². The rationale for applying the differing NAVs as between the comparisons and the subject property is not explained. It is similar for the office valuations where the comparisons are valued between €100 and €95 per m² while offices are valued at €55 per m² in the subject property. It could be that the Respondent is making allowances for size, use or loss of functionality but no clarity has been provided.

10.8 The Respondent also points out that the occupiers put forward no appeals or representations in each of the comparisons it cites. There could be any number of reasons for this but the Tribunal notes in particular that the rateable value of the subject property was €321,000 prior to the Revaluation while the Respondent is now contending for €203,000. It is quite possible that the comparison properties received similar reductions and were reluctant to appeal them as a result. The Tribunal does not attach any weight to this argument.

10.9 The Tribunal accepts that the Respondent has established a level of €150 per m² for modern purpose-built motor retail showrooms as at the valuation date. The subject property is a converted 1970s industrial unit, and the Tribunal is satisfied that the NAV levels as put forward by the Respondent reflects the age, use and size of the subject property.

10.10 The Savills valuation report is quite specific on the effect of the mezzanine floor on the functionality of the subject property. The Respondent does not address this issue in their precis, although it can be seen in the photographs contained in the Respondents precis. The Tribunal considers that an allowance should be made to reflect the loss of functionality and finds that an allowance of 10% in respect of the built areas reflects that loss.

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 **€185,000**, made up as follows: -

Level	Use	Area (m ²)	NAV/m2	NAV
0	Showroom	586.55	€130.00	€76,251.50
0	Offices	332.12	€55.00	€18,266.60
0	Store	121.00	€10.00	€1,210.00
0	Store	436.10	€55.00	€23,985.50
0	Workshop	182.50	€55.00	€10,037.50
0	Loading Bay	79.29	€55.00	€4,360.95
1	Offices	202.13	€55.00	€11,117.15
1	Shop	579.90	€27.00	€15,657.30
1	Store	722.51	€27.00	€19,507.77
Mezz	Store	116.40	€10.00	<u>€1,164.00</u>
				€181,558.27
	Allowance		10.00%	<u>€18,155.83</u>
	Sub total			€163,402.44
0	Yard	1104.00	€20.00	€22,080.00
				€185,482.44
			Say	€185,000.00

RIGHT OF APPEAL:

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal's determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.