

Appeal No: VA23/5/1524

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

VIOLA COMPANY LTD

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2151094, Miscellaneous at The Pavilion, Marine Road, Dun Laoghaire, County Dublin.

B E F O R E

Barra McCabe - BL, MRICS, MSCSI

Liam Daly - MSCSI, MRICS

Avril Sheridan - Solicitor

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF NOVEMBER 2025**

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 17th day of October 2023 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 €258,000 or €850 per car space.
- 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: (a) "I believe the valuation of the subject property is excessive and does not accord with Section 19(5) of the Valuation Act, 2001 as amended by the Valuation (Amendment) Act, 2015 (the Act), as in my opinion it does not achieve both correctness of value and equity and uniformity of value between comparable properties on the list.

More particularly, I do not believe that equity and uniformity of value have been achieved between comparable properties, as I believe the subject property has unique considerations which differentiate it from similarly categorised properties in the List including being inferior to other multi-storey car parks, as it is not part of a large-scale commercial development. In consideration of these specific matters, I believe a lower valuation as set out herein is more representative of a reasonable Net Annual Value in accordance with Section 48 of the Act."

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €228,000 or €750 per car space.

2. REVALUATION HISTORY

- 2.1 On the 13th day of April 2023 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 €304,000.
- 2.2 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €258,000.
- 2.3 The date by reference to which the value of the property, the subject of this appeal, was determined is the 1st day of February 2022.

3. THE HEARING

- 3.1 The Appeal proceeded by way of an oral hearing held remotely via Zoom on the 10th day of January 2025. At the hearing, the Appellant was represented by Ms Claire Mason, Associate Director within Avison Young, and the Respondent was represented by David Colhoun, BA, HDip, MSc, 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 their précis as evidence-in-chief, in addition to giving oral evidence.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts.

- 4.1 The property is a multi-storey carpark over 3 levels located at The Pavilion, Queens Road, Dun Laoghaire, Co. Dublin.

- 4.2 The property has a vehicular entrance on Queens Road and two pedestrian entrances, one at Queens Road and a second one at the corner of Queens Road and Marine Road.
- 4.3 The property is 150 metres from Dun Laoghaire train station, which has both a DART and other commuter train services, and is close to numerous bus links. It is within walking distance of Georges Street, which is the main commercial thoroughfare. The property is also close to all of the amenities in Dun Laoghaire Harbour.
- 4.4 The property is accessed by vehicles at road level through a barrier controlled access at Queens Road. There are 304 spaces in the car park over 3 levels.
- 4.5 The property is held freehold by Viola Developments Ltd and on the statutory valuation date, Park Rite were the car park manager. Park Rites annual contract was worth €36,084 per annum.
- 4.6 No car park spaces are held under a lease by any third parties, but spaces are held under licence by a car cleaning service on an annual rent of €10,500 per annum. This equates to €1,750 per space under licence.
- 4.7 The Pavilion car park is below the Pavilion development, which comprises predominately food and leisure retail offering. Tenants include ITSA Bagel, Moca, Sushida, Casper & Gambini, Insomnia, Meadows & Byrne, Viking Marine Store, Westwood Club, The Pavilion Theatre, and the Forty Foot Bar & Grill-Wetherspoons.
- 4.8 The Pavilion is a stand alone car park and is not linked to a shopping centre or large supermarket.

5. ISSUES

- 5.1 The Appellant is of the view that a significant portion of the Pavilion Car park income is generated by long term users which means that its income per space is effectively discounted income. The Appellant is of the view that this factor should be taken into account.
- 5.2 The Appellant refers to a Tribunal decision from 2002 which held that a discount of 10% should be applied to the Pavilion relative to Bloomfield Shopping Centre due to its location and the fact that it was a standalone car park. In this regard, the Appellant referred to Valuation Tribunal Judgement VA01/2/015.

6. RELEVANT STATUTORY PROVISION:

- 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 and 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 As to the method and approach to valuation, Section 37(4) of the Act provides:

“(4) For the avoidance of doubt, neither subsection (1)(a) or (2)(b)(ii) (so far as it relates to section 19(5)) nor section 19(5) shall require the Tribunal to achieve the determination of the value of a property concerned by reference to any particular method of valuation, and the Tribunal may arrive at its determination by reference to whatever method of valuation or combination of methods of valuation as the Tribunal, in its discretion, may deem appropriate.”

7. APPELLANT’S CASE

- 7.1 The Appellant was represented by Ms Claire Mason, Associate Director with Avison Young. Ms. Mason adopted her précis and affirmed her evidence. Ms. Mason confirmed the location of the Pavilion Car Park and that the Pavilion car park is part of the Pavilion development, which comprises apartments to the rear, but predominantly a food and leisure offering. Tenants include ITSA Bagel, Moca, Sushida, Casper & Gambinis, Insomnia, Meadows & Byrne, Viking Marine Store, Westwood Club, The Pavilion Theatre, and the Forty Foot Bar & Grill-Wetherspoons.
- 7.2 Ms. Mason contended that the subject property was a standalone car park and did not benefit from any subsidisation afforded by having an anchor store attached, unlike a number of other multi-story car parks in the vicinity. The appellant referred to the Valuation Tribunal Judgement VA01/2/015 relating to the subject property wherein the Valuation Tribunal applied a 10% reduction in the rate of each car park space at that time.
- 7.3 Ms Mason stated that a significant portion of the income generated in the Pavilion car park is generated from long-term users, and that this distinguishes the Pavilion car park from the other car parks in the vicinity. No financial evidence was produced by Ms Mason to substantiate such a claim.

- 7.4 Ms. Mason stated that three out of the four multi-story car parks in closest proximity to the subject property were under appeal at the time of her précis. One of these multi-storey car parks had its appeal determined at the time of the hearing, and the car park spaces had been affirmed at €850 per space. Ms Mason contended that in her view there was “no tone of the list” that could be relied on in this case.
- 7.5 Ms. Mason argued that the R & E Method of valuation should be used in the valuation of the subject multi-storey car park. Ms. Mason’s original calculations on this basis valued the rate per car space at €400 on the basis of a 70:30 divisible balance between the landlord and tenant. Ms. Mason was of the view that the 80:20 divisible balance should not apply in Dun Laoghaire multi-storey car parks.
- 7.6 Ms. Mason accepted on cross-examination and further review that there were question marks over some of the allowable costs in her R & E Valuation, Appendix 4 & Appendix 5 of her précis. The Respondent and Appellant agreed that Ms. Mason could provide more correct figures in an updated précis within the next few days. Ms. Mason undertook to provide an amended Appendix 4 & Appendix 5 to her précis. Following receipt of Ms Mason revised figures on the R & E method, car spaces were valued at €567 on the basis of a 30:70 divisible balance allocation.
- 7.7 Ms. Mason accepted that the Pavilion Car Park had the highest hourly rate for parking in Dun Laoghaire.
- 7.8 Ms. Mason contended that the Pavilion Car Park was inferior in location to the other multi-storey car parks in Dun Laoghaire, and further, it was predominately a standalone operation.

8. RESPONDENT’S CASE

- 8.1 Mr David Colhoun acted as expert witness for the Respondent and adopted his précis and made an affirmation. Mr. Colhoun's description and location of the car park were the same as Ms. Mason. Mr. Colhoun accepted that Dun Laoghaire Shopping Centre, Bloomfield, and IMC benefit from superior locations, as they are in closer proximity to the core retail area of the town.
- 8.2 Mr. Colhoun noted that the Pavilion car park had the highest charges per four-hour rate when compared with those closest to it. He argued that this higher pricing structure indicates that the operators are satisfied that the Pavilion car park can stand up to the competition and charge a premium. The opening hours of the Pavilion are significantly longer than those of Bloomfield and Dun Laoghaire Shopping Centre due to its location and he contended that there is a demand from users from early morning to late evening.
- 8.3 Mr. Colhoun accepts that the Pavilion car park is not linked to a shopping centre, but argues that its location and proximity to three retail units, five food outlets, Westwood Gym, and Pavilion Theatre make it an attractive location. He also points out that the Pavilion is the

closest car park to the DART, the Dun Laoghaire Rathdown County Council Office, and all the amenities of the East pier. The subject benefits from diverse demand for its facilities rather than relying on retail hours.

- 8.4 The Repondent provided statistical evidence that the short/long-term parking revenue at the Property was in line with the other car parks in Dun Laoghaire attached to shopping centres. The multi-storey car parks in Dun Laoghaire all operate on a 16% to 20% split of short-term to long-term.
- 8.5 Mr Colhoun does not accept that the Pavilion valuation should be granted a 10% discount based on the premise in Valuation Tribunal decision VA 01/2/015, because this decision is dated 2002 and Dun Laoghaire has changed over the intervening 22 years. For example, the area around the subject property has benefited from significant public sector and private developments, commercial developments, and investments in public amenities, such as the harbour area and the new library.
- 8.6 Mr. Colhoun accepted that 3 of the 4 multistorey car parks in Dun Laoghaire were under appeal at the time of his précis. At the time of the hearing, the judgement from the Valuation Tribunal VA23/5/0808, relating to the multi-storey car park at Dun Laoghaire Shopping Centre, had been issued, confirming the valuation of the car park spaces at €850 per space.
- 8.7 Mr. Colhoun contended that the tone of the list for the eleven multi-storey car parks in the Dun Laoghaire Rathdown rating area had been correctly assessed, as 63% of the multi-storey car park owners had accepted the rating. A further Property No. 526132, Dun Laoghaire Shopping Centre car park, has been determined by the Valuation Tribunal to have been correctly valued at €850 per car space.
- 8.8 Mr. Colhoun notes that the costs and expenditure in the management accounts of the Pavilion Car Park as provided by Ms Mason, include amounts that cannot be verified as referring to the car park operation only and may include costs related to other activities of Viola Limited. Mr. Colhoun is of the view that the only figures that are verifiable in the accounts are the gross turnover figures as follows, which can be found at Appendix 1 below (N/A to public).
- 8.9 Mr. Colhoun advises that an analysis of similar properties in the rating area shows that costs average in the range of 15%-20% of gross revenues. Calculating the figures in line with normal allowable costs is broadly in line with the €850 NAV per space.
- 8.10 Mr. Colhoun is of the view that the current valuation scheme approach is correct, and this has been accepted by 63% of car park owners as the correct rating.

9. SUBMISSIONS

- 9.1 There were no formal legal submissions made by either party in this case.

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 Dun Laoghaire Rathdown County Council.
- 10.2 The onus of proof rests with the Appellant in an appeal and in order to succeed in their appeal, an Appellant must demonstrate, through cogent evidence, that the Respondent has erred in their valuation of the property under appeal. In that respect, the Appellant was obliged to satisfy the Tribunal, through evidence, that the Respondent's valuation was incorrect and the Commissioner's approach to valuation resulted in an incorrect valuation of the Property. The crux of the present appeal, and the question to be determined, was whether the Respondent erred in relying on the properties as relevant or similarly circumstanced properties to the subject for the purposes of valuing the Subject.
- 10.3 The Appellant advanced this appeal on the basis that two of the comparison properties relied on by the Respondent were both under appeal, and therefore there were no similarly circumstanced properties that could be consulted in order to determine the NAV for the Subject Property. In those circumstances the Appellant contended for a valuation based on the R&E method. The Tribunal finds that although there is no one set or definitive approach to valuation, the use of the R&E method as a departure from the accepted approach of 'Tone of the List' comparators must be justified and warranted where it is advanced.
- 10.4 The Appellant's calculation of the valuation and the financial information relied upon to conduct an R&E valuation were challenged by the Respondents. Ultimately, the Tribunal is not satisfied with the explanations provided. As an example, the figures for the car park operational costs in particular could not be verified or relied upon.
- 10.5 The Tribunal is not convinced that there was no other market information available to the Appellant, noting that seven of the eleven car parks in the Local Authority area were not appealed to the Tribunal and therefore entered on the List and presumed to be correct. One of the car parks under appeal at the date of the parties' précis has been determined by the Valuation Tribunal VA23/5/0808 on 21st November 2024 at €850 per space.
- 10.6 Insufficient consideration was given to the valuation of multi-storey car parks not under Appeal in the rating area and therefore the submissions made by the Appellant for adopting an R&E method of valuation were not accepted. It was put to Mrs. Madden that a 70/30 share would be more reflective of operating practices should the R&E be applied, but no clear or cogent response was provided that would explain or warrant an increase to the 80/20 rate contended for in the present case.

- 10.7 In the circumstances, the Tribunal is not satisfied that the Appellant provided sufficient and/or sufficiently robust evidence as would justify the use of the R&E method of valuation in the present case.
- 10.8 In light of the foregoing and where the onus of proof lies with the Appellant to satisfy the Tribunal that the Respondent erred in their valuation of the property under appeal, the Tribunal is not satisfied that the Appellant has made out a sufficient case.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the valuation of the Respondent of €258,000.

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.