

Appeal No. VA 14/5/176

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001**

Pelco Limited

APPELLANT

And

Commissioner of Valuation

RESPONDENT

In relation to the issue of quantum of valuation in respect of:

Property No: 785076, Fuel/Depot at Texaco Dornden, Rock Road, Merrion Road, County Borough of Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF FEBRUARY, 2018**

Sasha Gayer – Senior Counsel

Chairperson

Brian Larkin – BL

Member

Pat Riney – FSCSI, FRICS, ACI Arb, FIABCI, PC

Member

1. THE NOTICE OF APPEAL

1.1 By Notice of Appeal lodged to the Valuation Tribunal on the 4th day of September 2014, the Appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €81,000 on the above described Property.

1.2 The Grounds of Appeal as set out in the Notice of Appeal are: The Valuation is excessive, inequitable and bad in law.

1.3 The dispute between the parties is their respective opinion of the levels of fair maintainable fuel throughput and turnover that a hypothetical tenant might hope to achieve and maintain.

2. THE HEARING:

2.1 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 21st day of September 2015. At the hearing the Appellant was represented by Donal O'Donoghue, of OMK Property Advisors and Rating Consultants, 30/31 King Street South, Dublin 2. The Respondent was represented by Mr Liam Hazel, MSc., BSc., Assoc. SCSI, MIPAV.

2.2 In accordance with the rules of the Tribunal, the Parties had in advance of the Hearing of the Hearing exchanged written submissions and also submitted copies of them to the Tribunal. At the Oral Hearing, both Valuers adopted their written submissions as their evidence in chief under oath.

2.3 It was agreed from the outset, that due to the fact that each of the three Appeals -VA 14/5/175, VA 14/5/176 and VA 14/5/177 - comprised of Service Stations, with a Fuel Forecourt, Car Wash Facility and Car Parking, the Appeal should proceed primarily dealing with VA 14/5/175, The Texaco Merrion Gates Property, which would support similar determinations being made applicable to each of the other two Appeals.

3. THE PROPERTY:

3.1 The Property is situated on the Western side of the Merrion Road, adjacent to the Tara Towers Hotel. It is c.2.75 kms south east of Ballsbridge and 2 km northwest of Blackrock Village.

3.2 The Property is a Service Station with a Fuel Forecourt, Shop, Car Wash Facility, and ample Car Parking. The site extends to approximately 2,180 sq.m. (.53 of an acre), has a frontage of c.55 Metres to the Merrion Road, and is accessible to traffic heading to and from Dublin City Centre. The Property trades as a Texaco Service Station, with 3 Pump

Islands, 3 Double-Sides Pumps, and 1 single sided pump, all under a large canopy. The Shop is branded Spar Express, and includes a convenience shop and a deli and an ATM. Ancillary accommodation includes offices, stores and toilets and there is a wine license. There is also a large car-wash facility with 1 Automatic Brush Car-Wash, and 1 Jet Car-Wash.

3.3 The Accommodation briefly comprises:

A Ground Floor Retail	113.28 sq.m.
B Forecourt (Tarmac Surface)	1,611.36sq.m.
C Canopy including 3 Pump Islands	318 sq.m.
D Store/Canteen	33.12 sq.m.
E Steel Container/ Store	24.24 sq.m.

4. THE RELEVANT STATUTORY PROVISIONS:

4.1 The Valuation of the subject property is to be conducted according to the provisions of the Valuation Act 2001. The Net Annual Value (NAV) is to be estimated in accordance with Section 48 of that Act. It is also understood the property is held from Texaco, Valero Energy (Ireland) Ltd. for a period of 6 years 1st of May 2010, on a full repairing and insuring basis.

5. THE APPELLANT'S EVIDENCE AND SUBMISSIONS

5.1 Mr. O'Donoghue referred in some detail to his submission, and also made the following points.

5.2 The valuation methodology to assess Net Annual Value of Petrol Filling Stations is well established as referred to in his Appendix 1. This is the approved methodology between the Consultants Forum and the Valuation Office

5.3 He based his assessment on a hypothetical tenant being reasonably experienced. His opinion reflects the restricted access and egress, and has regard to the downward trend in his client's turnover over 3 years, 2011, 2012 and 2013.

- 5.4 He also argued that the Respondent's assertion that Pelco a high pricing model, is based on only one survey carried out on the 2nd of September 2015. He stated that at the date of the publication of the valuation list, the hypothetical tenant would not be aware of the pricing model, and that the evidence provided by the Commissioner, was after the publication date.
- 5.5 The Fuel Throughput, Retail Turnover, and Car-Wash figures were submitted for the years 2011, 2012 and 2013. He pointed out that they clearly showed a downward trend which represented declines of 25%, 13% and 17.7% respectively.
- 5.6 In view of the foregoing, he was of the opinion that the Net Annual Value should be €43,000 which he calculated as follows:

A Fair Maintainable Fuel Throughput, 1,810,864 Litres @ €6 per 1,000 Ltrs-	€10,865
B Fair Maintainable Retail Sales, €798,130 @ 3.5%	€27,935
C Fair Maintainable Car Wash Sales, €38,192 @ 11%	€4,201

Total	€43,001
NAV say	€43,000

6. THE RESPONDENT'S EVIDENCE AND SUBMISSION:

- 6.1 Mr Hazel referred in some detail to his submission and also made the following points: The Appellant had stated the valuation was excessive by reference to the on-going sustainable turnover of the business, and had submitted trading data for 2011, 2012 and 2013. Mr Hazel said this was not new information, apart from the trading data of 2013, and was not deemed sufficient to alter the valuation.
- 6.2 In his opinion, there should have been a reference made to the Lease of 6 years at an annual rent of €120,000 which was full repairing and insuring, with no inducements or rent reviews

- 6.3 He made a number of references to the fact that fuel was sold for 6 cents dearer per litre for diesel, and 3 cents dearer for unleaded, at the date of the valuation, in comparison with other station nearby.
- 6.4 He explained that when carrying out the revaluation in Dublin, the Valuation Office reviewed the service station methodology scheme to ascertain if it was still appropriate, and it was deemed so.
- 6.5 In his opinion, when arriving at an estimate of Fair Maintainable Throughput, Shop and Car-Wash Sales, it was necessary to have regard to the pricing policies followed by each service station operator.
- 6.6 He pointed out that in his opinion the NAV should be €81,000, which he calculated as follows

A Fuel Throughput- 3,000,000 Litres @ €7.00 per 1,000 Ltrs.	€21,000
B Shop Turnover - €1,400,000 @ 3.75%	€52,500
Car-Wash Turnover - €50,000 @ 15%	€7,500

Total	€81,000

7. FINDINGS:

The Tribunal has carefully considered all the evidence and arguments adduced and finds as follows:-

- (1) The Valuation of the subject Property is to be conducted in accordance with the provisions of the Valuation Act 2001, and the Net Annual Value (NAV) is to be estimated in accordance with Section 48 of that Act.
- (2) The salient facts in relation to the subject Property, and those properties introduced for the purposes of comparisons are not in dispute. The only issues in dispute are the

appropriate estimates of Fuel Throughput, Retail and Car-Wash Income upon which the Net Annual Value is to be calculated.

- (3) The approved methodology/analysis between the Consultants Forum and the Valuation Office regarding Service Stations, dated December 2009, is a most useful document. This has been referred to by both parties, and is welcomed by the Tribunal, in that it has been prepared by Rating Valuers in the Valuation Office and others engaged in private practice who are advisers to ratepayers.
- (4) In assessing the Net Annual Value, the Tribunal had regard to all comparables submitted. However, in particular, we found comparison 3, Maxol Beach Road, Sandymount, Dublin 4 and Comparison 4, Topaz, Merrion Road, Dublin 4, to be of most assistance.
- (5) The Fuel Throughput, Retail and Car-Wash Turnover Figures submitted clearly demonstrate a downward trend. However, as the Statutory Valuation Date is the 7th of April 2011, the Tribunal considers the 2011 figures to be of the most assistance.

8. DETERMINATION:

Having regard to the foregoing, the Tribunal determines the Net Annual Value of the subject Property as follows:

Appeal No : VA 14/5/176 - Texaco Dornden, Rock Road, Merrion Road, Dublin 4

1 Fuel Throughput - 1,974,315(Litres) @ €6.00	- €11,845
2 Shop Turnover - €809,814 @ 3.5%	- €28,343
3 Car-Wash Turnover - €43,932 @ 12.5%	- €16,633

Total Net Annual Value	€45,679
Say NAV	€45,700

And the Tribunal so determines