

**Appeal No. VA17/5/049**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Stephen Quinn**

**APPELLANT**

**And**

**Commissioner of Valuation**

**RESPONDENT**

**In Relation to the Issue of Quantum of Valuation in Respect of:**

Property No. 747008, Miscellaneous at 80.82/C (James Street), Market Cross Shopping Centre, Kilkenny, County Kilkenny.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 23<sup>RD</sup> DAY OF MARCH, 2018**

BEFORE:

**Barry Smyth - FRICS, FSCSI, MCI Arb**

**Deputy Chairperson**

**David Gill - FSCSI, FRICS, FCI Arb, Dip Arb Law**

**Member**

**Dairine Mac Fadden - Solicitor**

**Member**

By Notice of Appeal received on the 28<sup>th</sup> day of September, 2017 the Appellant appealed against the decisions made by a Valuation Manager in fixing a net annual value of €364,000 on the above property on the grounds as set out in the Notice of Appeal as follows:

*“The number of car park spaces is incorrect, that the correct no of spaces is 479 not 520, and that the NAV for newer comparable car park is €450 per space”*

The Appellant contended that the Net Annual Value ought to have been determined at €191,000.

**Representation:**

Mr Eamonn Halpin appeared on behalf of the Appellant, Stephen Quinn.  
Mr Terry Devlin appeared on behalf of The Commissioner of Valuation

**Valuation Date:**

30<sup>th</sup> October 2015

**Issue for determination by the Valuation Tribunal**

No issue of law arises in connection with this arbitration and, only the quantum of the valuation being in dispute, the Tribunal has been requested to determine the Net Annual Value in accordance with the Valuation Act 2001 as amended by the Valuation (Amendment) Act 2015. The Appellant seeks that the NAV be reduced in line with its actual potential rental value and the emerging tone of the list.

The Tribunal, examined the particulars of the property; confirmed its valuation history; examined and duly considered the written evidence submitted and heard oral evidence on the 4<sup>th</sup> December 2017 adduced Mr. Eamonn Halpin for the Appellant, and by Mr Terry Devlin on behalf of the Respondent.

**The Subject property**

The subject property consists of a purpose built multi-storey car park adjoining the Market Cross Shopping Centre, Kilkenny, Co. Kilkenny. Built in 1993 there is parking on three levels; levels 1 and 2 are covered, level 3 is roof level. Access is from Parliament Street and James Street. The number of spaces is agreed at 479. The Valuation Certificate issued on 7<sup>th</sup> September 2017 assessed a NAV of €364,000 and listed the number of spaces at 520.

**The Appellant's case**

Mr. Eamonn Halpin outlined the Appellant's case for a reduction in the NAV as follows:

- 1) There are no car parks let at arms' length in Kilkenny so as to provide evidence of actual rents for such facilities
- 2) That the various car parks in Kilkenny compete with each other and their charges are within a broadly similar range
- 3) Mr. Halpin provided a table in which he set out information relating to five car parks in Kilkenny including the subject
- 4) That the Market Yard Car Park which is a surface car park is the most successful and most heavily used facility in Kilkenny City both because of its location close to Dunnes Stores and the ease of access to it
- 5) He said that Market Cross Shopping Centre has had shop vacancies due partly to the aftermath of the recession and also as a result of the success of the more modern and more successful McDonagh Junction Shopping Centre. Furthermore the drop in business in Market Cross Shopping Centre had resulted in a decline in revenues in the subject car park and that these are material factors in assessing the Net Annual Value

- 6) Mr. Halpin disputed the relevance of short term agreements in the subject car park in respect of parking for retail staff in the Market Cross Shopping Centre
- 7) Mr. Halpin argued that the approach adopted by the Commissioner in assessing the net annual value based on a percentage of turnover is at variance with accepted valuation practice and does not take account of the actual costs incurred. He said that a car park run by an operator such as Q-Park or ParkRite benefitted from spreading costs and management overheads whereas the subject car park was privately run
- 8) He said that in respect of the revaluation of Dun Laoghaire Rathdown carried out in 2007 various car parks assessable for rates had been benchmarked off each other and he listed several examples of this.
- 9) In the course of the hearing Mr. Halpin introduced a document (furnished to Mr. Devlin) illustrating the results of a survey carried out with respect to the Market Yard Car Park. Mr. Halpin referred to the comparison which he had prepared showing the relative usage at certain periods for Market Yard and Market Cross. He argued the evidence showed that Market Yard had higher occupancy throughout daytime hours, especially at peak times, that the turnover of spaces was greater and that Market Yard was more intensively used than market Cross.
- 10) In summing up Mr. Halpin argued that there was no clear evidence of an accepted methodology being adopted by the Valuation office, that there was no dual market in car parking as between multi storey facilities and surface car parks and that the NAV should simply reflect usage
- 11) Mr. Halpin contended that all the evidence pointed to a Net Annual Value of €350 per space and said that the Appellant seeks to have the NAV of the subject property assessed in line with the comparables

### **The Respondent's case**

Mr. Terry Devlin for the Respondent set out the case on behalf of the Commissioner:

- 1) He indicated that limited financial information had been available for the multi storey car parks at McDonagh Junction (855 spaces), the Ormonde Car Park (740 spaces) and the Market Cross Car Park (479 spaces) and based on that information a formula had been devised which assessed the NAV per space having regard to turnover.
- 2) Mr. Devlin sought to distinguish between the three multi storey car parks listed above and two surface car parks i) at Market Yard with 450 spaces and ii) Ormonde Street a smaller surface car park with 82 spaces both of which had been assessed at a NAV of €350 per space.
- 3) He said that in his view there was a two tier market in Kilkenny and that surface car parks should be assessed on a different basis to the three multi storey car parks. Mr. Devlin further suggested that the central location of Market Square accounted for its income per space
- 4) He said that in respect of the subject property at Market Cross there were short term (3 month) agreements in place for staff in the Centre at €200 per space which equated

to €800 per annum and that this was relevant information on which the Commissioner was entitled to rely

- 5) Mr. Devlin confirmed that the assessment in respect of the McDonagh Junction car park at a NAV of €450 per space had been appealed to the Valuation Tribunal. He also said the NAV determined for the Ormonde Car Park at €350 per space had not been appealed and that this indicated a valuation approach reflecting 53.6 % of turnover.
- 6) Under cross examination Mr. Devlin acknowledged that the Valuation Certificate for Market Cross had been issued listing 520 spaces whereas the correct number was 479 spaces.
- 7) However he asserted that this correction did not necessitate a reduction in the NAV and at page 12 of his précis he gave an analysis showing the NAV at €760 per space and he requested that the NAV be affirmed at €364,000

### **Comparable properties**

Details of the following comparators were provided to the Tribunal

<b>Property</b>	<b>Type</b>	<b>Per hour €</b>	<b>No of spaces</b>	<b>NAV per space</b>
Mc Donagh Junction (under appeal)	Multi-storey	€1.50 (min €3 for 2 hrs)	855	€450
Ormond Car park	Multi-storey	€1.50	740	€350
Market Yard	Surface	€1.30	450	€350
Ormond Street	Surface	€1.00	82	€350

### **The Tribunal's conclusions:**

The Tribunal duly considered the evidence and the arguments as adduced by the Appellant and the Respondent. Inter alia the Tribunal concluded that:

- 1) There is no evidence that turnover is a widely accepted basis on which an assessment of the net annual value can be made when valuing car parks
- 2) There is no evidence to support a distinction being made in valuation terms between multi storey car parks and purpose built surface car parks
- 3) The figure of €800 per space mentioned by Mr. Devlin for staff parking in the subject car park is a gross figure and does not take account of expenses and running costs
- 4) In light of the appeal in respect of the McDonagh Junction Car Park no weight can be attached to that assessment at €450 per space.
- 5) There is no evidence to support the figure contended for by the Respondent of €364,000 or €760 per space
- 6) That from the assessments placed on other car parks in Kilkenny City an emerging tone of the list can be discerned at €350 per space

### **The Tribunal's decision**

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.

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €167,650 as follows:

<b>Market Square Car Park</b>	<b>No of spaces</b>	<b>NAV per space</b>	<b>Net Annual Value</b>
<b>Multi storey car park</b>	<b>479</b>	<b>€350</b>	<b>€167,650</b>

And the Tribunal so determines.