Appeal No. VA05/3/008 & 009

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 2001

VALUATION ACT, 2001

Celtic Roads Group (Dundalk) Ltd. **<u>APPELLANT</u>**

and

Commissioner of Valuation **<u>RESPONDENT</u>**

RE: Toll(s) at Property Number 2173711 and Property Number 2174723, Tullyallen, Monasterboice, County Louth (VA05/3/008) and Balgeen, Julianstown, County Meath (VA05/3/008).

B E F O R E

Fred Devlin - FSCS.FRICS	**Deputy Chairperson**
John Kerr -BBS. ASCS. MRICS. FIAVI	**Deputy Chairperson**
Brian Larkin - Barrister	**Member**

<u>JUDGMENT OF THE VALUATION TRIBUNAL</u>
<u>ISSUED ON THE 21ST DAY OF DECEMBER, 2005</u>

By Notices of Appeal dated the 7th day of July, 2005, the appellant appealed against the determination of the Commissioner of Valuation in fixing rateable valuations of €7,925.00 (VA05/3/008) and €14,850.00 (VA05/3/009) respectively on the above described relevant properties.

The Grounds of Appeal are set out in the sheets attached to the Notices of Appeal, copies of which are attached at the Appendix to this Judgment.

INTRODUCTION

1. These appeals proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 28th of September, 2005.

2. At the hearing the appellant was represented by Mr. Donal O'Donnell, SC, and Mr. Paul Coughlan, BL, instructed by Ms. Eve Mulconry, Arthur Cox Solicitors. Mr. James Connolly, SC, and Mr. Brendan Conway, BL, instructed by the Chief State Solicitor, appeared on behalf of the respondent, the Commissioner of Valuation. Louth County Council as a Notice Party was represented by Mr. James Macken, SC, instructed by Ms. Caroline McArdle, Daniel O'Connell & Son, Solicitors.

3. With the consent of the parties these appeals were held contemporaneously with **Appeal Refs. VA05/3/006 & VA05/3/007 – West Link Toll Bridge Ltd. v Commissioner of Valuation** ("the **West Link** appeals") as the appellant in those appeals is an associated party to the appellant in the subject appeals and as many of the substantive issues in dispute are largely the same in both instances. Hence all the legal argument and submission made by Counsel are equally applicable to these appeals as to the **West Link** appeals.

THE PROPERTY CONCERNED

4. The property concerned in these appeals consists of the tolls arising from that section of the M1 motorway and approach roads between the Gormanstown Interchange in County Meath and the Monasterboice Interchange in County Louth, together with the ancillary buildings in connection therewith.

RATING HISTORY

5. The toll facility was listed for revision in 2004 and Valuation Certificates pursuant to Section 29 of the Valuation Act, 2001 were issued as follows:

   Property No. 2173711 County Louth – Rateable Valuation €8,500

   Property No. 2174723 County Meath – Rateable Valuation €15,500

6. Following appeals to the Commissioner of Valuation new Valuation Certificates were issued in accordance with Section 33 of the Act as follows:

   Property No. 2173711 County Louth – Rateable Valuation €7,925

Property No. 2174723 County Meath – Rateable Valuation €14,850

It is against these determinations by the Commissioner of Valuation that the appeals to this Tribunal lie.

DOCUMENTS SUBMITTED

7. As part of the evidence introduced to the Tribunal a number of documents were submitted including:
    - i) The draft Director's Report and Financial Statements for Celtic Roads Group (Dundalk) Ltd. for the period 20th November, 2003 to 31st December, 2004.
    - ii) Guidance Note published by the Joint Professional Institutions Rating Valuation Forum on the Receipts and Expenditure Method of valuation for non-domestic property (the Guidance Note).
    - iii) Schedules 2 and 15 of the agreement between the Celtic Roads Group (Dundalk) Ltd. and the National Roads Authority dated February, 2004.
    - iv) Letter dated the 26th of November, 2004 from Mr. Donal Minnock, Assistant PPP Manager in the National Roads Authority addressed to Mr. Shay Aylward of the Valuation Office.
    - v) Précis of Evidence and Statement prepared by Mr. David Carson, LLB, PDA, FCA, a Partner in Deloitte and Touche, Chartered Accountants.
    - vi) Application Note G – Revenue Recognition published by the Institute of Chartered Accountants in Ireland dated November, 2003.
    - vii) Joint Précis of Evidence and Statements by:
        - a) Mr. Lorcan Wood, B.Sc. (Engineering) who also holds a diploma in Certified Accountancy and a diploma in Construction Law and Contract Administration. Mr. Wood is the Deputy General Manager of the Celtic Roads Group.
        - b) Ms. Bernie Reynolds, B.Sc. (Management), FCCA. Ms. Reynolds is the Finance Manager of the Celtic Roads Group.
    - viii) Précis of Evidence and Statement prepared by Mr. Brendan Murtagh, FCCA, a partner in LHM Casey McGrath. Mr. Murtagh is a past President of the Association of Chartered Certified Accountants in Ireland.
    - ix) Local Government (Toll Roads) Act, 1979.
    - x) Roads Act, 1993 (No. 14/1993) as amended.
    - xi) Valuation Act, 2001.
    - xii) Comprehensive books of authorities prepared by the Solicitors for both parties.

xiii) Précis of evidence and valuation prepared on behalf of the appellant by Mr. Desmond Killen, FRICS, FSCS, IRRV, a director of GVA Donal O Buachalla.

xiv) Précis of evidence and valuation prepared on behalf of the Commissioner of Valuation by Mr. Shay Aylward, FCCA, a Staff Valuer in the Valuation Office.

BACKGROUND

8. From the evidence tendered the following material facts emerged.

i) On the 5th of February, 2001 Celtic Roads Group (Dundalk) Ltd. (CRG) after a competitive tendering procedure was awarded the N1/M1 Dundalk Western By-pass PPP contract (DWB PPP).

ii) The DWB scheme was one of some eleven road construction/development projects selected by the National Roads Authority to be procured by means of public private partnership (PPP). These PPP schemes were identified in the first instance in the National Development Plan - 2006 published by the government in November 1999.

iii) Under the terms of the DWB PPP contract entered into by the National Roads Authority (NRA) in accordance with Section 63 of the Roads Act, 1993 CRG undertook to design, construct, finance, operate and maintain during a concession period of thirty years, an eleven kilometre stretch of the M1 motorway from Ballymascanlon to Haynestown together with seven kilometres of new link roads and associated bridges including a bridge over the Dublin to Belfast rail line. In addition CRG also undertook the operation and maintenance of the existing M1 motorway from Haynestown to Gormanstown including the new bridge over the river Boyne and the adjacent toll plazas for a period of 30 years.

iv) Under the contract, CRG took over the operation and collection of the tolls arising out of a toll scheme created by the National Roads Authority in exercise of its powers conferred by Section 57 of the Roads Act, 1993 as amended.

v) The toll scheme provided for a system of tolls in respect of the use of that section of the M1 Motorway from Gormanstown Co. Meath to Monasterboice County Louth, a distance of 21.74 kilometres. The toll scheme as approved included roads linking the motorway with the local and existing road network through grade separated junctions at Dunleer Road (R152) and Donore Road (CR63) north of the River Boyne.

vi) The toll road consists of a four-lane highway (two in each direction) widening to ten lanes (five in each direction) at the toll plaza. Toll collection facilities are also provided at the Duleek Road and Donore Road junctions for the collection of tolls on Northbound entry to the Motorway and Southbound exit from the motorway respectively.

vii) Under the February 2001 contract CRG is responsible for the operation and maintenance of 54.6 kilometres of motorway and associated buildings which form part of the strategic North - South corridor entitled Eurolink EO1, linking Belfast and Dublin, for a period of thirty years. CRG is required to invest in the full 54.7 kilometres of the road prior to the hand-back to the State in order to provide a satisfactory residual life after the end of the 30-year period. At the relevant valuation date only 43.7 kilometres of the motorway were open to the general public.

viii) Under the terms of the contract CRG is obliged to pay to the NRA a royalty payment amounting to 95% of the toll revenue collected until and including the 11th of January, 2006. After this date (provided construction of the DWB is complete, as in fact it is) the revenue sharing mechanism comes into effect. Under this revenue sharing mechanism the NRA is entitled to a percentage of the proceeds of the toll when traffic exceeds stipulated levels. Details of the revenue sharing mechanism are set out in Schedule 15 Part 4 of the contract between the parties.

THE VALUATION EVIDENCE

9. Mr. Killen in his evidence contended that the appropriate rateable valuation of the property concerned be as set out below. In arriving at his estimate of rateable valuation Mr. Killen used the Receipts and Expenditure Method of Valuation and had regard to the Guidance Note.

Mr. Killen prepared his valuations on two bases:

a) That the rateable valuations so determined would be apportioned between the two local rating authority areas involved in the following manner:

Road Length 43.7 kilometres apportioned as follows:

County Louth	County Meath
29.525 Km	14.175 Km

67.56%	32.44%

b) That the rateable valuation so determined would be apportioned between the two local rating authority areas as follows:

Road length 21.74 km

Apportioned

County Louth	County Meath
7.565	14.175
34.8%	65.2%

a) Rates valuation based on 43.7 Km Road

Gross Revenue 2004	1		€13,325,798
Royalty/Revenue Share			(€3,184,866)
			€10,140,932
Less:			
Operational & Maintenance		€3,672,023	
Lifecycle & Handback Maintenance		€1,423,603	
Administration Costs		€1,459,239	
		(€6,554,865)	(€6,554,865)
Amount available for tenant's share, rent & rates			€3,586,067
Deduct tenant's share 10% of Revenue			(€1,332,580)
Amount available for rents & rates of Tolls			€2,253,487

	Louth	Meath
Road length 43.7 Km	29.525 km	14.175 km
Percentage	67.56%	32.44%
Amount available for rent & rates	€1,522,456	€731,031
Rate in the £1.00	45.34	53.27
Rate adjustment factor	1.1208	1.1419
Profits available for rent	€1,358,365	€640,188

Rent adjusted to 1988		
NAV/Rates Factor	0.2664%	0.2664%
Rateable Valuation of Tolls	**€3,618**	**€1,705**
Say	**€3,620**	**€1,705**

b) **Apportionment over 21.74 km**

Gross Revenue 2004		€13,325,798
Royalty/Revenue Share		€3,184,866
		€10,140,932
Less:		
Operational & Maintenance	€3,672,023	
Lifecycle & Handback Maintenance	€1,423,603	
Administration Costs	€1,459,239	
	(€6,554,865)	(€6,554,865)
Amount Available for tenant's share, rent & rates		€3,586,067
Deduct Tenant's Share 10% of Revenue		(€1,332,580)
Amount Available for rents & rates of Tolls		€2,253,487

			Louth	Meath
Tolling length	21.74kms		7.565	14.175
Percentage			34.8%	65.2%
Amount Available for rent & rates			784,213	1,469,274
Rate in the £1.00			45.34	53.27
Rate Adjustment Factor			1.1208	1.1419
Profits Available for Rent			699,691	1,286,691
Rent Adjusted to 1988				
NAV/ Rates Factor			0.2664%	0.2664%
Rateable Valuation of Tolls		**Say**	**€1,864**	**€3,427**

10. Mr. Shay Aylward in his evidence contended that the rateable valuation of the property concerned be €17,580 apportioned between the rating authority areas as follows:

Louth County Council Area	€6,245
Meath County Council Area	€11,335

Mr. Aylward in arriving at his opinion of rateable valuation also used the Receipts and Expenditure Method of Valuation and adhered to the Guidance Note. Mr. Aylward's calculation of rateable valuations are as set out hereunder:

		Estimated
		Full year 365 days
Income		€
Toll Income		13,325,798
Less:		
Expenditure	€	
Operating and maintenance expenditure	(3,174,297)	
Renewal provision	(595,797)	
Administration	(1,151,698)	(4,921,792)
Divisible Balance		**8,404,006**
Deduct Tenants Share 10% of total toll income		(1,332,580)
Amount Available for rents & rates		**7,071,426**

	Co. Louth	**Co. Meath**
Length of Toll Road 21.74 kms	7.565	14.175
Percentage	34.80%	65.20%
Amount available for rent & rates	€2,460,687	€4,610,739
Rate in the €1.00	45.34	53.27
Rates Adjustment Factor	1.2267	1.26635
Profits available for rent	€2,005,940	€3,640,967
Consumer Price Index 134.8	216.5	216.5
Rent amount adjusted to 1988 values	€1,248,964	€2,266,986
N.A.V./Rates Factor	0.50%	0.50%
Rateable Valuation of Tolls	**€6,245**	**€11,335**

It is to be noted that these figures are considerably lower than those determined by the Commissioner of Valuation at appeal stage and which currently appear in the Valuation Lists.

11. A perusal of the valuations submitted by Mr. Killen and Mr. Aylward indicate wide areas of agreement in their approach. Nonetheless there are several elements in their calculations in which they differ and which give rise to the substantial differences between the amounts available for the payment of rent and rates in accordance with the Guidance Note.

FINDINGS

1. The parties to this appeal were represented by counsel and the Tribunal is indebted to them for the depth and quality of their submissions. This, coupled with the range and scope of authorities introduced, was of immense assistance to the Tribunal.
2. The Tribunal was provided with a series of written reports prepared by senior management staff of the appellant company and by auditors and valuers dealing with various matters of detail and again this was of great assistance to the Tribunal.
3. The valuers in preparing their submissions agreed that the Receipts and Expenditure Method of valuation was the most appropriate method having regard to the nature of the property concerned. They further agreed that the accounts and financial statements for the fourteen month period ending the 31st of December 2004 would form the basis for their respective valuations. In arriving at their valuations the valuers adhered to the Guidance Notes on the Receipts and Expenditure Method of valuation prepared by the Joint Professional Institutions Rating Valuation Forum and in so doing agreed upon many items of allowable expenditure leaving only six substantive issues to be resolved by the Tribunal. This professional and responsible approach was once again of great assistance to the Tribunal.
4. The Tribunal is indeed indebted to all those involved with the pursuit of this appeal and the quality of submission and argument which enabled the Tribunal to reduce the matters in dispute to a number of net issues.
5. The property concerned is the toll facility on that part of the M1 motorway from Gormanstown in County Meath to Monasterboice in County Louth. The length of the toll road is 21.74 kilometres under the “toll scheme” as defined in Section 57 of the Roads Act, 1993 as amended. All vehicles other than exempt vehicles using this section of the M1 motorway are liable to a toll fee.

6. The remainder of the M1 motorway, other than that forming part of the toll road, which now extends from Whitehall in Dublin to the Ballymascanlon Interchange north of Dundalk, is toll free.
7. Under the DWB PPP contract the appellant undertook to design, build, operate and maintain the M1 motorway from Ballymascanlon to Haynestown and to operate and maintain the M1 motorway from Haynestown to Gormanstown in County Meath for a period of 30 years from April 2004. The length of the M1 motorway from Haynestown to Gormanstown which includes the toll road section of the motorway is 43.7 kilometres and from Haynestown to Ballymascanlon is 11 kilometres giving a total length of 54.7 kilometres. At the valuation date this latter section of the motorway was still under construction and indeed was not completed until September 2005.
8. As part of the DWB PPP contract the appellant was granted the concession to operate and maintain the toll facility for a period of 30 years from April 2004. Under the contract CRG is to pay by way of a royalty, 95% of the toll income up to and including the 11th of January, 2006. Thereafter (provided construction of the DWB is complete - as it now is) a revenue sharing mechanism comes into effect in accordance with the provisions of the Schedule 15 Part 4 of the contract between the parties.
9. It is clear that the underlying principle of the DWB PPP contract is that the appellant's share of the toll revenues for the 30-year concession period will represent a fair return for their investment and risk in building the Dundalk by-pass section of the motorway and their long-term obligation to operate and maintain 54.7 kilometres of motorway, the toll plaza and other elements of the toll roads scheme during the concession period of 30 years. The revenue sharing mechanism is there to prevent the appellant making super-profits from the tolling facility.
10. Annex 1 to Part 3 of Schedule 15 sets down the base tolls (exclusive of VAT) as agreed between the NRA and CRG and Part 3, itself, further provides that CRG may from time to time seek to increase the base tolls subject to obtaining the approval of the NRA.
11. The nature of the arrangement between the NRA and CRG is such that the tolls during the concession period be set at levels so as to reflect the economic benefits and risks to both parties including the ongoing responsibility of CRG to maintain and operate 54.7 kilometres of motorway to stipulated standards. In such a situation it would be fair to say that the base tolls could have been set at lower levels had CRG been obliged merely to maintain a length of 21.74 kilometres of motorway only.

12. The parties are agreed that the Receipts and Expenditure Method of valuation is that which is the most appropriate having regard to the nature of the property concerned. The parties are also agreed that the gross toll revenue for valuation purposes for the twelve month period ending the 31st of December, 2004 be taken as being €13,325,798.
13. A critical examination of the valuation evidence shows that whilst there is agreement in the valuation methodology to be applied there are a number of matters of detail where there is not agreement and which give rise to the significant difference in the amounts available for the payment of rent and rates (i.e. the "divisible balance" in accordance with the Guidance Note). In summary the matters at issue are as follows:
    i. In arriving at the "divisible balance" should the NRA share of the toll income be deducted as an expense?
    ii. Should the cost of maintenance, lifecycle and hand-back maintenance be allowable in respect of 54.7 kilometres of motorway or be restricted to that proportion which would be applicable to that section of motorway which is the toll road as specified in Section 57 of the 1993 Act as amended, i.e. 21.74 kilometres?
    iii. Should the administration costs as per Mr. Killen's valuation be allowable in full?
    iv. Should the amount available for rent and rates be apportioned over the 43.7 kilometres of motorway (being the length of motorway in use at the valuation date) as contended for by Mr. Killen in his Valuation No. 1 or over the toll road length of 21.74 kilometres as contended for by Mr. Aylward in his valuation?
    v. The calculation of the tenant's share.
    vi. The appropriate rates reduction factor to apply to the net annual value calculated in accordance with the Guidance Note.

The Tribunal proposes to deal with all of these issues as set out below:

The Revenue Share

14. In the **West Link** appeals the revenue sharing mechanism was considered at length by this Tribunal and the conclusion of the Tribunal was that the amount due to the State in that instance should not be considered as part of the receipts of the undertaking. It was "not within the grasp of the Appellant". Moreover the Tribunal concluded that even if the revenue share were to be included in the receipts it would be deductible as a charge "payable by or under an enactment" within the terms of Section 48(3) of the Valuation

Act 2001.

15. Mr. Aylward in his valuation made no allowance for the royalty/revenue share provision and contended (as he did in the **West Link** appeals) that the entire toll income represented the revenue of the undertaking in accordance with the Guidance Note. In this instance, however, Mr. Aylward also drew support from a letter to him dated the 26th November 2004 from Mr. Donal Minnock, Assistant PPP Manager, NRA, which contained the following statement at page two thereof, "*CRG (and indeed all tenderers) have assumed that Revenue Share and Royalty Payments were both treated the same for the purposes of the rates calculation i.e. no deduction for either was allowable in the calculation of the rateable valuation. As a result CRG have included both in total toll income and are assuming liability under their contract for payment of all rates in relation to total toll income irrespective as to what payments might be made from it to the NRA. This was based on guidance received previously from your office in this regard*."

16. Arising out of the Tribunal's deliberations the parties were invited to comment on the contents of Mr. Minnock's letter and in particular on the paragraph above referred to and the Tribunal is grateful to them for their comments in this regard. Having considered the matter at some length the Tribunal has come to the conclusion that the finding in the **West Link** appeals in relation to the revenue sharing arrangement should apply also to the subject appeals. In coming to this conclusion the Tribunal disregarded Mr. Minnock's statement regarding how the rateable valuation of the property concerned is to be determined. The determination of the rateable valuation of a property is a matter for the Revision Officer appointed pursuant to Section 28 of the Valuation Act, 2001 in the first instance having regard to Sections 48 and 49 of the Act. It is not within the ambit of any person, institution or body to lay down parameters as to how the Revision Officer is to carry out his or her function. The comments of this Tribunal in its determination in **VA04/2/018 – Trabolgan Holiday Centre** are particularly apposite to this case.

17. Having regard to our findings in relation to the revenue share we now turn our attention to the question of what amount is appropriate as at the relevant valuation date. Under the DWB PPP contract CRG is obliged to pay a royalty of 95% of the toll income up to and including the 11th of January, 2006. Thereafter the revenue sharing mechanism as provided for in Schedule 15 Part 4 comes into effect by virtue of the fact that the Dundalk

by-pass was completed in September 2005. Mr. Killen, in his evidence, deducted a figure of €3,184,866 in respect of the royalty/revenue share. This figure was arrived at by CRG by estimating the royalty/revenue share as a percentage of the projected toll income over the 30-year concession period averaged out on an annual basis with allowance for inflation. This approach, the appellant contended, was consistent with the proposition that the hypothetical tenant envisaged in rating law is economically rational and would have regard to common sense and commercial realities when arriving at an estimate of rental value. Having regard to the financial model used by CRG the revenue share on an annualised average basis equates to 23.9% of the toll income and the figure of €3,184,866, used by Mr. Killen, is in fact 23.9% of the toll revenue agreed for valuation purposes for the year 2004 of €13,325,000.

18. The Tribunal in principle is sympathetic to the proposition put forward by CRG in relation to the revenue sharing mechanism and its impact on the valuation process. There is no doubt that the hypothetical tenant as envisaged under Section 48 of the Valuation Act 2001 is deemed to be a prudent one and in such circumstances would make all necessary enquiries and financial appraisals in relation to all pertinent matters such as income flow, outgoings and other liabilities including the revenue sharing mechanism before arriving at an opinion of rental value as at the relevant valuation date.

19. From the information made available to the Tribunal from CRG the estimated revenue share payable to the NRA for the year 2010 will be in the order of €996,000 increasing to just over €6,000,000 in the year 2020. In any such exercise the relevant figures are highly sensitive to the underlying assumptions upon which they are based and the longer the period over which the exercise is projected the more suspect become the end results.

20. The Tribunal is of the opinion that the hypothetical tenant would be aware of this inherent weakness in any financial model and in the circumstances would limit the projected period of the exercise to not more than ten years and would place the most weight on the results for the first 5 or 6 years of the programme. From the figures made available to it the Tribunal accepts that the estimated revenue share of €996,000 payable to the NRA for the year 2010 is fair and reasonable but that the projected figure of €6 million for the year 2020 is suspect. Making the best judgment it can the Tribunal is of the view that the revenue share in 2014 could reach €2 million. On the assumption that the revenue share

for the years 2006 and 2007 could be quite low the Tribunal concludes that for valuation purposes it would be fair and reasonable to allow an annual average revenue share of €1.2 million based upon an estimate of the revenue share for the first 10 years of the concession period. The Tribunal is conscious of the fact that the valuation determined at this appeal stage will endure until such time as the property concerned is the subject of a revaluation under Section 19 of the Valuation Act 2001 or of a revision in the event of a "material change of circumstances" occurring whichever is the earlier.

21. In arriving at the above estimates and having regard to the findings in the **West Link** appeals the Tribunal has come to the conclusion that an allowance of €1.2 million should be made under the heading of royalty/revenue share in arriving at the valuation of the property concerned.

Maintenance, Lifecycle and Handback Maintenance Costs

22. The starting point in the valuation process is of course the toll revenue for 2004 as agreed by the parties. The toll income is a function of two primary factors: the toll levels and the number of vehicles of each class using the toll road. The Tribunal has concluded that the levels of the base tolls agreed at the outset were based upon fundamental elements of the DWB PPP contract such as the cost of the construction of the Dundalk Bypass undertaken at the expense of CRG, the cost of operating and maintaining ultimately 54.7 kilometres of motorway and the cost of operating and maintaining the toll facility. In the circumstances and having regard to the Tribunal's conclusions at paragraph 11 supra the Tribunal has come to the conclusion that all maintenance, lifecycle and handback costs should be allowable in full as submitted by Mr. Killen.

Administration Costs

23. In line with the findings in relation to the maintenance costs the Tribunal has decided that the administration costs should also be allowed in full as proposed by Mr. Killen.

Apportionment of the Rateable Valuation

24. Under the DWB PPP contract the appellant is responsible ultimately for the maintenance of 54.7 kilometres of motorway of which only 43.7 kilometres were in use at the valuation date. The property concerned, however, is the toll facility and the length of the toll road in accordance with the toll scheme 21.74 kilometres. The Tribunal is of the

view, once again in the light of the findings in the earlier **West Link** and **East Link** appeals that the valuation should be apportioned over the length of the toll road in the manner proposed by Mr. Aylward.

Tenant's Share

25. Having regard to the Tribunal's findings in relation to the revenue sharing mechanism, and to the nature of the property concerned and bearing in mind the magnitude of the revenue stream and its security into the future the Tribunal has come to the conclusion that the appropriate tenant's share in this instance should be 10% of the net toll income of €12,125,798 – i.e €1,212,580.

The Rates Reduction Factor

26. In the **West Link** appeals the rates reduction factor was also an issue and in its findings the Tribunal indicated that the 0.2664% rates reduction factor put forward by Mr. Killen on that occasion was inappropriate. The Tribunal therefore again proposes to follow the **West Link** appeals judgment in this regard and finds that the rates reduction factor put forward by Mr. Aylward is correct.

Having regard to the foregoing the Tribunal determines the rateable valuation of the property concerned as follows:

1. Income	**€**	**€**
Toll Revenue	13,325,798	
Less GTR Share	(1,200,000)	
Net Toll Income		12,125,798
Less:		
2. Expenditure		
Operation & Maintenance	(3,672,023)	
Lifecycle & Handback Maintenance	(1,423,603)	
Administration Costs	(1,459,239)	
Total Allowable Expenditure	**(6,554,865)**	**(6,554,865)**
Amount Available for Tenant's Share, Rent & Rates		5,570,933
Less Tenant's Share @ 10%		(1,212,580)
Amount Available for Rents & Rates		4,358,353

Toll Road Length – 21.74 Kilometres

	Co. Louth	**Co. Meath**
Apportioned	7.565Km	14.175Km
Percentage	34.80	65.20
Amount Available for Rent & Rates	€1,516,707	€2,841,646
Rate in €	45.34	53.27
Rates Adjustment Factor	1.2267	1.26635
Net Annual Value (04 levels)	€1,236,412	€2,243,966
Reduce to 1988 Levels		
CPI – 134.8 to 216.5	x 0.62	x 0.62
Net Annual Value say	**€766,575**	**€1,391,259**
Rateable Valuation @ 0.5%	**€3,832**	**€6,955**