Appeal No: VA17/5/1087

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

AN tACHTANNA LUACHÁLA, 2001 to 2015
VALUATION ACTS, 2001 to 2015

RIVER ISLAND **APPELLANT**

AND

COMMISSIONER OF VALUATION **RESPONDENT**

In relation to the valuation of
Property No. 2195141 Retail (Shop) Unit 25.26 Athlone Town Centre, Mardyke Street, Athlone, County Westmeath.

B E F O R E

Carol O'Farrell - BL **Chairperson**

Fergus Keogh - MRICS, MSCSI **Member**

Raymond Finlay - FIPAV MMII Arb TRV PC **Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF APRIL, 2021

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th day of 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 €189,000.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the Property's value is not a determination that accords with that required to be achieved by section 19 (5) of the Valuation Act, 2015 as amended by the Valuation (Amendment) Act 2015 because it is

(i) excessive, and

(ii) not in accordance with the definition of net annual value in section 48 of the Valuation Act, 2001 as amended or by reference to market evidence in accordance with section 19(5) an by the actual passing rent of the subject property and other market evidence.

1.3 It was stated in the Notice of Appeal that the Appellant considers that the valuation of the Property ought to have been determined in the sum of €104,000.

2. REVALUATION HISTORY

2.1 On the 12th January 2017 a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 in relation to the Property was sent to the Appellant indicating a valuation of €189,000.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager and following consideration of those representations, the valuation manager did not consider it appropriate to reduce the valuation. A Final Valuation Certificate issued on the 7th day of September 2017 stating a valuation of €189,000.

2.3. The date by reference to which the value of the Property is to be determined is the 30th day of October 2015.

3. THE HEARING

3.1 The Appeal proceeded by way of remote hearing on the consent of the parties on the 29th of October 2020. Mr. John Algar BSc (Surv), MRICS MSCSI, of Avison Young represented the Appellant and Ms. Tríona McPartlan B. Sc (Hons) Estate Management of 1the Valuation Office represented the Respondent.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective Précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal.

4. ISSUE

4.1 In determining this appeal the Tribunal is required to decide whether the rate of €550.00 per m² ITZA applied in the valuation of the Property by the Respondent has been shown by the Appellant to be excessive and, if so, by how much.

5. RELEVANT STATUTORY PROVISIONS~~:~~

5.1 The NAV of the Property must 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."

5.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be considered 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."

5.3 Section 19(5) of the Act inserted by section 7 of the Valuation (Amendment) Act 2015 requires the valuation list to 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 and to achieve both (insofar as is reasonably practicable) (i) correctness of value, and (ii) equity and uniformity of value between properties on the list and so that the value of each property on the list is relative to the value of other properties comparable to that property on the list or, if no such comparable properties exist, is relative to the value of other properties on the list in that rating authority area.

6. THE APPELLANT'S EVIDENCE

6.1 The Appellant's representative**,** Mr. Algar, having taken the oath, adopted his Précis as his evidence-in-chief in addition to giving oral evidence. His Précis contained his case, photographs, layout plans, a schedule of rental transactions and his valuation of the appeal Property.

6.2 He stated that the Property was let in November 2007 on a 25-year IRI Lease which provides for upwards only rent reviews.

6.3 Mr. Algar said that the Athlone Town Shopping Centre (hereinafter 'the Centre') opened in 2007 and the occupiers of the longstanding units were held under leases that dated back to November 2007 which meant that the analysis of rents within the Centre varied considerably due to different lease commencement dates. He provided rental information relating to 59 units but specifically highlighted eight open market rental transactions in respect of standard internal units which had been agreed close to the 30th of October 2015 which he considered gave a good indication of the rental market for retail space in and around Athlone Town in 2015. Those transactions were as follows:

RT 1 - a ground floor unit measuring 190.1 m², held under a 10-year lease from February 2015 with a base rent of €30,000 per annum or 7.5% of turnover, whichever is higher, rent review at year 5; break clause January 2018; rent free of 8 months for year 1 and 6 months for year 4; net effective rent of €23,000 per annum. In his expert report Mr. Algar analysed this rent at €265.34 per m² ITZA (in terms of Zone A).

RT 2 - a ground floor unit measuring 152.10 m², held under a 15-year lease from November 2015 with a rent of €47,500 per annum, with a rent review at year 5 and year 10; rent abated by €2,500 per annum for the first two years; break clause November 2020; net effective rent of €46,500 per annum. Mr. Algar analysed this rent at €559.23 per m² ITZA.

RT 3 - a level 1 unit measuring 53.9 m², held under a 5-year lease from August 2015 with a rent of €20,000 per annum; rent abated by €5,000.00 per annum for the first two years; landlord's break option at year 5; net effective rent of €18,000 per annum. Mr. Algar analysed this rent at €359.50 per m² ITZA.

RT 4 - a ground floor unit measuring 48.6 m², held under a 5-year lease from January 2015; stepped rent of €17,000 per annum for years 1 and 2, €18,000 per annum for years 3 and 4, and €20,000 per annum for year 5; rent free 3 months; net effective rent of €17,100 per annum. Mr. Algar analysed this rent at €427.50 per m² ITZA.

RT 5 - a ground floor unit measuring 60.1 m², held under a 2-year licence from November 2015 with a licence fee of €20,000 per annum; no incentives; net effective licence fee of €20,000 per annum. Mr. Algar analysed this licence fee at €363.64 per m² ITZA.

RT 6 - a ground floor unit measuring 105.4 m², held under a 10-year lease from September 2013 with a base rent of €34,037 or 8% of turnover, whichever is higher; 15 month rent free; net effective rent of €25,527.74 per annum. Mr. Algar analysed this rent at €348.50 per m² ITZA.

RT 7- two ground floor units measuring 190.01 m², held under a 10-year lease from October 2016 with a stepped rent of €32,500 per annum for years 1 and 2, €65,000 for year 3 and €70,000 per annum for years 4 and 5, at a net effective rent of €54,000.00 per annum; 15 month rent free period. Mr. Algar analysed this rent at €386.16 per m² ITZA.

RT 8 - a ground floor unit measuring 196.82 m², held under a 10-year lease from February 2013; with a rent of €42,500 per annum or 8% of turnover whichever is the higher; no incentives, net effective rent of €42,500.00 per annum. Mr. Algar analysed this rent at €481.04 per m² ITZA.

6.4 To support the contention that the basis of the Property's valuation was excessive Mr. Algar referred to rental evidence of units in the Centre and the three most recent decisions of the Valuation Tribunal. Mr Algar, noting that the Tribunal had previously considered the rental transactions RT2, RT3 and RT7 and one other unit as being most relevant, considered that the Property should be valued as €480.00 per m² ITZA.

6.5 Mr. Algar said that there was no letting evidence in respect of first floor space in the Centre as retailers having first floor space used it for storage purposes. He adopted a level of €72.00 per m² on the first floor in line with Tribunal's decision in *VA17/5/1029 Oasis Fashions Ltd v Commissioner of Valuation* in respect of Unit 7 being 15% of the Zone A level which he said is in line with general principle of assessment for other River Island shops in other rating authority areas as follows:

(i) PN 2184559 River Island, Fairgreen Shopping Centre, Carlow –
Zone A: €570.00 psm First Floor Retail: €90.00 psm (15.7%)

(ii) PN 1544739 River Island, Liffey Valley S.C, Dublin 22 –
Zone A: €2,000.00 psm First Floor Retail: €135.00 psm (6.75%)

(iii) PN 799163 River Island, Grafton Street, Dublin 2 –
Zone A: €3,000.00 psm First Floor Retail: €240.00 psm (8%)

(iv) PN 2164100 River Island, Pavilions S.C. Swords –
Zone A: €1,580.00 psm First Floor Retail: €160.00 psm (10.1%).

He also pointed out that at representation stage the Respondent applied a 15% allowance in respect of an adjacent unit which has a first-floor area in use as retail and was valued at €136.00 per m² (i.e., €160.00 per m² less a 15% allowance).

6.6 Mr. Algar's proposed valuation, using a base figure of €480.00 per m² ITZA produced a value of €112,600.00 (rounded) devalued as follows:

Ground Floor Zone A	94.00 m²	x	€480.00 per m²	€45,120.00

Ground Floor Zone B	95.70 m²	x	€240.00 per m²	€22,968.00
Ground Floor Zone C	95.70 m²	x	€120.00 per m²	€11,484.00
Retail zone Remainder	63. 80 m²	x	€60.00 per m²	€ 3,828.00
First Floor	406.30 m²	x	€ 72.00 per m²	€29,253.60

6.7 Mr. Algar said that the Centre went through a more difficult period during the economic downturn than the nearby Golden Island Shopping Centre which is anchored by Tesco, from which it still has not fully recovered due to the absence of substantial anchor tenant such as Tesco or other large supermarket and as a result is more a fashion led centre.

6.8 Mr. Algar accepted that all malls within the Centre were of equal value and pointed out that if a person stood in the middle of the Centre they would be able to see all the entrances and exits. When it was put to him that his opinion of value had changed on a number of occasions, he commented that he had considered a Zone A per m² of €400 to be appropriate for the Centre but that in light of the Tribunal's decision in three recent appeals, he was of the view that the rental evidence had been analysed in depth by the Tribunal and so he had altered his opinion to Zone A per m² of €480. When it was put to him that the Tribunal had affirmed €550 per m² ITZA in its determination of *VA17/5/387 Bushgrove Limited T/A Eurogiant v Commissioner of Valuation*, ('*Eurogiant'*) he responded that he did not know what evidence had been put before the Tribunal by the appellant on that appeal and pointed out that in the five appeal decisions that followed the Tribunal had not applied €550 per m² ITZA.

6.9 Mr Algar did not accept the proposition put to him that €550 per m² ITZA was reasonable for retail units in the Centre given that €700 per m² ITZA was applied in the nearly Golden Island shopping centre. He said comparisons could not be drawn between the two shopping centres as Golden Island has a good anchor tenant in Tesco, has a surface carpark, is situated closer to the carpark of Dunnes Stores, has a heavier footfall, the retail units are smaller and smaller retailers operate quite successfully on a customer base that is drawn by Tesco and the proximity of Dunness Stores whereas the Centre has a lower footfall as it is largely a fashion Centre. While he accepted that there is a thoroughfare between the Centre and Dunnes Stores, he did not accept that the retailers in the Centre derived the same benefit as the Golden Island retailers who enjoyed a more proximate location.

7. THE RESPONDENT'S EVIDENCE

7.1 The Respondent's valuer, Ms. McPartlan, having taken the oath, adopted her Précis as her evidence-in-chief in respect in addition to giving oral evidence. Her Précis contained an outline of her case, photographs, layout plans, details of two key rental transactions, three comparable properties and her valuation of the Property. Ms. McPartlan contended that the Property should be valued based on a Zone A figure of €550.00/m² and she sought confirmation of the NAV assessed by the Respondent of €189,000.

7.2 Ms. McPartlan described the Property as a well-positioned standard ground floor retail unit with retail space on the first floor the entrance to which is off the main mall within the Centre, close to the Zara and Marks & Spencer units. She confirmed that the Property is in excellent condition throughout with tiled floors, painted and plastered walls and suspended ceiling.

7.3 Ms. McPartlan stated that the Centre had opened in 2007 and that the vast majority of lease agreements made in 2007 contained upwards only rent review clauses. She said limited rental evidence was available and that she relied upon two key rental transactions in the market to inform the estimate of the NAV of the Property. In her Précis she stated that each transaction was investigated and analysed in accordance with Valuation Office policy and procedures and regard was had to the date of the transaction relative to the statutory valuation date, any inducements which were included in the transaction and any other individual features of the transaction in order to derive the net effective rent (NER) of each property. She explained that NER equates to the basis of valuation as set out in section 48 of the Valuation Act, 2001 (as amended), on the statutory valuation date. She stated a valuation Zone A level of €550 per m² was applied to arrive at the Property's NAV of €189,000

The rental details provided in respect of the two key rental transactions are fully set out in the Appendix hereto. as follows:

KRT 1- a ground level unit on the same mall and level as the appeal Property measuring 196.60 m² held under a 10-year lease from March 2016. [See Appendix for further details]

KRT 2 - two ground level units on the same level as the appeal Property but on a different mall measuring 381.15 m², held under a 1- year lease from March 2013. [See Appendix for further details]

7.4 Ms. McPartlan confirmed that the valuation of the KRT 1 unit had not been appealed to the Tribunal. She pointed out that the valuation of the KRT 2 unit had been appealed to the Tribunal and that the valuation had been affirmed based on the Zone A level of €550 per m².

7.4 Ms. McPartlan stated that there are 37 standard zoned units located within the Centre and that 15 occupiers had appealed to the Valuation Tribunal. The Zone A rate of €550 per m². was applied in respect of 22 units, the valuation of the KRT 2 unit was affirmed by the Tribunal and on the basis of that decision two other appellants had compromised their appeals on the basis of €550 per m² Zone A. Two units has been valued by the Tribunal at the Zone A rate of €400 per m² and three units at €480 per m².

7.5 Ms McPartlan relied upon units 11, 15 and 53 of the Centre as comparable properties, all of which were valued at the Zone A rate of €550 per m² and had not been appealed to the Tribunal. Ms. McPartlan's view was that the rate of €550 per m² remained appropriate.

7.6 Ms. McPartlan gave evidence that Golden Island Shopping Centre which was built in 1997 is located in Athlone and is 400 metres from the Centre. This shopping centre is a single storey structure comprising 47 units with Penny's as the anchor tenant. Other tenants include Argos, Benetton, Burger King, Dealz, Elvery Sports, Lifestyle Sports, Boots, Peter Mark, Carrig Donn and Costa Coffee. Golden Island has surface paid parking to the front and side and there is a large Tesco and IMC cinema within the grounds of this shopping centre. A Zone A level of €700 per m² was applied to standard retail units in this shopping centre is €700 and one of the occupiers appealed to the Valuation Tribunal. She stated that Dunnes Stores has a small entrance facing the Centre and a pedestrian access at the rear to the Golden Island shopping centre.

7.7 Ms. McPartlan stated that her opinion of value in relation to the first floor had altered having regard to the Tribunal's decision *in VA17/5/936 Hurley Property ICAV v Commissioner of Valuation* and that she had reduced the level applied to the first floor in line with other units similarly circumstanced in the centre. She proposed using a base figure of €550.00 per m² ITZA to produce a value of €150,800 (rounded), which devalued as follows:

Ground Floor Zone A	94.00 m²	x	€550.00 per m²		€51,700.00
Ground Floor Zone B	95.70 m²	x	€275.00 per m²		€26,317.50
Ground Floor Zone C	95.70 m²	x	€137.50 per m²		€13,158.75
Retail zone Remainder	63.80 m²	x	€68.75 per m²		€ 4,386.25
First Floor	406.30m²	x	€160.00 per m²	€65,008.00	
Less 15%				€9,751.20	€55,256.80
Total					€150,819.30

SAY €150,800

7.8 When asked what evidence the Respondent had relied upon to derive the Zone A rate of €550 per m² Ms. McPartlan replied that she was heavily involved in the Revaluation of properties in County Westmeath and particularly shopping centres such as Fairgreen Shopping Centre in Mullingar and Golden Island Shopping Centre in Athlone Town and that she had put forward rental evidence in respect of two units in the Centre.

7.9 She explained that she did not rely on the rents of any other unts in the Centre as key rental transactions as some were turnover rents, other rents were agreed in 2007 pursuant to leases with upwards only rent review clauses or some units were occupied pursuant to licence agreements.

8. THE PROPERTY

8.1 The parties' valuers were agreed upon the physical characteristics and dimensions of the appeal Property and likewise those of the comparable units upon which they each relied. From the evidence therefore, the Tribunal finds the following facts.

8.2 The Property is a retail unit in the Centre which is situated on the east side of Athlone Town approximately 1 kilometre from the nearest point of access to the M6 motorway. The shopping centre is accessed from Mardyke Street and Gleeson Street. The Centre opened in 2007 and includes a retail area of approximately 14,000 sq. m. over two floors and an underground car park which provides parking spaces for 1,200 vehicles. A hotel also forms part of the development. There are three pedestrian entrances to the shopping centre from Civic Square, Mardyke Street and Gleeson Street. From the underground car park, the Centre can be accessed by stairs and lifts. The tenants of the shopping centre include Marks & Spencer, Next, River Island, H & M, Zara, Tommy Hilfiger, Warehouse, Clarks, Starbucks, Easons and TK Maxx.

8.3 The Property is a ground floor unit with first floor retail space and is close to the Civic Square entrance. The net internal area of the unit measures 755.50m² and has a frontage of 15.7m². It is in good condition throughout.

8.4 The Property is held by the Appellant under a 20-year Lease for a term of 25 years from the 1st November 2007 with five yearly 'upwards only' rent reviews from the 1st of November 2007 [rent set out in Appendix]

8.5 The net annual value of the Property's as it appears on the valuation list devalues as follows:

Ground Floor Zone A	94.00 m²	x	€550.00 per m²	€51,700.00
Ground Floor Zone B	95.70m²	x	€275.00 per m²	€26,317.50
Ground Floor Zone C	95.70 m²	x	€137.50 per m²	€13,158.75
Remainder	63.80 m²	x	€68.75 per m²	€ 4,386.25
First Floor Retail	406.30 m²	x	€230.00	€93,449.00

Total €189,011.50

Rounded €189,000.00

9. FINDINGS AND CONCLUSIONS

9.1 On this appeal the Tribunal must determine the value of the Property to achieve, in so far as is reasonably practical, a valuation that is correct and equitable.

9.2 The relevant question on this appeal concerns the amount a hypothetical tenant would pay in rent for a tenancy of the Property on the terms set out in section 48 of the 2001 Act as amended. The rent for which the Property might, in is actual state, be reasonably be expected to let is measured by the rental value on a hypothetical tenancy of the Property on a year to year basis and not by reference to the actual occupier's business or financial means or the rent the occupier actually pays.

9.3 The rent payable in respect of the Property under the 2007 lease at the valuation date was negotiated almost 8 years prior to the valuation date when market rents were exceptionally high. A progressive decline in the property market occurred after 2008. The rent passing on the Property accordingly at the valuation date cannot be considered to reflect the terms of the hypothetical tenancy under section 48 of the Act.

9.4 The rent payable in respect of the Property under the 2007 lease was negotiated almost 8 years prior to the valuation date before the slump in the economy and the property market in 2008 and the progressive decline that followed and as such provides light assistance in terms of the Property's value at the valuation date.

9.5 In recent years varying forms of rental incentives have become common place including rent free periods, stepped rents, fit-out contributions, break clause and reverse premiums to encourage tenants to sign leases. These changes have made it harder to interpret some market transactions and to determine exactly what the deal equates to, in rental terms. Furthermore, turnover rents in shopping centre leases are becoming a more attractive option and analysing turnover rental provisions in a lease also presents challenges given the different type of turnover arrangements that can be made.

9.6 On behalf of the Appellant Mr. Algar has relied on the rents of eight units in the Centre and recent decisions of the Tribunal in support of his proposed Zone A rate of €480.00 per m^2. The Tribunal has to interpret and decide what weight should be given to his evidence. The rents of RT1, RT3 and RT4 were agreed in 2015 prior to the valuation date and the rent of RT2 was agreed just days after the valuation date. The RT5 unit is also unreliable as a comparable as it is occupied under a licence agreement the terms of which are not compatible with the terms of the hypothetical tenancy as outlined above. The rent of RT6 unit was agreed 26 months prior to the valuation date and that of RT8 was agreed 32 months prior to the valuation date. No weight can be given to either of those rental transactions. The rent of the RT7 unit was agreed within a year post valuation date.

9.7 It appears to the Tribunal that Mr. Algar has mistakenly analysed the net effective rent of RT7 at €54,000 per annum (€386.16 per m^2 ITZA) which is a simple average of the contracted rents over the 5-year term and has not factored-in an allowance for the 15-month rent free period. The correct approach is to take the sum of the yearly rents over the 5-year period and deduct the 15-month rent free period at the year 1 and year 2 rent rate (€40,625) giving a net effective rent liability of €45,875 per annum (€328 per m^2 ITZA). The Zone A rate in respect of RT1, RT2, RT3, RT4 and RT7 units ranges between €265.34 per m^2 and €559.23 per m^2 and, considered together, have an average zone A rate of €388 per m^2.

9.8 On behalf of the Respondent for the purpose of this appeal Ms. McPartlan considered the rents of only two units in the Centre neither of which were agreed in 2015. The rent of KRT1 was agreed less than 5 months after the valuation date and the rent of KRT 2 was agreed approximately 31 months before the valuation date. On previous appeals (VA17/5/387 Bushgrove Ltd, VA17/5/914 Hurley Property ICAV, VA17/5/1029 Oasis Fashions Ltd, VA17/5/931 Hurley Property ICAV, VA17/5/920 Hurley Property ICAV) Ms. McPartlan relied on the rent of another unit in the Centre measuring 83.1 m^2, held under a 10-year lease from July 2016 at a net effective rent of €40,000.00 per annum which analysed at €615 per m^2 ITZA and to which the Tribunal had regard in valuing three other properties in the Centre at €480.00 per m^2 ITZA. It is perplexing that different rental transactions were relied upon by the Respondent on the hearing of appeals relating to units within the Centre. When asked what rental evidence the Respondent had relied upon to derive a NAV of €550 per m^2 ITZA Ms. McPartlan confirmed that only one occupier in the Centre had responded to a section 45 notice issued by the Valuation Office and that she had regard to properties in other shopping centres in Westmeath, yet she put forward only two rental transactions. The rental evidence of all properties analysed by the Respondent to derive a NAV of €550 per m² ITZA for the property should have been adduced in evidence.

9.9 The rental evidence adduced on this appeal shows a disparity between rental levels in the Centre. Of the 10 rental transactions referred to in evidence, three were agreed in 2015 and two were agreed within a year after the valuation date. In the Tribunal's view the hypothetical tenant would be guided by rents that were agreed closer to the valuation date and agree a rent level somewhere between the extremes.

9.10 The Tribunal does not accept that evidence of rent in respect of a letting in the open market of a unit in the Centre which comprises a base rent and or a percentage of turnover should be disregarded or rejected out of hand particularly when such rents are becoming a more common feature in the retail property market. All available evidence should be looked at. Rents with turnover elements may have evidential value in either confirming or casting doubt upon rents levels.

9.11 It is necessary to consider all of the evidence in the round. The rental evidence, on any basis, provides a very mixed picture. The Tribunal considers that the key evidence of the rate to be applied to the ground floor retail space of the Property consists of open market transactions twelve months either side of the valuation date provided the rents agreed are consistent with the state of the market as it existed at the valuation date. The Unit having the highest rent of the 2015 open market transactions is RT2. The Tribunal attaches little weight to RT1 as it is a value outlier and of no assistance or to RT5 which is a retail unit reportedly held pursuant to a licence agreement which was not adduced in evidence to enable the Tribunal to determine whether it is in fact a lease. The rent of RT6 and was agreed 24 months prior to the valuation date, the rent of RT8 was agreed 30 months prior to the valuation date and the rent of KRT 2 was agreed approximately 31 months before the valuation date and so no weight is attached to these rents. The Tribunal is also excluding from consideration the rent of RT4 due to its size and the fact that it is more an external unit than an internal one.

9.12 In light of the more relevant and compelling rental evidence adduced by the Appellant relating to units in the Centre which were agreed a year either side of the valuation date., the Tribunal considers that the NAV of the Property as determined by the Respondent is excessive. On previous appeals the Tribunal was informed that the net effective rent of the KRT 1 unit was €75,000. The net effective of rent of that unit is in fact €50,000 per annum as the occupier negotiated a 20-month rent free period and that rent analyses at €560 per m² ITZA. Having regard to the rents of units RT2, RT3, RT7, KRT1 and the ground level unit measuring 83.1 m² that is held under a 10-year lease from July 2016 which range between €328 per m² ITZA and €615 per m² the Tribunal considers that the Property should be valued at a Zone A rate of €480 per m² ITZA m².

9.13 The first floor within the Property does not have a separate entrance at first floor level from the mall. There being no rental evidence in respect of the value of internal accessible first floor retail space in the Centre Mr. Algar's in his valuation adopted the same rate applied by the Tribunal to the first floor retail space in Unit 7. The Tribunal is satisfied that the Appellant's valuer has adduced adequate evidence to justify the valuation of the first-floor retail space at 15% of the Zone A rate and displace the value replied upon by Ms. McPartlan.

10. DETERMINATION:

10.1 The Tribunal allows the appeal and decreases the net annual value of the Property as stated in the Valuation Certificate to €112,600 as follows:

Floor Use	Area per m^2	NAV (per m^2)	NAV €
Retail Zone A	94.00	€480	€45,210
Retail Zone B	95.70	€240	€22,968
Retail Zone C	95.70	€120	€11,484
Retail Remainder	63.80	€60	€3,828
First Floor	406.30	€72	€29,253.60
			€112,653.60 SAY €112,600

10.2 The Tribunal amends the name of the occupier of the Property as stated in the valuation certificate to River Island Clothing Company (Ireland) Limited.

And the Tribunal so determines.

APPENDIX

Key Rental Transaction 1: PN 2195132

Skechers, Unit 27 Athlone Town Centre, Athlone, Co. Westmeath.

Total Floor Area	196.6m2
Lease commencement	14th of March 2016
Lease Term	10 years
Rent per annum	€75,000
NER @ 30th October 2015	€50,000
Retail Zone A (NER)	46.70 m^2 @ €560
NAV Zone A	€550 m^2

NAV €49,000

Key Rental Transaction 2: **PN 2195146**,

Euro Giant Athlone, Unit 13/14, Athlone Town Centre, Athlone, Co. Westmeath

Total Floor Area	381.15m2
Lease commencement	1st of March 2013
Lease term	10 Years
Rent per annum	€112,897
NER @ 30th October 2015	€88,279
Retail Zone A (NER)	82.35 m^2 @ €543.75
NAV Zone A	€550 NAV m^2

Appeal Property

Rent €360,000 per annum