

**Appeal No: VA23/5/1250**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**WELEYRE HOLDINGS LTD.**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1157716, Retail (Shop) at 20 (Local no 4) Floor 0, Eyre Square, Galway, County Galway.

**B E F O R E**

**Ms Margaret Nerney - SC**

**Chairperson**

**Mr Liam Daly - FSCSI, FRICS**

**Member**

**Mr Allen Morgan - FSCSI, FRICS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 17<sup>TH</sup> DAY OF DECEMBER 2025**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 19<sup>th</sup> 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 €39,100.

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:

*“1. The subject property’s valuation is excessive and inequitable owing to the Zone A Level applied. The east side of Eyre Square has been assessed at €750/m2 Zone A, however, based on passing rent of PN 1157718, the prior rents on PNs 1157730 and 1157733, and the vacancy in the street (4 of 10 units currently vacant), there is no way that €750/m2 can be sustained. Indeed, Forster Street is assessed by the Commissioner at €500/m2 Zone A and the level of vacancy is substantially less”.*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €18,270. Mr Halpin bases this figure on a Zone A rate per sq. metre of €350, with subsidiary zonings at proportionately lesser rates.

## **2. REVALUATION HISTORY**

2.1 On the 23<sup>rd</sup> September 2022 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 €39,100.

2.2 No Representations were received for the subject property in this Appeal, but its valuation was reduced to an overall benchmark level for Zone A for this side of Eyre Square of €750 per sqm.

2.3 A Final Valuation Certificate issued on the 15<sup>th</sup> September 2023 stating a valuation of €39,100.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 1<sup>st</sup> February 2022.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 28<sup>th</sup> August 2024. At the hearing the Appellant was represented by Mr David ES Halpin, M.Sc. (Real Estate) Ba. (Mod) of Eamonn Halpin

& Co. Ltd and the Respondent was represented by Ms. Ita McNally, B.Sc. (Hons), Masters 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 his/her précis as their respective evidence-in-chief in addition to giving oral evidence.

#### **4.0 Preliminaries – pre-hearing clarifications as confirmed by the parties to the Tribunal.**

4.1 The parties are agreed on the details of the property under appeal.

4.2 The Appellant, as the owner of four separate properties on Eyre Square East, has submitted an omnibus-type appeal to the Tribunal in respect of the subject property PN1157716 and three others owned by it on Eyre Square East. The subject appeal and the said three associated appeals were heard in conjunction with one another on the same day by the Tribunal. The Tribunal will make an individual determination in respect of each appeal.

4.3 The Appellant presents a case for a general reduction in the NAV per sqm to the subject property PN1157716. The Appellant seeks to reduce the existing “Tone of the List” NAV figure of €750 per sqm., as currently assessed by the Respondent for the subject property, in line with rental and tone of the list evidence, to actual and potential rental values as at 1st February 2022 under Section 48 of the Valuation Act 2001.

4.4 The Respondent is defending the existing Tone of the List NAV of €750 per sqm as assigned to Eyre Square East but is presenting individual supporting evidence in chief for the property the subject matter of this appeal and for each of the other three properties under appeal by the Appellant on Eyre Square East.

#### **5.0. The Facts.**

5.1 The subject property is classified by the Commissioner as retail and is located on the eastern side of Eyre Square in Galway city.

5.2 The physical details of the subject property under appeal are agreed by the parties as correct.

5.3 The “Tone of the List” NAV level relating to Eyre Square East in toto and including the subject property and the Appellant’s three associated properties, all four of which are represented by Mr Halpin, is being challenged by the Appellant.

## **6. ISSUES**

The single issue in this case is one of quantum by reference to the emerging Tone of the List.

## **7. RELEVANT STATUTORY PROVISIONS**

7.1 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.”*

7.2 Section 48(3) of the Act, as amended by section 27 of the Valuation (Amendment) Act 2015, 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 average 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.”*

## **8. APPELLANT’S CASE**

8.1 Mr Halpin stated that the subject property is classified by the Commissioner as retail and is located on the eastern side of Eyre Square in the City of Galway.

8.2 Mr Halpin stated that his client's case is straightforward - that the Zone A level applied to this unit is excessive and should be reduced in line with rental and tone of the list evidence.

8.3 Mr Halpin stated that the mix of ground floor property is of significant note and that, of the 14 premises:

- 4 are pubs (and hence of no assistance);
- 4 are vacant;
- 3 are office/service users (Remax, EBS, Budget Car Hire);
- 1 is converted to accommodation for asylum seekers;
- 2 are traditional retail uses (Phonez4U, Esquires Coffee);
- That, in the context of the above, "vacant" is the most common retail use;
- That only 20% of units are in traditional retail (sale of goods) use;
- That this is indicative of a poor retail location;
- That there are no national nor international retail brands.

8.4 Mr Halpin contended that rental information set out in his evidence - see below - provides a good insight into relative rental values. He noted that whilst there is a high level of vacancy, there is more than enough information on current and passing rent levels, notably:

No. 7(b) Eyre Square (PN 1157730) Occupied from 13th July 2017 on a 2-year 6 month lease at €15,000 per annum. The unit was vacated on 12th January 2020 and has been vacant since. The prior rent devalues at €482/m<sup>2</sup> Zone A.

No. 7(a) Eyre Square (PN 1157733) Occupied by NCBI group from 14th August 2015 to 13th May 2020 on a 4-year 9-month lease at €21,000 per annum and has been vacant since. The prior rent devalues at €450/m<sup>2</sup> Zone A.

No. 5(a) Eyre Square (PN 1157718) is let on a 5-year lease from 1st May 2021 at €12,000 per annum. This devalues at €225/m<sup>2</sup> Zone A.

8.5 Mr Halpin noted that the combined property (PNs 1157730 and 1157733) had been on the market for almost three years at the effective date and the best offer for the entire was €20,000 per annum. The current best offer devalues at €260/m<sup>2</sup> Zone A. Mr Halpin stated that his client would be delighted to get two

tenants at a combined rent of €36,000 (i.e. the same as he had previously achieved). In reality, he stated that it is his client's view that it does not appear that this will come to fruition.

8.6 Mr Halpin noted that the average of the three rents above is €366.07/m<sup>2</sup>. Noting that the Commissioner usually rounds his list Zone A values to the nearest €50/m<sup>2</sup>, he contended for €350/m<sup>2</sup> Zone A based on the rents.

8.7 Mr Halpin noted that further support for his contention is that the above must also be framed, in terms of tone of the list, in the interests of equity and uniformity. He noted that Zone A levels of significance in this case are as follows:

<b>Location</b>	<b>Zone A Rate/m<sup>2</sup></b>
William St & Shop St.	€1,700
High Street	€1,200
Quay Street	€950
Mainguard Street	€900
Eyre Square, Prospect Hill	€750
Bridge St., Cross St., Abbeygate St., Middle St., Lombard St., Market St.	€560
Forster Street	€500
Merchants Rd., Kirwan's Ln.	€350
Flood Street, St. Augustine's Street	€250

8.8 Whilst Mr Halpin contended that invariably there are numerous issues that could be highlighted above, he concluded that the most prominent themes for this case are:

- a) The dominant chain of value in Galway City runs east/west from Shop Street/William Street. This footfall influences High Street, Quay Street and Mainguard Street in a linear fashion. Streets that run north/south to prime (Bridge Street, Cross Street, Abbeygate Street, Market Street) or parallel (Middle Street) are valued at a fraction of this. The level of €560/m<sup>2</sup> provides an absolute ceiling for the subject property's value as all of the streets valued at this level are superior to Eyre Square East (see also comparisons).

b) There is a distinct difference between the sides of the square. There is no retail on Eyre Square South, whilst Eyre Square North and West immediately adjoin William Street. The Commissioner has decided to value all of Eyre Square at €750/m<sup>2</sup>, apart from the small section of Eyre Square North adjacent to William Street which is valued at €1,000/m<sup>2</sup>. Eyre Square East is a further 150 metres away across the square, with no physical attachment to prime retail. Mr Halpin noted also that Eyre Square West:

- Is pedestrianised and features an entrance to the Eyre Square shopping centre;
- Has just 2 retail units, both of which are in café/restaurant use;
- Has a hotel which also has outdoor dining onto the Square.

In summary, he contended that the sides of the Square could not be more different in terms of value i.e. that the east side is for traffic and the west side is for footfall.

8.9 Mr Halpin noted that, as a means of comparison, the Appellant has concentrated on retail prominence and levels of vacancy in the secondary streets which, he asserts, give the best context:

<b>Street Name</b>	<b>No. of Total Commercial properties (Ground floor)</b>	<b>% of units as retail (Ground floor)</b>	<b>% of retail vacant (Oct 2022)</b>
Eyre Square (East 1-13)	14	71%	40.0%
Prospect Hill (1-27)	11	72%	12.5%
Forster Street	28	75%	9.5%
Abbeygate Street Upper/Lower	61	90%	5.3%
Cross Street	29	86%	4.0%
Flood Street	15	60%	20%

8.10 Mr Halpin contended that, as can be seen in the above table, even in Flood Street (which is deemed the lowest Zone A in the city centre), the vacancy rate is still lower than Eyre Square. He also noted that the vacancy rate is a fraction of that in the prime secondary streets which bisect William Street/Shop Street. He contended that the style of tenant (service users versus conventional retail) aligns Eyre Square East more with tertiary streets such as Flood Street, than secondary streets such as Abbeygate Street or Cross Street.

8.11 Mr Halpin contended that whilst a hypothetical tenant would invariably prefer Abbeygate Street, Cross Street and Forster Street, one must assume that he would prefer Eyre Square to Flood Street, if for no other reason than historic status. This puts the subject properties in the range of €251- €499/m<sup>2</sup> Zone A based on the Tone, the mid-point of which also coincides with the average of the rents.

8.12 Mr Halpin is seeking a reduction in the Tone of the List for both the subject property and all Zone A retail properties on Eyre Square East to an NAV of €350 per sqm (**Appendix 1, N/A to public**). The table below identifies the subject property under appeal. He noted the date of Valuation as being 1<sup>st</sup> February 2022.

PN	Occupier	Valuation
1157716	Vacant	Retail Zone A 33.6m <sup>2</sup> @ €350/m <sup>2</sup> Retail Zone B 20.23m <sup>2</sup> @ €175/m <sup>2</sup> Retail Zone C 25.26m <sup>2</sup> @ €87.50/m <sup>2</sup> Retail Remainder 8.4m <sup>2</sup> @ €43.75/m <sup>2</sup> Store/Kitchen/Office 11.23m <sup>2</sup> @ €35/m <sup>2</sup> <b>Total NAV €18,270</b>

8.13 Mr Halpin sets out his KRT evidence in a Table (**Appendix 2, N/A to public**).

8.14 The Tribunal then invited Ms McNally to cross-examine Mr Halpin on his evidence.

8.15 Ms McNally asked Mr Halpin to confirm that the purpose of the revaluation of Galway city was to value every relevant property by reference to a single valuation date. Mr Halpin confirmed that this was the case, that the relevant valuation date was the 1<sup>st</sup> February 2022 and that the objective of the revaluation was also to bring greater equity, fairness, uniformity and transparency into the local authority rating system.

8.16 Ms McNally put it to Mr Halpin that the location of the subject property in Eyre Square meant that it was situated in one of the most recognised and well-known locations in Galway city. Mr Halpin stated that this was the case but that location was only one of several key factors, others being size and specification.

8.17 Ms McNally asked Mr Halpin to accept that any comparables would have to be suitable to ensure that the valuers on both sides were comparing like with like. Mr Halpin replied that this was the objective

and that although every property had individual and unique characteristics, he was confident that there was sufficient comparable evidence on both sides to allow a comparison of like with like properties.

8.18 Ms McNally directed Mr Halpin to one of his comparator properties – 7(b) Eyre Square for which Mr Halpin had adduced rental evidence provided by his client. She challenged Mr Halpin as to its relevance, given that the letting was historic and that it was stated to run from July 2017. Mr Halpin acknowledged the disparity of dates but claimed that all rental evidence was relevant, once contextualised, and that it was important to examine and review the widest basket of comparisons. He asserted that it was important to highlight that some properties had taken more than two years to secure a tenant and that this was an important indicator of challenging market conditions. Mr Halpin also pointed out that from his research the rental market on that side of Eyre Square had not changed significantly over that period, during which time Covid also had an impact.

8.19 Ms McNally put it to Mr Halpin that in his written evidence the four properties he had included in his précis as rental evidence (3 on Eyre Square and 1 on Abbeygate Street) were notable as having been on the market for an extended period, one for almost three years. Ms McNally replied that she had not been able to track their rental history on the internet and Mr Halpin said he had obtained this information from the letting agent involved, Cushman and Wakefield.

8.20 Ms McNally noted that Mr Halpin had identified three properties on Eyre Square which he said represented market evidence and that, taken together, they averaged out as at €366.07 per sqm. She pressed Mr Halpin to confirm if he had any other relevant rental comparators. Mr Halpin replied that, as regards Eyre Square, he had not but that as they proceeded to hear the Respondent's evidence, other information on rentals might emerge which he would be happy to take on board.

8.21 Ms McNally queried how Mr Halpin could state that a hypothetical tenant would invariably prefer Abbeygate Street or Cross Street and Forster Street to Eyre Square and asked if he could substantiate this statement in his précis with evidence. Mr Halpin replied by repeating that the level of vacancies was a good indicator and constituted objective evidence.

8.22 Ms McNally directed Mr Halpin to the first of her own KRT comparisons on Eyre Square - PN1157713 - and suggested to Mr Halpin that that was a better rental comparison. Mr Halpin replied by stating that he had not had an opportunity to question Ms McNally on her comparison and that it might turn out to be relevant but that, at that stage, his first comment was that the lease only commenced at the end of 2022

whereas the valuation date in the subject appeal was 1<sup>st</sup> February 2022. Given the disparity of these dates, he stated that the tenant in the subject appeal would not have this evidence when formulating a rental bid for the subject. However, he confirmed that he would still accept that it could be relevant rental information, subject to questioning Ms McNally further on the details of her comparator when she came to give her evidence.

8.23 Ms McNally referred Mr Halpin to her KRT 2 comparator. Mr Halpin replied, noting that it was a 2015 rent, not reviewed in 2020, meaning that in consequence it was a 2015 rent but that the reasons for a review in 2020 not having taken place were not known. Ms McNally contended that the 2015 rent still stood as evidence and that, in terms of weight, it was no greater or less than her KRT 1 comparator already referred to. Debating this comparison further, both witnesses concluded that while the reasons for the lack of a 2020 review were not known, the identity of a new incoming tenant in 2024 was now known by local enquiries and that the state of the market in 2020 could have played a part in no review having happened in 2020. Mr Halpin asserted that this was growing evidence of the fact that there was no change in rent at 2020 rent reviews for most of the comparator properties.

8.24 Ms McNally asked Mr Halpin to substantiate the assertion he had made in his précis for the lack of national or international retailers in Eyre Square. Mr Halpin's response was that the only section of Eyre Square where footfall was substantial was the pedestrianised section on the west side of Eyre Square whereas the east side was still subject to vehicular traffic. Pressed further on his assertion regarding the absence of major retailers, Mr Halpin claimed that the east side was mainly a transit area for a small percentage of pedestrians going north, either to catch a bus on the east side of the Square or to walk to Prospect Hill and that, in doing so, this pedestrian traffic would only meet a number of pubs. Pressed further by Ms McNally as to Prospect Hill as a shopping destination Mr Halpin stated that the only retailer of national note at Prospect Hill was TK Maxx. He concluded by stating that the natural footfall shifts to the west side of the Square and that it also gives access to the entrance to Galway's main central shopping centre.

8.25 Ms McNally asked Mr Halpin about the statement in his précis concerning the lack of supporting justification as to why the Commissioner had chosen €750psm to be the valuation of properties on the east side of the Square. Mr Halpin stated that he had written to the Commissioner as to his rationale for selecting a valuation of €750psm but that he had not received a response and that, in consequence, although he was sure the Commissioner had used rental evidence to support it, he was unaware of what evidence had been

used and he said that as such it could have been based on evidence from properties located several streets away from the subject or indeed conceivably in a different town.

## **9. RESPONDENT'S CASE**

9.1 Ms McNally stated in her evidence that Mr Halpin was seeking to value the subject properties at €350psm for Zone A. In response, she set out her analysis of the subject property (**Appendix 3, N/A to public**). She contended that Mr Halpin had not provided sufficient evidence to justify such a reduction. She asserted that the rental evidence provided by Mr Halpin on the eastern side of Eyre Square did not suggest an adjustment to the Zone A level being warranted as it was either too far removed from the statutory valuation date or was fixed in the midst of Covid. She contended that Mr Halpin had also provided rental evidence in secondary streets in Galway city centre. However, she contended that there was a hierarchy of streets in Galway city with evidence suggesting the highest Zone A level of €1,700psm on Shop Street and William Street, reducing to €1,200psm onto Williamsgate Street, to €1,000 onto Eyre Square and then onto the remainder of Eyre Square (including where the subject property is located) with a Zone A of €750. She contended that the existing Zone A levels already acknowledged the connection between Eyre Square and the prime retail area on William Street/Shop Street with a higher Zone A level than at that end of Eyre Square where the subject property was located. Ms McNally contended that it was the relativity to these shopping streets and the rental evidence provided by the Commissioner that justified a Zone A valuation level of €750psm.

9.2 Ms McNally stated that five comparable NAV properties had been used in the Respondent's précis, that four had been valued by the Chief Operations Officer as retail with a Zone A of €750 and one had been valued as retail with a Zone A of €1,000psm (**Appendix 4, N/A to public**). She stated in her evidence that representations had been submitted for four of the comparable properties and that there were no appeals to the Valuation Tribunal for a further five comparable properties.

9.3 Ms McNally provided a table of her KRT comparators in her précis (**Appendix 5, N/A to public**).

9.4 She stated in her evidence that there was a total of ten appeals submitted for the east side of Eyre Square including the subject property, that they were all submitted by the same agent and that they were all disputing the overall Zone A level applied. She contended that any reduction to the NAV level of the subject property would have a significant impact on the Valuation Scheme in Galway city centre and that

it was therefore proposed not to amend the valuation scheme and to retain the existing NAV level of €750psm.

9.5 The Tribunal invited Mr Halpin to cross-examine Ms McNally on her evidence. Mr Halpin opened by restating an overview of what he stated were the aims of the revaluation. He stated that the objective was to be fair and equitable by looking at the available rental evidence and to arrive at a fair figure for a building or for a streetscape, including the subject appeal, in the form of Zone A. He asked Ms McNally to confirm that she would agree that this was the objective, which she affirmed.

9.6 Mr Halpin asked Ms McNally to confirm that the parties had five rental comparisons between them although he stated that the parties might not attach equal weight to all of them. Ms McNally confirmed that this was correct. He then referred to Ms McNally's KRT 1. In reply to a question as to the date on which the Commissioner became aware of the leasing details, Ms McNally stated that it was when she was preparing for the appeal and she further clarified that it was sometime in June 2024. Mr Halpin then asked Ms McNally if it was not therefore the case that the Commissioner was unaware of these details when he reached his decision to determine a valuation of €750psm for Eyre Square East. Ms. McNally replied that this was true but that he was aware of other lettings.

9.7 Referring to Ms McNally's KRT comparators, Mr Halpin noted that whilst the Commissioner at the date of the revaluation was not aware of her KRT 1, he was aware of KRTs 2 and 3.

9.8 Turning to Ms McNally's KRT 2, Mr Halpin noted that, as per her précis, this property was let at €55,000 per annum and there was a review, or there was to be a review on 1<sup>st</sup> June 2020. Mr Halpin stated that whether or not that review was carried out did not have that much of a bearing but that both parties could affirm that this property was still available at a rent of €55,000 all through that period and right up to the date of this appeal hearing. Ms McNally agreed that this summary of events was correct. Leading on from this, Mr Halpin then queried why Ms McNally believed that her KRT 2 was more relevant than Mr Halpin's KRT 1 [PN 1157718 (Remax)].

9.9 Ms McNally replied by stating that in her view her KRT 2 comparison was more reflective of the present market than Mr Halpin's KRT 1 and that the fact that it was staying at the same rent was more reflective of the value on that street. She contended that Remax was an anomaly and was not reflective of rents generally on that side of Eyre Square and, further, that comparing her KRT 2 to the other sides of Eyre Square and then to properties in William Street and Shop Street, they are all related to each other in a way, within this hierarchy that the Commissioner has created.

9.10 Mr Halpin rebutted Ms McNally's assertion that his Remax comparator was an anomaly despite the fact that, as regards the two comparators i.e. Mr Halpin's KRT 1 and Ms McNally's KRT 2, both were 2015 rents to start off with and both of those agreements were signed in 2015, based on the negotiating power of the landlord and the tenant in those instances. He conceded that they came up with radically different values or rents but stated that they were both signed at similar dates. He contended that it was only an interpretation by Ms McNally to assert that one was anomalous and the other was not.

9.11 Mr Halpin asserted that in terms of the rental evidence for Ms McNally's KRT 1 at €55,000 p.a. and for Mr Halpin's KRT 1 at €12,000 p.a., the rental outcomes of both cases reflected the negotiating prowess and leverage of each tenant and that, in his view, it did not prevent the evidence being harmonised across several cases. Mr Halpin pressed Ms McNally to concede that the 2015 rent for his KRT 1 was valid. Ms McNally partially conceded this point but maintained that, in general terms, this 2015 rental evidence was too outdated.

9.12 Mr Halpin then posited that if one took his 3 KRTs in the round it would produce an average of €556k, possibly slightly more, if all 5 KRTS presented by both parties were averaged. Ms McNally stated that in her view the two 2015 KRTs would need to be excluded, leaving the remaining three at an average greater than €556k. Mr Halpin said he had not done this exercise and highlighted for the Tribunal that it might be a calculation which it might find it worthwhile to do (**Appendices 6 & 7, N/A to public**).

9.13 Mr Halpin moved on to Ms McNally's KRT 3, noting that it was located on the north part of Eyre Square, the side of the Square that leads into William Street and Shop Street and therefore represented the side of the Square that the Commissioner deemed to be naturally more valuable. Mr Halpin pointed out to Ms McNally that that property was also under appeal and asked Ms McNally to confirm this, which she did.

9.14 Mr Halpin then asked, given that the rent suggested that the north side of the Square might also be over assessed by the Commissioner, whether she had any more evidence on that side of the Square that backed up the valuation assessment of €1,000psm for that location. Ms McNally replied that she did not. Mr Halpin then posited, based on that, that the Commissioner's valuation assessments might not be so secure. Ms McNally responded by pointing out that her KRT 3 comparison has a stepped rent, meaning that it worked out as a greater rent psm. Mr Halpin acknowledged this but stated that even a valuation average of €560k equated to in or around €900psm for Zone A and that the Respondent has assessed that location at €1,000, notwithstanding that this was the only piece of rental information which, by Ms

McNally's admission, the Commissioner had on Eyre Square North. He thus contended that the Commissioner might have a larger problem on Eyre Square generally. Ms McNally replied that other rental evidence was available but that she had not included them in her précis.

9.15 Mr Halpin then referred Ms McNally to her KRT 4 comparison and stated that, as far as he was aware, this comparison was the only one that was common between them. Ms McNally confirmed that this was correct. Noting that representations had been made against it, that a stepped rent was involved and referring also to the NER of €46,789 in her analysis, Mr Halpin asked Ms McNally if she would accept that the pedestrianised area of Eyre Square West was superior to the unpedestrianised area of Eyre Square East. Ms McNally disagreed and pointed to a rent-free period of 5 months which was one of the agreed terms, meaning an incentive was necessary to attract the tenant. Mr Halpin replied, pointing out that most of the rent-free period occurred during the Covid lockdown period in 2021, meaning that the net concession amounted to only one month. Mr Halpin stated that he knew from personal experience how challenging it was to negotiate rental agreements in the uncertain period of Covid and that this was a major impediment to concluding leases which attempted to cater for every possibility. Ms McNally stated that the fact that her KRT 3 comparison was stepped was a reflection of such a concession by a landlord.

9.16 Mr Halpin asked Ms McNally if there were any other examples in Galway city where a pedestrianised street was adjacent to another non-pedestrianised street and where the non-pedestrianised street was deemed as valuable? On Ms McNally asking for the question to be repeated, Mr Halpin stated that he believed he already had the answer in that the NAVs of KRT 2 and KRT 4 were all but identical at €51,000 and €51,200 p.a. respectively, facts which Ms McNally acknowledged. However, she stated that there could be other reasons why a tenant might choose one location over another, other than pedestrianisation, giving the example of being closer to the bus station while acknowledging that pedestrianisation might also be a factor. Mr Halpin stated that even by looking at the photographs of both of her comparator properties, one could see the space available in one, KRT 4, for outdoor seating whilst the other, KRT 2, did not have such space. Ms McNally added that some restaurants might be counterbalanced by significant internal seating. Mr Halpin replied that another of her comparator properties, KRT 1, Café Nero, had also the benefit of external street seating which Ms McNally acknowledged. She stated, however, that such benefit could increase the rental value on that side of the Square up from an assessed valuation of €750psm, rather than the lack of external seating depressing values down from €750psm. Mr Halpin rejected this, stating that the Commissioner's assessment of €750psm was a fixed level, meaning that any departure from this could only be downwards, and that the type of analysis suggested by Ms McNally was not possible.

9.17 Ms McNally, referring to her comparisons, stated that there was rental evidence that supported her contention for rental values on both sides of the Square. Mr Halpin countered that by asking Ms McNally to identify properties with hard rental evidence to support her said contention. Ms McNally responded by asserting that the rental evidence she had provided showed that the rental evidence in Eyre Square supported her assessment of the correct NAV and that she had valued the subject property, and the other properties on Eyre Square East under appeal by the Appellant, in the context of a comparison of the rental evidence, claiming it reflected the rental values on both sides of the Square. Mr Halpin replied by saying he did not accept this, pointing out that in some cases the rents Ms McNally had cited were asking rents rather than evidence in the form of verified figures within signed leases. Ms McNally acknowledged this but said they had been included to provide context. In further cross-examination by Mr Halpin, both parties concluded that most of the comparisons showed extended periods before letting agreements were secured, which Mr. Halpin stated supported his contention that market conditions were difficult.

9.18 Mr Halpin then concluded by asking Ms McNally her opinion as to the relative attractiveness from a retailer's perspective of streets located close to the prime retail streets of Abbeygate Street or Cross Street, in comparison to locations further away such Eyre Square where the subject property was located. Ms McNally replied that Eyre Square itself was also very much a destination. She stated that, although not included in her précis, she was aware that other commercial retail properties in less well-known tertiary streets close to the prime retail streets were not achieving rents any better than those located in Eyre Square East.

## **10. SUBMISSIONS**

10.1 There are no legal submissions in this appeal.

## **11. FINDINGS AND CONCLUSIONS**

11.1 On this appeal the Tribunal has to determine the value of the Property so to achieve, insofar as is reasonably practicable, 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 Galway City Council.

1. The Tribunal notes that the parties to the appeal are agreed that the objective of the 2022 Revaluation is to bring greater equity, fairness, uniformity and transparency into the local authority rating system.
2. The Tribunal notes that the parties are agreed on the date of the Revaluation as 1<sup>st</sup> February 2022, and also on the details of their respective evidence, both as to the details of subject properties and to the related comparator evidence.
3. The Tribunal notes that currently the owners of a total of four properties are being represented by Mr Halpin and that this Tribunal decision will consequently impact on all of these properties given their proximate location on the east side of Eyre Square.
4. The Tribunal notes that the Respondent believes that the general revaluation figure for Eyre Square North, noted as having already been reduced from €1,000 to €750psm by the Respondent, achieves the goals of 1 above, whilst the Appellant challenges this assertion, believing that there is an inconsistency with actual rental evidence and therefore seeking a reduction to €366 psm.
5. The Tribunal notes that the Appellant contends that challenging market conditions in Galway city and the Covid-19 pandemic restrictions for periods during 2020 and 2021 mean that older rental evidence should be accepted. The Respondent rejects this contention.
6. The Tribunal notes that, in combination, the parties have identified a total of 5 KRTs to support their respective cases, which comparators they consider relevant and one of which is common to both parties.
7. Whilst the Respondent asserts that the amended revaluation assessment of €750psm was based upon wider rental evidence available to the Commissioner, no further supporting information was provided to the Tribunal.
8. The Tribunal notes that the Appellant contends that the introduction of pedestrianisation in parts of Galway, including sections of Eyre Square, has given rise to a consequential impact on business locational decisions, however the Respondent does not accept this.
9. The Appellant contends that the presence of wide footpaths, in combination with pedestrianisation in some parts of Eyre Square, influences the attractiveness of such locations from a commercial perspective whereas the Respondent does not.

Having carefully considered all of the above, the Tribunal accepts the Appellant's contention that the Respondent's adopted methodology in determining values in Eyre Square is somewhat unclear. While both sides argued and counterargued on the merits/weaknesses of the subject property's specific location on Eyre Square, the Tribunal noted that there were elements of consensus between the parties, most which emerged during the cross-examination conducted by Ms McNally for the Respondent of Mr Halpin for the Appellant.

The Respondent objected to the inclusion of the Appellant's Zone A comparator, Property 2 (**Appendix 6, N/A to public**). The Respondent argued for limited relevance on the ground that the lease was agreed four and half years prior to the statutory valuation date. The Appellant did not fully concede on the exclusion of Property 2 but offered a compromise on the calculation of the averaged Zone A NAV. It was suggested by the Appellant that this should be based on an average of the five rental comparisons identified by the parties, notably those located on the same side of Eyre Square (**Appendix 7, N/A to public**). It was the Appellant's contention that this produced an average rental level of €544, rounded to the nearest ten, thus bringing the average NAV to €540. While the Appellant's methodology was not rejected outright by the Respondent, it was the Respondent's opinion that the average figure would be higher, depending on the comparisons used. The Appellant suggested that this was something that could be considered by the Tribunal in its deliberations.

Having done so, the Tribunal is of the opinion that the Appellant's suggested methodology would be fair and equitable to all parties. However, the Tribunal agrees with the Respondent's view that Comparison Property 2 and Comparison Property 3 (**Appendix 6, N/A to public**) should be excluded from the calculation. With these excluded, the resultant analysis produces a Zone A NAV of €600.

#### **DETERMINATION:**

The Tribunal has reviewed the evidence of both parties and has carefully considered and analysed same in arriving at its determination. Accordingly, and for the reasons stated above, the Tribunal allows the appeal and decreases the NAV Zone A rate of the subject Property as identified in the valuation certificate to €600.

#### **RIGHT OF APPEAL:**

In accordance with section 39 of the Valuation Acts 2001 to 2015 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.