



## Office of the NSW Small Business Commissioner – Dispute Resolution Unit

### APPLICATION FOR APPOINTMENT OF A SPECIALIST RETAIL VALUER

#### FOR A CURRENT MARKET RENT REVIEW OF A RETAIL SHOP LEASE

Who are we?	For more information
<p>The Office of the NSW Small Business Commissioner (OSBC) provides information and advice to tenants, landlords, and others involved in a small business dispute.</p> <p>Under Section 31 of the <i>Retail Leases Act 1994 (the Act)</i> the OSBC can assist parties by appointing a <b>specialist retail valuer (SRV)</b>.</p> <p>The OSBC does not give legal advice.</p>	<p>Please contact us for more information.</p> <p>Tel            1300 795 534 Fax            1300 795 644 Email <a href="mailto:srv@smallbusiness.nsw.gov.au">srv@smallbusiness.nsw.gov.au</a> Web   <a href="http://www.smallbusiness.nsw.gov.au">www.smallbusiness.nsw.gov.au</a></p> <p>If you need an interpreter, call 131 450 and ask the interpreter to contact us.</p>
What is current market rent?	How is a SRV appointed?
<p>Current market rent is what the landlord and tenant agree it to be.</p> <p>If they cannot agree a SRV can be appointed to determine the market rent.</p>	<ol style="list-style-type: none"><li>1. Parties should attempt to agree on the appointment of the SRV.</li></ol> <p>For further information go to <a href="http://www.smallbusiness.nsw.gov.au">www.smallbusiness.nsw.gov.au</a>.</p>
Can I have it determined?	<ol style="list-style-type: none"><li>2. If you are <b>unable to agree</b> on the appointment of a SRV the OSBC can make the appointment for you.</li></ol>

### What will the SRV do?

The SRV will conduct a valuation to determine the **current market rent**. That is, what rent could reasonably be expected to be paid if the shop was offered to the market as an empty shop, taking into account the normal discounts and concessions offered in that market.

As part of this process the SRV can receive and request submissions from either party to help complete the valuation.

After considering the information provided, the SRV will decide on the current market rent and advise the parties in writing of their decision. This document will also contain detailed reasons for their decision.

### How much will it cost?

The cost of the valuation is shared between the parties.

A specialist retail valuation is **different** to other types of valuations such as a residential valuation. It requires a considerable amount of work and is a costly process.

The cost of the valuation relates to the complexity and volume of work required. You may expect **your share** of the fee to be between **\$1,500** and **\$5000**.

Parties should be prepared to make their payment **7 days** after the appointment of the SRV is confirmed.

### What if one party doesn't agree with the valuation?

The Act allows parties to seek a review within **21 days** of receiving the original valuation.

Two SRVs will be appointed to conduct the review and may either affirm or vary the original SRV's decision.

**Further costs may be incurred if either party seeks a review of the valuation and two SRVs are appointed to conduct the review.**

### After you lodge your application

1. The OSBC will notify the other side and send a copy of the application
2. The OSBC will appoint a SRV
3. The OSBC will invoice parties
4. Parties pay invoice and provide submissions.
5. SRV completes valuation

**Applicant's Details (your details)**

Applicant

Name of company / person (as per lease or agreement)

Landlord (Lessor)

Include ABN / ACN if applicable

Tenant (Lessee)

Other (specify)

Do you have an agent?

Name of the agent representing the applicant (company and person)

Yes

No

Do you have a solicitor?

Name of the solicitor representing the applicant (firm and person)

Yes

No

**Please provide full contact details**

Who is the best person to contact to discuss this application?

Yourself    Agent    Solicitor    Other (specify)

Name:

Postal address:

Telephone:

Fax:

Email:

We can provide an interpreter. If required which language:

**Other Side's Details (the other person / company)**

Other side Name of company / person (as per lease or agreement)

Landlord (Lessor) Include ABN / ACN if applicable

Tenant (Lessee)

Other (specify)

Does the other side have an agent?

Name of the agent representing the other side (company and person)

Yes

No

Does the other side have a solicitor?

Name of the solicitor representing the other side (firm and person)

Yes

No

**Please provide full contact details for the other side**

Who is the best person to contact to discuss this application on behalf of the other side?

Other side  Agent  Solicitor  Someone else (specify)

Name:

Postal address:

Telephone:

Fax:

Email:

We can provide an interpreter. If required which language:

PLEASE COPY THIS PAGE AND USE AGAIN FOR MULTIPLE OTHER PARTIES

## Details of the shop

Address of shop:

Permitted use:

When did the lease start:

Is there a Bond  Bank guarantee  other security

Bond number (if any):

Amount of bond (if any):

Current annual rent:

Shop size:

*(Please attach any plans)*

Type of premises?  Stand alone shop  Ground floor strata retail  
 Shopping Centre  Other commercial space

## Valuation

**Please circle**

Are the parties unable to agree on the current market rent? Yes No

Are the parties unable to agree on the appointment of a SRV? Yes No

*If you have not tried to seek an agreement on the current market rent or appointment of an SRV this should be attempted before proceeding with the application.*

Does your lease require a current market rent review or provide an option to renew or extend your lease at current market rent? Yes No

If you are seeking a current market rent review for another reason please detail below:

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What is the date from which the reviewed rent should begin?  
(Can be prior to the valuation taking place)

Any other comments you regard as relevant:

**Attachments**

You should attach:

- A copy of the lease.
- A copy of the disclosure statement.
- Other documents such as **plans** which are relevant to the valuation.

Please mark each attachment with letters A, B, C, etc.

PLEASE DO NOT USE STAPLES

List the attachments below, or attach extra pages if necessary

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## Declaration

I hereby declare the following:

- The parties have been unable to reach an agreement on the appointment of an SRV
- The information provided in this application form is true and accurate so far as I am aware;
- I am legally authorised to sign this application for and on behalf of the applicant;
- I consent to my application and attached documents being provided to the other side and the SRV under section 26(2) of the *Privacy and Personal Protection Act 1998* (NSW).

Signed

Print name

Position / Authority

Date

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### Send to:

Office of the Small Business Commissioner

GPO Box 5477

SYDNEY NSW 2001

Email – [srv@smallbusiness.nsw.gov.au](mailto:srv@smallbusiness.nsw.gov.au)

## Privacy Statement

The personal information that is collected on this application form is protected by the *Privacy and Personal Information Protection Act 1998* (NSW). The information is collected and used for the purpose of contacting parties to organise the mediation, carrying out the mediation, and obtaining feedback on how effective the mediation was. The information is provided on a voluntary basis but is necessary in order to conduct the mediation.

Should you wish to have access to this application form or any of the personal information that we hold, please contact the Deputy Registrar on 1300 795 534. For further information on our privacy policy, please refer to the mediation agreement (available online at [www.retail.nsw.gov.au](http://www.retail.nsw.gov.au)) or contact us.