Appeal No. VA09/2/011

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 2001

VALUATION ACT, 2001

Clanwilliam Institute **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Property No. 799576, Office(s) at Lot No. 18, Clanwilliam Terrace, South Dock, South Dock, County Dublin.

B E F O R E

Michael P.M. Connellan - Solicitor	**Deputy Chairperson**
Joseph Murray - B.L.	**Member**
Fiona Gallagher - BL	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF SEPTEMBER, 2009

By Notice of Appeal dated the 15th day of May, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €101.58 on the above-described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal, a copy of which is attached as an Appendix to this judgment.

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 21st day of July, 2009. At the hearing the appellant was represented by Mr. Joseph O'Malley, Solicitor, of Hayes Solicitors. The respondent was represented by Mr. David Dodd BL, instructed by the Chief State Solicitor and by Mr. Oliver Barry, a Valuer in the Valuation Office.

Location

The subject property is located on Clanwilliam Terrace, Grand Canal Quay in Dublin City Centre.

The Property Concerned

The property concerned is a three storey mid-terraced office building in an own door development at Clanwilliam Terrace/Clanwilliam Square. It was constructed in the late 1980s and comprises accommodation of 116 sq. metres, made up as follows:

Ground Floor	Reception area, back office and toilet
First Floor	2 consultation/therapy rooms and toilet
Second Floor	2 consultation/therapy rooms, training rooms and kitchenette

Tenure

The property was held on a 20 year lease from 1st January, 1989. The lease was recently renewed for a further 10 year period from 1st January, 2009, subject to a rent of €52,500 per annum payable quarterly with upwards only rent reviews every 5 years.

Rating History

The subject property was originally valued during a 1990 revision, and at first appeal stage the valuation was determined at a RV of €101.58. The appellant appealed to the Tribunal - **VA91/2/067 - Clanwilliam Institute Personal Marriage & Family Consultants Limited** - seeking an exemption on the basis that the property had at all times been used for charitable purposes, which exemption was refused by the Tribunal. The appellant again sought exemptions in 2001 and 2004, but following consideration by a Revision Officer these applications for exemption were rejected. The appellant made a further application for revision on 24th January 2008. The Revision Officer determined that no material change of

circumstances had occurred by means of a decision of 16th September 2008. The appellant appealed against that decision, which appeal was disallowed by the respondent on 23rd April 2009. The appellant appealed against this refusal to the Tribunal by notice of appeal dated 15th May 2009.

The Issue

The issue between the parties is whether or not a material change of circumstances has occurred since the previous valuation on 13th September 2004, which would warrant an exemption from rateability pursuant to Schedule 4 of the Valuation Act 2001. Quantum is not in dispute between the parties.

Preliminary Issue

Mr. Joseph O'Malley stated that the appellant was relying on three primary grounds of exemption under Schedule 4 of the Valuation Act 2001, namely that the services provided by the appellant were for the treatment of illness pursuant to Paragraph 8 of Schedule 4; that the appellant was an educational institution and the subject property was used by it exclusively for the provision of educational services otherwise than for profit pursuant to Paragraph 10 of Schedule 4, and that the appellant was a charitable organisation that used the subject property exclusively for charitable purposes and otherwise than for private profit in accordance with Paragraph 16 of Schedule 4.

The respondent raised a preliminary objection to the appellant's reliance on Paragraph 16 of Schedule 4 on the basis that the notice of appeal only referred to Paragraph 8 and 10 and therefore the appeal before the Tribunal should proceed on those two grounds only. The respondent referred to **VA95/5/015 – John Pettitt & Son Limited** and submitted that that decision determined that as a general rule where a ground of appeal is not raised before the Commissioner, it cannot be raised before the Tribunal, save in exceptional circumstances where the interests of justice require. In response, the appellant submitted that the notice of appeal was prepared within a strict time limit without reference to legal advice by the CEO of the appellant; that correspondence leading up to the appeal clearly flagged that Paragraph 16 was a ground upon which the appellant intended to rely, in particular a letter of 25th October 2008, which stated that the appellant intended to rely on the circumstances surrounding the 1992 appeal, where the only ground of appeal was that of charitable purposes and so the

respondent was on notice of the intention to rely on Paragraph 16 and finally that the notice of appeal referred to the decision in the 1992 appeal, which therefore brought to the respondent's attention the intention to rely on charitable grounds.

Having considered the matter, the Tribunal determined that the intention to rely on Paragraph 16 had been flagged to the respondent in advance of the hearing, albeit in a somewhat hidden manner and that the notice of appeal had been prepared by non-legal persons and in such situations the Tribunal was willing to allow a degree of latitude. Accordingly the Tribunal allowed the appellant to rely on Paragraph 16 in its appeal.

The Appellant's Evidence

Ms. Aileen Tierney, CEO of Clanwilliam Institute, Head of Training and Psychotherapy gave evidence on behalf of the appellant. Ms. Tierney stated that she has been involved with the institute for over 18 years and has been CEO for the past 4 years. She stated that over those 18 years, the institute has been engaged in both the provision of therapy and training, although it was only accredited by HETAC in 2006. The institute is also accredited by the Irish Council of Psychotherapy which is a nationally recognised body, and the Family Therapy Association of Ireland. Ms. Tierney stated that there are two aspects to the services provided by the institute; the provision of clinical psychotherapy care for clients and the provision of training and education.

Ms. Tierney stated that the clinical services provided by the institute fall under the heading mental health functioning. The types of symptoms treated include depression or personal issues, ordinary life transitions such as bereavement, adolescent self-harm, anorexia and behavioural problems, adjustments to life cycle transitions, mental problems or histories surrounding sexual and physical abuse. She said that the institute deals with a broad spectrum of issues but the overall approach to treatment is at all times psychotherapeutic, which is recognised internationally as appropriate for the treatment of mental health issues. The only aspect of the institute's services which is not psychotherapy is the mediation service, which assists couples to separate. Ms. Tierney stated that clients attending the institute can self refer or they can be referred by the HSE, if the HSE themselves do not have the resources to treat them.

In Ms. Tierney's view, education goes right through the institute, as they see themselves as a training/therapy organisation. Since 2006, the institute is accredited to run a 4-year Masters programme in systemic psychotherapy and it also runs a post-graduate Diploma. The first intake of Masters Students occurred in 2008, with a capacity for 10 students every year. The programme is a 3 year academic programme with the last year involving professional training. Because the programme involves life supervision, students see clients under supervision. Therefore, in Ms. Tierney's opinion both the clinical and training aspects of the institute are inextricably linked. In addition, Ms. Tierney stated that the institute provides Continuous Professional Development courses for its own clinical therapy staff and also invites others to attend. It also runs peer reviews once a month for staff, to assess their work. Ms. Tierney stated that in her view education is a very broad term and therefore, she would say that all the activities of the institute are educational in nature, even seeing clients, as people are reflecting on and learning about themselves.

In relation to funding, Ms. Tierney stated that the institute operates on the basis of ability to pay. It charges set fees for those who can afford to pay, but also accepts small donations if people cannot afford to pay. The institute receives income in the form of corporate fees from companies to whom it provides sessions to their staff for e.g. bereavement, work-related issues, etc. Furthermore, the institute charges fees for its training programme, but Ms. Tierney stated that this programme does not generate any substantial income, but rather covers its own costs. The institute also receives grants from the Family Support Agency on an annual basis. Amongst the staff, there is a mix of employed and self-employed and Ms. Tierney stated that earnings for their staff are far lower than would be earned in the HSE.

Ms. Tierney also pointed out that when the subject property was previously revised the building was owned by a number of directors, who have all since left the institute and sold the building to a new owner, who is independent of the institute. Ms. Tierney stated that the appellant was formed as a company in 1984 and had the benefit of charitable status until 2006, when it was voluntarily revoked by the appellant. The reason for so doing was that a number of directors also worked for the institute and received payment for this work and on that basis the Revenue Commissioners informed the institute that this was not consistent with a charitable organisation. The appellant has now made an application to reinstate the charitable status, since the appointment of a new board.

Cross-examination

In response to a question as to whether or not life cycle crises amount to illnesses, Ms. Tierney stated that it depends on how one defines mental illness. In her view, if someone did not have therapeutic input, they could end up moving into mental illness status. Ms. Tierney stated that her training does not characterise or label clients she sees as suffering from an illness. Ms. Tierney admitted that the breakdown of a family is not an illness, but stated that it is a mental health crisis. However, in her opinion if you define mental health issues as an illness, then family breakdown would be characterised as an illness, as these people often have all the symptomology of an illness. Ms. Tierney stated that she sees the institute as assisting these clients to move to another stage in their lives.

Ms. Tierney was asked why the objects of the appellant simply referred to, *"The support, treatment and study of the family, as the fundamental social unit ..."*, without any reference to the treatment of illness, if as she contended the institute engaged in this as a primary purpose. She responded that the treatment of illness and mental health was covered by the clause referring to, *"Counselling and therapy for families, couples and individuals."* Ms. Tierney stated that therapy covers psychotherapy and psychotherapy is recognised as suitable treatment for mental health. She also contended that the objects clause dates from when the institute was set up in the 1980s as the Marriage and Family Institute and that the Memorandum and Articles of Association probably needed to be revised, in light of shifts in the psychotherapy field.

In response to a question as to whether or not family, individual and relationship counselling was an educational service or the treatment of an illness, Ms. Tierney stated that it was neither one nor the other, but a bit of both. She admitted that clients who attended for mediation did not have a mental illness, but did have a mental health issue.

Ms. Tierney stated that the institute is open full days Monday to Friday and a half day on Saturday and sees about 100 clients per week for psychotherapy services, about 50% of which attend for marriage, child and bereavement counselling. Ms. Tierney contended that illness is the inability to function in the same way as other people in society and that if one defines mental illness broadly then all the clients who attend the institute have a mental

illness. She was unable to state what percentage of clients has been diagnosed by a psychiatrist as having a mental illness.

Ms. Tierney gave evidence that the institute has the capacity to take 10 students per year on its Masters course and it also trains about 4 interns every year. At the moment training is only conducted on Tuesdays and Thursdays, but when the course is fully subscribed, she stated that there will be training every day. The interns attend the institute for training on a Monday and team training meetings are conducted on Fridays. She stated that the 5 rooms within the institute are used both for training and therapy, but that one room is always used for therapy. Ms. Tierney also admitted that the fees charged for the training courses are on a par with competitors.

The Appellant's Submissions

Mr. Joseph O'Malley submitted that the question to be answered by the Tribunal was whether or not a material change of circumstances had occurred since the previous valuation in 2004 and if so whether or not that would warrant the exercise of a revision pursuant to Section 28(4) of the Valuation Act 2001. Mr. O'Malley stated that the appellant was relying on the definition of material change of circumstances in Section 3(d) of the Act of 2001, which refers to *"the happening of any event whereby any relevant property begins, or ceases, to be treated as falling within Schedule 4 ..."*

Mr. O'Malley submitted that the subject property was used for the treatment of illnesses under Paragraph 8 of Schedule 4 of the 2001 Act. He submitted that Paragraph 8 provides for either the entire building or part thereof to be used for the treatment of illnesses and that the evidence before the Tribunal was that the provision of psychotherapeutic care constituted the treatment of an illness. Mr. O'Malley urged the Tribunal to define illness broadly to include all dysfunctions. He stated that it is illogical to say that people who are undergoing psychotherapy are not ill, as in order to obtain such treatment there needs to be some sort of disorder. He submitted that the Memorandum and Articles of Association do not specifically refer to illness, as the institute does not put labels on the disorders from which their clients are suffering.

In relation to whether or not the appellant was an educational institution pursuant to Paragraph 10 of Schedule 4, Mr. O'Malley submitted that to qualify for an exemption under Paragraph 10, an entity needs to establish that it is an educational institution and also that the building or part thereof is used exclusively by it for the provision of educational services. He submitted that all of the activities provided by the institute amount to educational services, as they allow individuals to learn about themselves but in any event there is no dispute that the training activities provided by the institute are educational in nature.

Mr. O'Malley referred to **VA07/2/047 Naomi – Billings Ireland Ltd.** where the Tribunal found that there was no express statutory requirement that an educational institution had to hand out certificates or in some other way formally recognise standards of achievement. It was held by the Tribunal that the absence of an opportunity to measure standards was not fatal. What was necessary was that the pupil progressed and developed in the discipline concerned. Mr. O'Malley urged the Tribunal to adopt a broad definition of educational services, and referred to **VA06/1/012 - Citizens Information Service v. Commissioner of Valuation**, where the Tribunal in determining whether or not the appellant's activities were for the advancement of education, held that the nature of the work was social, but that the approach was from an educational perspective and that the centre was promoting civil rights awareness and social inclusion. In Mr. O'Malley's submission, the institute in the instant case is an educational institution and all of its activities, including the therapy services, fall within a broad definition of educational services.

Finally, Mr. O'Malley submitted that the appellant qualified as a charitable organisation pursuant to Paragraph 16 Schedule 4. He stated that in order to be a charitable organisation, an institution needs to use the building or part thereof exclusively for charitable purposes, that the organisation must state as its main object(s) a charitable purpose and the conditions within the definition of a "charitable organisation" set out in Section 3(1) of the Valuation Act 2001, at paragraph (a)(vii) must be complied with. Charitable purpose is not defined in the 2001 Act, but Mr. O'Malley referred to **Citizens Information Service**, where the Tribunal found that the principles as enunciated in **Commissioners for Special Purposes of Income Tax v Pemsel** [1891] AC 531 continued to apply after the enactment of the Act of 2001. Mr. O'Malley stated that the definition of charitable purpose in the Charities Act 2009 could be used as a guide. Section 3 of that Act defines charitable purpose as, *"a) the*

prevention or relief of poverty or economic hardship; b) the advancement of education; c) the advancement of religion; d) any other purpose that is of benefit to the community." He contended that the activities of the appellant were both for the advancement of education and for any other purpose of benefit to the community.

Mr. O'Malley stated that the Tribunal previously considered whether or not the appellant was a charitable organisation in the **Clanwilliam** case, and submitted that the sole reason the Tribunal did not find for the appellant was because of the situation with the directors and the "holding company". He submitted that since then, there has been a material change of circumstances in that this relationship no longer exists and that the Tribunal should now hold that the appellant was a charitable organisation.

The Respondent's Evidence

Mr. Oliver Barry, Revision Officer, having taken the oath, adopted his written précis and valuation, which had previously been received by the Tribunal and the appellant, as being his evidence-in-chief.

The Respondent's Submissions

Mr. David Dodd referred to **VA05/1/008 - Nangles Nurseries v Commissioner of Valuation** [2008] IEHC 73, which he submitted summarised the principles of interpretation to be used to interpret the Valuation Act 2001. He stated that on that authority, the Act should be strictly interpreted and any exemption should be strictly interpreted against ratepayers and any ambiguities, if found, should be interpreted against the ratepayer.

In interpreting Paragraph 8 of Schedule 4, which deals with the treatment of illnesses, Mr. Dodd urged the Tribunal to adopt the definition of illness in the Oxford Dictionary, namely *"disease, ailment or malady."* He contended that the services provided by the appellant did not amount to the treatment of illnesses. In support of this contention Mr. Dodd referred to **VA06/1/006 - Construction Workers Health Trust**, where the appellant company was held not to be involved in the treatment of illnesses, as it did not diagnose or treat illnesses nor did it hold medical files. He also relied on **VA06/2/093 - St. Vincent's Health Care Group Ltd.**, and submitted that there are two questions to be answered when determining whether or not a building is used for the treatment of illnesses. Firstly, one must ascertain what is the use

of the premises (i.e. is it predominantly used for medical treatment?) and secondly, what is the reason or objective (i.e. the purpose) of the occupying body in occupying the premises.

In relation to the exemption from rateability on the grounds of educational institution in Paragraph 10, Mr. Dodd submitted that in interpreting the statutory wording, its ordinary meaning should be applied. He referred to a number of cases in support (**Inspector of Taxes v. Kiernan** [1981] IR 117, **Wilson v. Sheehan** [1979] IR 423, **Revenue Commissioners v. Doorley** [1933] IR 750 **and Lawlor v. Flood** [1999] 3 IR 107). Mr. Dodd stated that Paragraph 10 used the word "exclusively", which therefore means that an organisation must provide educational services exclusively. He contended that the issues to be determined in relation to Paragraph 10 are firstly whether or not the appellant is an educational institution and secondly whether or not the premises is used exclusively by it for the provision of educational services. Mr. Dodd submitted that there are two limbs to the services provided by the appellant, therapy and training. He contended that one-on-one counselling does not come within the ordinary meaning of educational services and that the evidence was that the rooms within the institute were mainly used for therapeutic services. Therefore, in his view the primary purpose of the appellant was the provision of therapeutic services, which is not an educational service.

Addressing the final ground of appeal, that the appellant was a charitable organisation within the meaning of Paragraph 16 of Schedule 4, Mr. Dodd referred to Section 3 of the Valuation Act 2001, which states that a charitable organisation must state as its main object a charitable purpose. Mr. Dodd submitted that the main object of the appellant is not a charitable purpose. He acknowledged that the previous decision of the Tribunal in **Clanwilliam** found that the objects clause did state a charitable purpose, but he submitted that this decision was open to interpretation. Mr. Dodd stated that the legislation required the premises to be used exclusively for a charitable purpose and that the evidence of Ms. Tierney as to whether or not the institute was a charitable organisation or a private institution was that it was a hybrid.

Mr. Dodd referred to **In Re Worth Library** [1995] IR 2 where Keane J. quoted from **Commissioners for Special Purposes of Income Tax v. Pemsel** [1891] AC that *"charitable purposes involved 1) the relief of poverty; 2) the advancement of education; 3) the advancement of religion; 4) any other purpose beneficial to the community"*. Mr. Dodd stated

that this case involved the definition of charitable purposes for the purpose of interpretation of a will. He submitted that the question for the Tribunal in the instant case is different in that the issue is whether or not the institute is being used for charitable purposes. Mr. Dodd also made reference to **Barrington's Hospital & The City of Limerick Infirmary v. Commissioner of Valuation** [1954] IR 299, which recognised that the definition of charitable purposes is not the same for rating purposes as it is for wills/trusts. The distinction is that in the first case the issue is whether or not a building is being used for a charitable purpose and in the latter, whether or not a gift is for a charitable purpose. Mr. Dodd contended that the services provided by the appellant are family therapeutic services and educational services to a limited number of students. He submitted that in considering whether or not the services are for the public benefit, one is entitled to have regard to the charge payable for those services. He stated that the educational services are being provided at the full market rate and in relation to the therapeutic services, some are charged the full rate and some are not.

Findings

1. The Tribunal finds that the issue for determination in this case is whether or not there has been a material change of circumstances on the basis of the happening of any event whereby the relevant property begins to be treated as falling within Schedule 4, pursuant to the paragraph (d) of the definition of material change of circumstances at Section 3(1) of the Valuation Act 2001 and if so whether or not that would warrant the exercise of a revision pursuant to Section 28(4) of the Valuation Act 2001. There are three grounds upon which the appellant contends that it qualifies for an exemption from rateability under Schedule 4 - that the services provided by the appellant are for the treatment of illness pursuant to Paragraph 8 of Schedule 4; that the appellant is an educational institution and the subject property is used by it exclusively for the provision of educational services pursuant to Paragraph 10 of Schedule 4; and that the appellant is a charitable organisation that uses the subject property exclusively for charitable purposes in accordance with Paragraph 16 of Schedule 4.

2. In order to qualify as relevant property not rateable under Paragraph 8 Schedule 4, it is necessary to show that the building or part thereof is used by a body for the

purposes of caring for sick persons, for the treatment of illnesses or as a maternity hospital.

The activities engaged in by the appellant include both psychotherapy and training/education and it was contended that psychotherapy amounted to a treatment of an illness, as all clients who attended for treatment were suffering from some form of disorder. Ms. Tierney gave evidence that the types of symptoms suffered by clients attending for psychotherapy included depression or personal issues, ordinary life transitions such as bereavement, adolescent self harm, anorexia and behavioural problems, adjustments to life cycle transitions, mental problems or histories surrounding sexual and physical abuse. The evidence was also that approximately 50% of clients seen by the institute attend for marriage, family and bereavement counselling.

In determining what constitutes an "illness", the Tribunal is guided by the ordinary meaning of the term as contended for by the respondent, namely, a disease, ailment or malady. The Tribunal finds that although the types of issues treated by the appellant may amount to "disorders" or "dysfunctions", they cannot be regarded as illnesses, within the ordinary meaning of the term. Accordingly, the appellant failed to prove that it qualified as not rateable pursuant to Paragraph 8 of Schedule 4.

3. In order to come within the exemption from rateability under Paragraph 10 of Schedule 4, an appellant must prove that it is a school, college, university, institute of technology or other educational institution and that any land, building or part of a building occupied by it is used exclusively by it for the provision of educational services. The evidence on behalf of the appellant was that there are two limbs to the activities of the appellant, psychotherapy and training or education.

   The Tribunal accepts that the training and educational activities engaged in by the appellant amount to educational services. It was submitted on behalf of the appellant that if one adopted a broad view of educational services that psychotherapy should also be viewed as such a service, as it allows individuals to learn about themselves. However, the Tribunal is unable to accept that this is sufficient to amount to an

educational service. The primary aim of psychotherapy is to treat clients for the mental health issues from which they are suffering.

The wording of Paragraph 10 of Schedule 4 clearly lays down that the premises must be used "exclusively" for the provision of educational services. As the Tribunal has already found that the clinical psychotherapy services provided by the appellant do not amount to educational services, the appellant cannot be said to be using its premises exclusively for the provision of educational services. Furthermore, the evidence tended to show that the building was mainly being used for psychotherapy, rather than training, at present.

4. The final ground under Schedule 4 relied upon by the appellant is Paragraph 16(a), which relates to a charitable organisation that uses the land, building or part thereof exclusively for charitable purposes and otherwise than for private profit. In the absence of a definition of "charitable purposes" within the Valuation Act 2001, the Tribunal is guided by the principles enunciated in **Commissioners for Special Purposes of Income Tax v Pemsel** [1891] AC, to the effect that a charitable purpose involves *"1) the relief of poverty, 2) the advancement of education, 3) the advancement of religion and 4) other purposes beneficial to the community."* Pemsel is the seminal case on charities in this country and has been approved by Keane J. in Re Worth Library 1955 I.R. 2. Section 3 of the Charities Act 2009 gives a similar definition of charitable purposes in relation to grounds 2 to 4. Ground 1 is somewhat different in that the Act of 2009 states, "*the prevention or relief of poverty or economic hardship*".

   It is clear that the appellant has no involvement in religion and accordingly ground 3 is not applicable. Although the appellant does provide clinical services to those who are unable to pay for very small fees, other clients do pay the full rate for such services and its training programmes charge market fees. Therefore, the activities of the appellant are not for the relief of poverty. Thus, in order to qualify for an exemption under Paragraph 16, the appellant must come within either grounds 2) or 4).

The appellant's objects clause states as its main object, *"The support, treatment and study of the family as the fundamental social unit and the provision to that end of 1) Counselling and therapy for families, couples and individuals, 2) Training and consultation for health and social service workers, 3) Educational programmes to enhance family life and 4) Research in the area of marriage and the family."* The question to be asked is whether or not this is a purpose beneficial to the community. In order to answer this question, it is necessary to ascertain who are the organisation's target group, are they numerically negligible and do they pass the public benefit test.

The evidence provided by Ms. Tierney was that the appellant treats a broad range of symptoms relating to mental health functioning, ranging from depression to family breakdown and adolescent problems. She stated that the institute sees approximately 100 clients per week for psychotherapy and these clients come from different walks of life with some in a position to pay full fees and others only able to provide a small donation. Furthermore, the appellant also provides services to corporate clients surrounding bereavement and work-related issues for their staff. Therefore, the target group of the appellant is people suffering from some form of dysfunction or disorder, in relation to which they require psychotherapeutic services in order to assist them to resolve. Accordingly, this amounts to an identifiable group, who are from various backgrounds and walks of life and who are not numerically negligible and the activities of the appellant are clearly for the benefit of such people, in order to assist them to deal with their difficulties. Therefore, the public benefit test is also satisfied and so the Tribunal finds that the activities of the appellant are for a charitable purpose under category 4) of the **Pemsel** case as other purposes beneficial to the community, and therefore comes within the meaning of "charitable purposes" under the Valuation Act 2001 (Paragraph 16(a) Schedule 4).

The Tribunal also finds that the appellant fulfils the criteria for a "charitable organisation" set out in Section 3 of the Valuation Act 2001. No issues were raised in relation to this provision by the respondent, other than in relation to the requirement to state as its main object/objects a charitable purpose. The Tribunal finds however, that the purposes of the objects are charitable being for the support, treatment and study of the family. In this regard, the Tribunal has had regard to the earlier decision

in the case of **Clanwilliam (VA91/2/067)** where it was held that the objects of the appellant did state a charitable purpose. Therefore, the Tribunal finds that the appellant is non-rateable pursuant to Paragraph 16 of Schedule 4 in that it is a charitable organisation that uses its premises exclusively for charitable purposes and otherwise than for private profit.

5. The appellant also engages in training and educational programmes, in particular a 4-year Masters programme in systemic psychotherapy. Training and education are secondary objects, ancillary to the main object of counselling and therapy. However, the training activities and courses do amount to education within its formal sense. Therefore, the appellant could also be considered to engage in activities for the advancement of education, which is a charitable purpose.

6. There has been a material change in circumstances, which would warrant a revision pursuant to Section 28(4) of the Valuation Act 2001. The Tribunal notes the earlier decision in **VA91/2/067 - Clanwilliam Institute Personal Marriage & Family Consultants Limited** where it was held that the Tribunal would have held for exemption on charitable grounds if the position of the holding company was different. The evidence in the instant case was that this situation has now changed in that ownership of the subject property now vests in an independent third party with no connection whatsoever to the appellant. Therefore, the concerns previously voiced by the Tribunal regarding the position of the holding company are no longer applicable. This amounts to a material change of circumstances resulting in the relevant property falling within Schedule 4 and warranting a revision.

And the Tribunal so determines.