

Appeal No. VA11/3/039

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Active Retirement Network Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2193148 Office(s) at Unit No. 124, North City, North City 1, County Borough of Dublin

B E F O R E

John O'Donnell - Senior Counsel

Chairperson

Veronica Gates - Barrister-at-Law

Member

Fiona Gallagher - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF MARCH, 2012

By Notice of Appeal received on the 15th day of September, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €93 on the above described relevant property.

"The grounds of appeal are on a separate sheet attached to the Notice of Appeal, a copy of which is attached at appendix 1 to this judgment."

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay, Dublin 7, on the 30th day of January, 2012. At the hearing, the appellant was represented by Mr. James Devlin SC and Ms. Catherine Donnelly BL instructed by Mr. Des Rooney of Mason Hayes & Curran. Evidence was given by Ms. Maureen Kavanagh, Chief Executive Officer of Active Retirement Network Ireland (“ARNI”). Ms. Evelyn Fitzpatrick, Chartered Advisor to ARNI was also present. Ms. Grainne O’ Neill BL, instructed by the Chief State Solicitor, appeared on behalf of the respondent. Mr. Vioral Gogu, a valuer at the Valuation Office, was also present.

THE PROPERTY

1. The property is an office unit being Suite 124, The Capel Building, Mary’s Abbey, Dublin 7. The property is the administrative headquarters of ARNI.

ISSUE

2. In advance of the hearing the parties helpfully exchanged written legal submissions. On the morning of the hearing, Counsel for the respondent made it clear that there was now only one issue between the parties, the issue being whether the property in question was occupied “*for the purpose of caring for elderly, handicapped or disabled persons*” (paragraph 14, Schedule 4 of the Valuation Act, 2001) and/or in the alternative, whether the property was occupied by a “*charitable organisation*” (paragraph 16, Schedule 4 of the Valuation Act, 2001). The respondent accepted (properly so, in our opinion) that if the appellant was held to be a charitable organisation within the meaning of paragraph 16, no issue arose as to its compliance with the requirements set by the Act in relation to the Memorandum and Articles of Association of the appellant.

THE EVIDENCE

THE APPELLANT’S EVIDENCE

3. The appellant had provided a précis of evidence in advance of the hearing. Ms. Maureen Kavanagh, Chief Executive Officer of ARNI since May 2008, gave evidence and adopted

the précis in question as her evidence. She explained there were 537 local associations with 23,000 members nationwide. The purpose of the organisation was to support positive ageing and to reduce isolation amongst its membership and in society generally. The organisation was first set up in 1978 in Dún Laoghaire and has members ranging widely in age; most of its members are within the age range 65 to 85, though Ms. Kavanagh explained there were a number of other members who were older still as well as a number of younger members.

4. On a local level there are volunteers who work in the local associations. The local associations elect committee members through various regional committees (there are a total of eight regional committees in total). The national executive of the ARNI is then elected by delegates from the regional committees. There are some 4,200 volunteers working at local level. Ms. Kavanagh said the aim of the entity was to allow people to enjoy a full and active life, to be self-organised and to provide for a place for the aged within the community. Ms. Kavanagh explained the criterion to be applied meant that a person had to be retired from paid or unpaid work. Some of the members were as young as 50, a number of members had joined recently having lost their jobs because of the recession.
5. Ms. Kavanagh pointed out the significant impact retirement has on a “worker’s” life, highlighting the potential damage to the person’s social network and personal esteem. She explained how the local group meet at least once a month and on occasions, once a week, in order to plan activities. These activities included, but were not confined to, art, IT, writing and other indoor activities as well as physical activities such as walking, climbing, swimming, etc. She emphasised how it was important to be physically and mentally active in order to age well. In addition, various other social activities were organised such as bridge games, tea dances, coffee mornings, etc. 70% of the members are on a State pension. The local organisations also host “*saving clubs*” to fund activities in order to enable members to avoid feeling sidelined from society.

6. Ms. Kavanagh explained the subject premises were formally described as the “*head office*” and are now described as the “*central support office*”. There are five full-time staff employed there. These provide administrative support, they administer and give advice on various issues which arise, e.g. the public liability insurance scheme which the organisation is obliged to take out. The head office provides “*capacity building and training for members*”.
7. In addition, the local and regional committees need a considerable degree of support in administration and the office provides training and advice in relation to these matters. The office is also a resource which a member or committee member or organisation can ring to make contact with or to have queries answered.
8. The office is proactive also. Ms. Kavanagh explained how during episodes of flooding (2009) or snow (2010) there was considerable liaison through the office between the Gardai and the various local groups and committees as to how various retired members within the community were faring because of the adverse weather conditions.
9. Ms. Kavanagh also drew our attention to the précis which contained some of the guidelines and other public statements made by the ARNI, e.g. in relation to dealing with Gardaí. She indicated that a number of members/volunteers help with providing meals on wheels to older members.
10. Ms. Kavanagh indicated the running costs of the office came to approximately €56,000 in 2010. By way of funding, ARNI charges €5 per member, bringing in funds of €10,920. It also receives money from the HSE (€71,250) and from the Minister/Department of Environment, Community and Local Government (€80,000). In addition it receives support from Atlantic Philanthropies, which organisation gave in excess of €1 million based on the funding programme provided by the office of the appellant to Atlantic Philanthropies. The organisation has been enabled to increase its staff (5) from the 1½ staff members it had prior to the intervention of Atlantic Philanthropies, it has also had to increase its affiliation membership (from €1 to €5). The

ARNI is recognised as a charity by the Revenue Commissioners and is a company limited by guarantee since 2008.

11. Ms. Kavanagh helpfully referred to various extracts in the books of material from United Nations Principles for Older Persons (16th December 1991, Tab 19) emphasising the requirement of participation, care, self-fulfilment and dignity of older persons, the World Health Organisation's policy framework Active Aging (Tab 20). She referred also to a report of the Second World Assembly on Aging in Madrid in 2002 (Tab 21) and the report of the Consultation Process on the National Positive Aging Strategy which was a consultative process conducted by the office for older people within the Department of Health and Children (Tab 22).

12. She emphasised that "active" meant physically, but also mentally active, even if one's health was compromised. She also emphasised the societal benefit to active participation of older people in these kind of activities which she contended had been internationally recognised by the WHO and the UN.

13. No issue of fact arose and in the circumstances the respondent did not cross-examine Ms. Kavanagh.

THE RESPONDENT'S EVIDENCE

14. On behalf of the respondent, Mr. Viorel Gogu of the Valuation Office adopted his précis as his evidence. He was not cross-examined.

LEGAL SUBMISSIONS

THE APPELLANT'S SUBMISSIONS

15. The appellant referred us to Section 15 of the Act and to paragraphs 14 and 16 of Schedule 4 also.

“Paragraph 14, Schedule 4 – *“Caring for Elderly, Handicapped or Disabled Persons”*”.

16. Counsel for the appellant Mr. James Devlin SC contended that “care” in this context did not necessarily mean medical care but rather should be interpreted in a broader way so as to encompass provision of an alternative to isolation and loneliness. It is accepted that the service provided by ARNI did not constitute medical care but rather constituted “care” in this wider sense. He noted that the properties used for caring for sick persons or for the treatment of illnesses, or as maternity hospitals, were separately provided for under paragraph 8 of Schedule 4. He argued therefore that care must mean more than simply medical care.

17. Mr. Devlin accepted that the persons in question are not necessarily handicapped or disabled but being predominantly between 65 and 85 would be regarded as elderly. He noted that the care provided was to enable members to participate since many volunteers later on in their lives became beneficiaries. It may well be that not all the persons in ARNI are “*elderly*” but there is no requirement that the persons for whom the services are provided must be exclusively elderly, in his submission.

Paragraph 16 - *“Charitable Organisation/Charitable Purpose”*”.

18. Mr. Devlin referred us to the decision in **The Retirement Planning Council of Ireland –v- Commissioner of Valuation (VA93/1/043)** dated December 1993 (“Retirement Planning”). In his submission, the Determination of the Valuation Tribunal was distinguishable from the facts of the instant case, though it was not necessarily wrong. It was distinguishable because:

- (a) It was a Determination made under the “*old*” Act.
- (b) There were material factual differences.
- (c) It was confined to consideration of whether or not education of the poor constituted a charitable purpose.

19. Here, however, it was not necessary to be poor in order to participate in ARNI. He did not contend that the appellant was providing a benefit to, or services to, or on behalf of, the poor but rather that the organisation in question was a charitable organisation carrying out exclusively a charitable purpose, being a purpose beneficial to the community generally. In **Retirement Planning**, the activity being provided was being paid for by employers who were held by the Tribunal Division to be the immediate beneficiary of the services in question.
20. Mr. Devlin noted also the way in which the High Court (Cooke J) noted that the 2001 Act had the effect of repealing and re-enacting “*in consolidated but substantially revised and modernised form almost the entirety of the law relating to the valuation of property for rating purposes in this jurisdiction since 1838.*” (**St. Vincent’s Healthcare Group Limited –v- Commissioner of Valuation (2009) IE HC 113 (26th February 2009)**) (“St Vincent’s Healthcare”).
21. Mr. Devlin also referred us to the decisions in **Re Glyn’s Will Trusts (1950) 66 TLR page 510** and **Re Joseph Rowntree Memorial Trust Hospital Association Limited –v- Attorney General [1983] Chancery 159**. In his submission, both of these cases made it clear that it was not necessary to be poor in order to be aged (and vice versa). He contended that **Re Robinson [1951] Chancery 198** was authority for the proposition that old people are as much class entitled to the benefit of services which would be regarded as a charitable purpose as e.g. the poor or the sick. In his submission, charity was not confined to the poor or to the relief of poverty. He emphasised that the 2001 Act did not confine the concept of charitable purpose to the relief of poverty or the poor. He noted also that the decision of the High Court in **Barrington’s Hospital –v- Commissioner of Valuation [1957] IR 299**, made it clear that even under the old Act the concept of charitable purpose is not confined to providing a benefit to the poor. In more recent times, in **St. Joseph’s Foundation –v- Commissioner of Valuation (VA05/3/057, 27th January 2006)** and **Family and Life Limited –v- Commissioner of Valuation (VA07/1/003, 23rd July 2007)** were both Determinations by the Valuation Tribunal which made it clear that there was no requirement in the Act or elsewhere to confine the

concept of charitable purposes to the relief of the poor. Mr. Devlin also submitted that the decision of Cooke J in **St. Vincent's Healthcare** was authority for the proposition that if the rest of the purpose is charitable, ancillary property may be included under the rubric of charitable purposes.

22. He noted that the decision in **Re Worth Library [1995] 2 IR 301** Keane CJ made it clear that the list of charitable purposes was not fixed for all time.

23. Dealing with the issue of paragraph 14 of the Schedule, he referred to the decision of the Valuation Tribunal in **Aonteacht Phobail Teoranta –v- Commissioner of Valuation (VA09/4/007, 28th April 2010)** as authority for the proposition that the concept of caring for persons should be given a wide interpretation.

24. Mr. Devlin noted that the decision in **Citizens Information Service –v- Commissioner of Valuation (VA06/1/012, 5th July 2006)**, made it clear that the persons covered by the concept of a charitable purpose must not be a numerically negligible group within the community; nor must the existence of the charitable purpose depend on the existence of an employer/employee relationship. He noted that the Charities Act, 2009 gave a far more expanded and modern view of the concept of charity, though he noted also that this was not as yet in force. He referred us to extracts from **The Law Relating to Charitable Trusts – Judicial Guidance in Statutory Intervention (Delaney) 2011 18 DULJ 196** which appeared to suggest that the fostering of greater social inclusion would and should be regarded as a charitable purpose within the meaning of Pemsel's case (**Commissioners for Special Purposes of Income Tax –v- Pemsel [1891] 1 AC 531**) and in particular the fourth category thereof.

25. In conclusion, he submitted that the organisation in question was undoubtedly exclusively dedicated to charitable purpose. The public utility of the type of work carried out by the appellant had been recognised nationally and internationally by bodies such as the UN and WHO and the importance of fostering the strategy of integration of older people into the community was regarded as a matter of major benefit to the community generally.

26. Mr. Devlin accepted in conclusion that he did not need to qualify under both paragraph 14 and paragraph 16 in order to escape rateability.

THE RESPONDENT'S SUBMISSIONS

27. On behalf of the respondent, Ms. Grainne O'Neill noted the activities carried out by the appellant organisation made it a worthy organisation carrying out worthy services. But this, she contended, was insufficient to constitute it as a caring organisation or a charity. Likewise, she contended that the fact it had been recognised by the Revenue as being a charity did not of itself determine the issue of whether or not it was a charitable organisation carrying out charitable purposes within the meaning of the Valuation Act, 2001.
28. She noted also that the relevant sections of the Charities Act, 2009 were not in force and there was therefore no obligation to read the Valuation Act, 2001 in conjunction with, or even in harmony with, the Charities Act, 2009. She also contended that a statute enacted for Revenue purposes is not necessarily to be interpreted in the same manner as a statute enacted for the purposes of regulating charities.
29. Dealing with the submissions made in respect of paragraph 14 of Schedule 4, she queried whether the appellant could truly be said to be caring for elderly people, especially as the services appeared to be open to people as young as 50 and in any event, open to a large number of people who wished to use them. Dealing with paragraph 16, Schedule 4, she queried whether the activities of the organisation were of benefit to the community generally. In her submission, if people who have retired have plenty of other activities to do they may have no need for the activities provided by ARNI and therefore it is unclear what benefit to the community is being provided by ARNI.
30. We were referred to the decision of the Tribunal in **Cork City Partnership Limited –v- Commissioner of Valuation (VA97/5/011, 15th March 1999)** in which broadly similar

services to those under consideration here were being provided, yet the entity was held not to constitute a charity providing for the education of the poor.

31. Ms. O'Neill also noted that the activities carried out by the ARNI were organised at a local level by local organisations and volunteers. In those circumstances, it was unclear to her why the head office should escape rateability. She queried what activity was being carried out in the head office which was charitable; insofar as any service or activity which might be regarded as a charitable purpose was carried on it was not carried on "*on site*", i.e. on the subject property but rather at other locations; see **The Construction Workers Health Trust –v- Commissioner of Valuation (VA06/1/006, 14th June 2006)** ("Construction Workers") ; see also **Sisters of Nazareth –v- Commissioner of Valuation (VA04/3/041, 7th February 2005)**.

32. In her submission, the activities carried out in the head office could not constitute "*care*" within the meaning of paragraph 14 or in any normal sense. By way of conclusion, she submitted that the concept of charity was generally understood to be the relief of the "disadvantaged". But age could not and should not be regarded as a disadvantage. In the circumstances, therefore, the provision of services to persons who were retired or who were of a particular age could not be regarded as a charitable purpose.

33. By way of response, the appellant contended that as the appellant in the **Construction Workers** case had been unsuccessful on other grounds, the Determination did not give any guidance as to whether or not the type of service being provided constituted a charity or not. Counsel for the appellant noted that the name of the premises the subject of this appeal was the Chief Central Support Office, the name having been changed from "*Head Office*" in 2009. The appellant's offices had previously been in Eustace Street. While Counsel for the respondent had noted that some retired persons will have options and may not wish to avail of the services provided by ARNI, Counsel for the appellant submitted there will be and are many others who do require the services of ARNI. The public benefit provided by the provision of these services has already been identified by internationally respected organisations such as WHO and the UN; in particular the

manner in which the mental health of the persons involved in the subject organisation is assisted and boosted by the activities provided is clearly recognised as a benefit arising from the provision of these activities. In those circumstances the fact that certain persons chose not to avail of activities provided by ARNI did not mean that those activities did not constitute a charitable purpose within the meaning of the Act.

THE LAW

34. It may be helpful to set out the relevant parts of the Act.

15.—(1) Subject to the following subsections and sections 16 and 59, relevant property shall be rateable.

(2) Subject to sections 16 and 59, relevant property referred to in Schedule 4 shall not be rateable.

(3) Subject to section 16, relevant property, being a building or part of a building, land or a waterway or a harbour directly occupied by the State (including any land or building occupied by any Department or office of State, the Defence Forces or the Garda Síochána or used as a prison or place of detention), shall not be rateable.

(4) A fishery on which a rate is struck under section 55 of the Fisheries (Consolidation) Act, 1959, shall not be rateable.

(5) In subsection (3) “harbour” does not include a harbour in respect of which a company is established pursuant to section 7 of the Harbours Act, 1996.

Schedule 4 of the Act which sets out which relevant properties are deemed not to be rateable sets out – at paragraphs 14 and 16 - as follows:

14.—Any land, building or part of a building occupied for the purpose of caring for elderly, handicapped or disabled persons by a body, being either—

(a) a body which is not established and the affairs of which are not conducted for the purpose of making a private profit from an activity as aforesaid, or

(b) a body the expenses incurred by which in carrying on an activity as aforesaid are defrayed wholly or mainly out of moneys provided by the Exchequer.

16.—Any land, building or part of a building which is occupied by a body, being either—

(a) a charitable organisation that uses the land, building or part exclusively for charitable purposes and otherwise than for private profit, or

(b) a body which is not established and the affairs of which are not conducted for the purpose of making a private profit and—

(i) the principal activity of which is the conservation of the natural and built endowments in the State, and

(ii) the land, building or part is used exclusively by it for the purpose of that activity and otherwise than for private profit.

IS THE SUBJECT PROPERTY “OCCUPIED FOR THE PURPOSE OF CARING FOR ELDERLY, HANDICAPPED OR DISABLED PERSONS”?

35. We note in this regard the following observation made by Cooke J in the **St Vincent’s Healthcare** case:-

“The use of a building or part of a building does not cease to be a use for the charitable purposes of a hospital by reason only of the fact that its particular use, if treated in isolation, would not itself be regarded as involving a service of care for the sick, the treatment of illnesses ... in other words, it is necessary to ask not only what the nature of the actual user is but why that use is made by the occupier”.

36. In **Aontacht Phobail Teoranta VA09/4/007**, the property was a shop located in Tullamore General Hospital. The shop premises were held to be under the control and occupation of the appellant which had as its primary purpose the training and

employment of people with disabilities. The shop was held not to have been established for the purposes of making a private profit; any small profits made were recycled to offset losses in other areas within the organisation and in the circumstances was, following the High Court decision in *St Vincent's Healthcare*, regarded as meeting the requirements of paragraph 14 of schedule 4.

37. We note also the decision of the Tribunal in **Clones Community Forum –v- Commissioner of Valuation VA04/1/008** where the Tribunal, having cited **Oxfam –v- Birmingham City District Council** and **Glasgow Corporation –v- Johnstone**, expressed the view that rating relief was available to premises occupied even if not actually used for the actual relief of poverty or distress, if the use is wholly ancillary to or directly facilitates the carrying out of the charitable object in question.
38. In addition, while the issue of charitable objects does not arise with this heading, we are prepared to accept for the purposes of submissions made that every organisation setting out to advance some cause must, if it is of any size, have an office where the necessary clerical and administrative work is done (see **United Grand Lodge of Ancient Free and Accepted Masons of England and Wales –v- Holborn Borough Council [1957] 1 WLR, 1080 at 1088 (Donovan J)**). It seems to us, however, even if we were to construe the subject property as being ancillary to the purpose of caring for elderly, handicapped or disabled persons, that is insufficient to qualify the property under paragraph 14 of Schedule 4 unless we hold that the purpose of the body is to care for elderly, handicapped or disabled persons.
39. In our view, the appellant is not established to care for elderly, handicapped or disabled persons. There is no requirement that one be aged, handicapped or disabled in order to avail of the services provided by the appellant; one must simply be “*retired from unpaid or unpaid work*”. Leaving aside the delicate issue of whether persons aged 50-55 - or even 60 - would be regarded as “elderly”, it seems to us the *raison d'être* of the organisation is to facilitate the enjoyment by retired people of a full and active life, and to provide them with social network circumstances where they might otherwise suffer from

loneliness and isolation. While not expressing any concluded opinion on the matter, it does appear to us that the type of organisation falling within a rubric of paragraph 14 is more likely to be a nursing home or other similar entity rather than an organisation dedicated to ensure that retired persons lead active, stimulating and socially engaged lives.

40. In these circumstances, we do not believe the subject property comes within the scope of paragraph 14 of Schedule 4 of the Valuation Act of 2001.

CHARITABLE ORGANISATION – CHARITABLE PURPOSES

41. It is appropriate to commence consideration of the concept of “*charitable organisation*” and “*charitable purpose*” by looking at definitions set out in **The Commissioners for Special Purposes of Income Tax –v- Pemsell [1891] 1 AC, 531** (“*Pemsell’s case*”):-

“‘Charity’ in its legal sense comprises four principal divisions: trusts for the relief of poverty, trusts for the advancement of education, trusts for the advancement of religion and trusts for other purposes beneficial to the community not falling under any of the proceedings heads. Trusts last referred to are not the less charitable in the eye of the law, because incidentally they benefit the rich as well as the poor, as indeed every charity that deserves the name must do either directly or indirectly”.

42. Lord MacNaghten expressed the view later in his opinion that a layman might exclude the fourth category from the concept of a charity, though he noted that a gift in support of a lifeboat would be thought by many to be a charitable gift even though its object is not the advancement of religion or the advancement of education or the relief of the poor. He also acknowledged that “*it is difficult to draw the line*”.

43. It is also clear that for a poor person to be the object of charity, he need not necessarily also be elderly (see **Re: Glyn’s Will Trusts (1950) 66 TLR Part II 510**); equally there is no reason for holding that an old person must also be poor to qualify. In **Re: Robinson [1951] Ch 198**, the Court held the words “*aged, impotent and poor people*” in the

preamble to the Charitable Uses Act of 1601 were to be read disjunctively so that for example, aged people need not also be poor to be the objects of charity. A similar conclusion was reached by Peter Gibson J in **Joseph Rowntree Memorial Trust Housing Association Limited –v- Attorney General** [1983] 1 Ch page 159, where he observed (at page 171):-

“It would be as absurd to require that the aged must be impotent or poor as it would be to require the impotent to be aged or poor, or the poor to be aged or impotent”.

44. We are of the view that the Act of 2001 does not confine charitable organisations or charitable purposes to organisations or purposes to provide for the needs of the poor. There is no statutory mandate for any such interpretation. It is clear from an analysis conducted by Kingsmill Moore J in **Barringtons Hospital –v- Commissioner of Valuation** [1957] IR 299 that Section 63 of the Valuation (Ireland) Act of 1852 does not confine the concept of charitable purposes to those devoted exclusively to the benefit of the poor (though he likewise suggested the meaning in Section 63 of “*charitable purposes*” was less extensive than the meaning given to those in Pemsell’s case). The issue, as observed all those years ago by Lord MacNaghten, is where to draw the line.
45. The appellant points to determinations of the Tribunal such as that in **Family and Life Limited –v- Commissioner of Valuation – VA07/1/03** (23rd of July 2007) (the offering of options to women facing crisis pregnancies; held to constitute a “*charitable purpose*”) and in **St Joseph’s Foundation –v- Commissioner of Valuation VA05/3/057** (a coffee shop used to train and rehabilitate persons of mental/physical disability held to constitute the pursuit of a charitable purpose).
46. In addition, it may be noted that in **Re: The Worth Library** [1995] 2 IR 301 at 335, Keane J noted that two possible charitable objects which came within the fourth category of Pemsell in that case would be considered as (a) beneficial to the public by an appreciable number of people, and (b) not obviously illegal, irrational or *contra bonos mores*.

47. In the past the Tribunal has also considered the concept of purposes beneficial to the community. In **Citizens Information Service –v- Commissioner of Valuation – VA06/1/012 (5th July 2006)**, the Tribunal made it clear that in addition to an element of public utility, the group or number of the community benefitting must not be numerically negligible and must be a group who do not depend on their relationship to a particular individual such as a company and its employees.
48. The Charities Act, 2009 purports to expand the concept of charity and charitable purpose. But the Act is not in force and it is inappropriate for us to consider same. Noting the absence of statutory definition of “*charitable purposes*” in the Valuation Act of 2001, the Tribunal is obliged to consider once more the concept of “*other purposes beneficial to the community*” under the fourth heading in Pemsell’s case in assessing whether or not the appellant is a charitable organisation.
49. One previous determination of the Tribunal that appears of superficial assistance is the **Retirement Planning** Determination. The appellant in that case organised courses for people about to retire and counselled them. Employers paid fees in respect of courses run for its employees who were about to retire. Courses were not held in the subject premises but elsewhere (though counselling took place on site); the subject premises were also used to administer the courses.
50. In that case, the Tribunal determined that even if the would-be retirees might be regarded as being poor (or about to be poor), the immediate beneficiaries were the employers who paid for the services; in effect this was a way of the employer-companies in question providing a service to their employees.
51. In our view, this decision is of only limited assistance. It was, of course, decided prior to the enactment of the Valuation Act, 2001 which substantially amends and reorders much of the law in this area. In addition, the case is distinguishable on its facts; the appellant in that case was supplying a service to assist employers rather than to meet a more general social need. Further, the appellant in the instant case carries out its purposes for so long

as the participants wish to avail of them, whereas the appellant in the **Retirement Planning** case appears simply to have run a course to enable people to prepare for retirement without organising activities for them thereafter. Finally, it seems to us that the focus was quite properly in that case on Section 63 of the Poor Relief (Ireland) Act of 1838 rather than the four categories set out in Pemsell's case.

52. The respondent admitted that a charitable organisation is an organisation which assists persons who are somewhat disadvantaged. While undoubtedly there are many charitable organisations whose purposes are to assist those who are disadvantaged, there is no statutory basis for confining the fourth category of Pemsell's case to persons who are disadvantaged. In her perceptive article on the Law relating to charitable trusts (2011 18(1) DULJ 196), Delaney points out that purposes such as the advancement of community welfare (including the relief of those in need by reason of youth, age, ill health or disability), and the promotion of health (including the prevention or relief of sickness, disease or human suffering) are already well established as charitable purposes. It has also long been accepted that trusts for the benefit of a particular locality or community are charitable in nature.

53. On balance, it seems to us the purposes of the appellant are charitable purposes within the fourth category of Pemsell's case. The facilities organised by the appellant for retirees of all ages seems to us to benefit a sizeable section of the community directly and (indirectly) the community generally. Promotion of mental and physical health and wellbeing on an ongoing basis for retired persons is recognised as a significant objective of society today by the United Nations, the World Health Organisation and the Office for Older People at the Department of Health and Children; there is thus both international as well as national recognition for the benefit to the community of the purposes and activities of an organisation such as the appellant.

54. We are, therefore, of the view that the appellant is a charitable organisation carrying out charitable purposes.

55. We note the argument of the respondent that the premises in question are not used for the activities organised by the appellant, but rather are simply the administrative centre of the appellant itself. We have been referred to **Construction Workers Health Trust –v- Commissioner of Valuation – VA06/1/006 (14th June 2006)**. In that case, because the Deed of Trust of the appellant did not comply with the provisions of Section 3 of the Valuation Act, 2001, the appellant could not constitute a charitable organisation. While reference was made to paragraph 16 of Schedule 4, the principal argument and secondary issue in the determination (being obiter to the principal finding that the organisation did not qualify having regard to the provisions of Section 3 of the Act) seemed to revolve around whether the entity could bring itself within the provisions of paragraph 8 of Schedule 4, which related to the caring for sick persons or the treatment of illnesses. The appellant in that case provided screening facilities and did not provide specific care or treatment on site.

56. However, it seems to us that the subject premises in this case is closer to the **Oxfam –v- Birmingham City District Council [1976] AC 126** and **Glasgow Corporation –v- Johnstone [1965] AC 609** and the Authorities cited earlier in the context of office spaces. It appears to us that although the subject property is office premises, it is the administrative headquarters of the organisation and is, in effect, administrator/facilitator and enabler of the various activities which the appellant organises and promotes. We are satisfied that the subject property is used wholly and exclusively for those (charitable) purposes and in the circumstances, we conclude that the subject property is relevant property not rateable on the basis of Paragraph 16 of Schedule 4 of the Valuation Act, 2001.

And the Tribunal so determines.