

Appeal No. VA96/3/057

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Donaghmore Agricultural Museum

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Museum at Map Ref: 2ABa, Townland: Dunacleggan, ED.: Donaghmore, RD.: Abbeyleix, Co. Laois

Exemption - Charitable and public purposes

B E F O R E

Fred Devlin - FRICS.ACI Arb.

Deputy Chairman

Con Guiney - Barrister at Law

Deputy Chairman

Marie Connellan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF JULY, 1997

By Notice of Appeal dated the 26th July, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £30 on the above described herediament.

The grounds of appeal as set out in the Notice of Appeal are that:-

"We are operating a Heritage Museum with a focus on the Famine and development of agriculture over 100 years. We are located in an original Famine Workhouse. Our work is voluntary. This Heritage project is of value to South Laois as a tourist development project. Visitor numbers are small. We are non-profit."

The subject premises is located approximately half a mile north west of the village of Donaghmore, a small village on a minor road approximately two miles north west of Rathdowney. The structure of the building is a two storey stone building with exhibition rooms on the ground and first floors. The tenure is at a nominal rent of £1p.a. from Avonmore Foods. The total accommodation amounts to 6,824 sq.ft..

The relevant valuation history is that a rateable valuation of £30 was fixed at revision on 9th November, 1994. On the appeal, which was determined on 1st July, 1996, the rateable valuation of £30 was left unchanged.

A letter from Rollestons, Solicitors on behalf of the Appellant was received by the Tribunal on 29th January, 1997. Annexed to this letter was a memorandum which set out further grounds of appeal on which the Appellant sought exemption from rating.

A written submission prepared by Mr. Noel Norris, B.Comm., MIAVI on behalf of the Respondent was received by the Tribunal on 21st January, 1997. Mr. Norris is a District Valuer with 21 years experience in the Valuation Office.

The written submission estimated the net annual value and the rateable valuation of the subject premises as follows:-

"6,824 sq.ft.	@	90p psf=	£6,142, Say £6,000
RV @ 0.5%		=	£30"

The written submission contained one comparison.

The oral hearing took place in Dublin on the 3rd day of February, 1997. Mr. Eugene O'Connor, Solicitor of Rollestons appeared on behalf of the Appellant. In his submission to the Tribunal he described the history of the subject premises. Avonmore Creameries, he said, had given the building to an *ad hoc* Committee of twelve local farmers for the purpose of establishing a museum. The Committee had received finance from Avonmore and local

bodies. The premises were operated as a full-time museum. Mr. O'Connor said the museum did not operate for trade on a profit basis. There was full access to the public.

Mr. O'Connor submitted that the Appellant was entitled to exemption from rating on the basis that the premises were:-

- (a) being used for the advancement of education and;
- (b) for purposes beneficial to the community (the fourth type of charity as defined in the Pemsel case).

Mr. O'Connor said the Committee were presently seeking to be registered as a co-operative. He produced to the Tribunal the draft articles of the co-operative which the Committee were seeking to have registered with I.C.O.S..

Mr. O'Connor pointed out that the draft articles of the proposed co-operative provided that no member of the society can take a profit from its operations or undertakings. He further stated that the draft articles satisfy the requirements of the Revenue Commissioners as to the charitable status of the museum and thereby its consequent exemption from income tax.

Mr. Aindrias O'Caomh, Senior Counsel instructed by the Chief State Solicitor appeared on behalf of the Respondent.

Mr. O'Caomh referred to the draft articles of the museum and in particular to articles 4(b), 14(b) and 14(d). Article 4(b) states that the objects of the society included the provision of services "*for the benefit of the members*". Again Article 14(b) states that any profits arising from the society shall be applied "*to provide for the objectives of the society as shall be approached by its members*" and Article 14(d) provides that any profits arising from the society shall be applied "*to provide funding for social or charitable purposes or for relevant community or educational services among the members and the community generally*".

Mr. O'Caomh submitted that the provisions of these Articles showed that the profits of the society could be applied to objects which were not considered charitable by the Valuation

Acts. The terminology of the Articles in applying benefits to members was wider than the provisions granting exemption under *Section 63 of the Poor Relief (Ireland) Act 1838*.

As to the exemption in the case of the advancement of education Mr. O'Caoimh contended that this was only available where the education provided was for the benefit of the poor.

Mr. O'Caoimh referred to *Barrington's Hospital and City of Limerick Infirmary v. Commissioner of Valuation [1957] IR* and in particular to p. 333 of the report where Mr. Justice Kingsmill-Moore summarised the relevant law. The judge stated that '*charitable purposes*' in *Section 63 of the 1838 Act* has a meaning less extensive than the meaning given to those words in Pemsel's case. Again at p.334 the judge referred to the exemption for the purposes of education. He stated that Section 63 of the 1838 Act provided that the exemption only applied as "*exclusively for the education of the poor*".

Mr. O'Caoimh pointed out that the education carried out in the subject premises was not exclusively for the poor. Again the criteria for identifying a charity which is exempt from rating in the valuation code are narrower than the criteria which identify a charity within the terms of the Pemsel case. Mr. O'Caoimh contended that any exemption available to the society under the income tax code is not relevant for the purposes of exemption from rating.

In reply Mr. O'Connor stated he did not dispute the factual descriptions, including quantum, contained in the précis of the Respondent. The Respondent's précis had not been formally put in evidence before the Tribunal. Mr. O'Connor submitted that there was no High Court case against exemption for an institution like the museum, which was operated on a completely non-profit basis. Mr. O'Connor submitted that therefore it was open to the Tribunal to find in favour of the museum. Apart from his reference to the Pemsel case, Mr. O'Connor did not cite any other legal authority in support of his submission.

Determination:

The Tribunal having considered the submissions of both parties, the wording of *Section 63 of the Poor Relief (Ireland) Act 1838* and the legal authorities cited by the parties considers that Mr. O'Caoimh is correct in his submissions as to the law applicable to the subject matter of this appeal. The subject premises is not devoted to the education of the poor and the argument that it is a charity within the meaning of the *Pensel* case is not sufficient to confer exemption under the valuation code, where an exempt charity is more narrowly defined.

Accordingly, both grounds of exemption advanced by the Appellant fail. The Tribunal therefore dismisses this appeal and affirms the determination of the Respondent as to the rateable valuation of the subject premises, namely £30.