Appeal No. VA88/0/126

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Trustees of Greystones Golf Club **APPELLANT**

And

Commissioner of Valuation **RESPONDENT**

RE: Golf Club premises and buildings at Killincarrig Co. Wicklow

B E F O R E

Hugh J O'Flaherty	**S.C. Chairman**
Mary Devins	**Solicitor**
Brian O'Farrell	**Valuer**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF NOVEMBER, 1988

By notice of appeal dated 22nd day of August, 1988, the appellants appealed against the respondents determination of the rateable valuation of £70 on the grounds that:

(a) the valuation is excessive, and
(b) the premises or part thereof are exempt pursuant to the Valuation Act, 1986 because the buildings were developed for sporting usage.

Mr Brendan Connolly of Connollys, Solicitors, 25-27 Main Street, Bray, Co Wicklow made a written submission on 4th November 1988 in which he further developed the grounds of appeal by adding that the premises and buildings "have been destroyed and/or substantially demolished

as to render them useless and unfit for the purposes for which they were developed or for any purpose". Mr Denis Maher, who is a Chartered Surveyor and a valuer with 13 years experience in the Valuation Office, made a written submission dated 3 November 1988.

At the oral hearing on the 7th November 1988 the appellant was represented by Mr Larry Wyer, Barrister (instructed by Mr Brendan Connolly). Mr Oliver Walsh, Secretary Greystones Golf Club also attended. Mr Aindrias O Caoimh, Barrister instructed by the Chief State Solicitor, represented the Commissioner of Valuation. Mr Maher was also in attendance.

The valuation history of the premises is as follows:-
At 1897 revision stage a single-storey wooden and tiled structure (28' x 42') was valued as a pavilion at £5.50. In 1948 this valuation was increased to £18 to take account of extensions from time to time including professional's workshop and caddies room built 1946-47 when the description was amended from pavilion to "licensed club house and offs". The valuation was further increased in 1953 to £40 to account for the erection of the billiards and table tennis rooms (now the professional's shop). In 1987 the premises were listed for annual revision by Wicklow Co. Council as a result of a request from Brendan Connolly B.A. Solicitor on behalf of the Club claiming exemption from the payment of rates on the basis of Section 3(1) of the Valuation Act, 1986 as being land developed for sporting purposes. At this stage the valuation was increased from £40 to £55 to take account of a new gents lockers room extension and a machinery shed not previously valued. The Commissioner refused to distinguish the property as exempt at this stage. The appellants, being aggrieved lodged an appeal and Mr Maher was deputed by the Commissioner to inspect and report. Having considered this report the Commissioner fixed the valuation at £70.

The accommodation comprises an entrance lobby, lounge/bar, ladies and gents locker/changing rooms, stores, toilets on ground floor with dining room, kitchens and office at first floor level. There are further locker rooms and showers in a single-storey extension together with a single-storey professional's shop adjoining, artisans locker rooms, machinery stores and tarmac car-park. A plan of the premises was submitted to the Tribunal by Mr Wyer and is attached at Appendix A.

Mr Wyer said that since submitting the appeal to the Tribunal portion of the premises had been destroyed by fire. By virtue of the date of the fire this did not come within the remit of the

Tribunal. This would however be a matter for another revision. The question of quantum was left over as well.

The question is whether the hereditaments in question were exempt by reason of an addition inserted into the valuation code by the Valuation Act, 1986.

To set the background to this matter, it is necessary to quote s.12 of the Valuation (Ireland) Act 1852 -

What hereditaments are rateable.

XII. For the Purposes of this Act the following Hereditaments shall be deemed to be the rateable Hereditaments; viz., all Lands, Buildings, and opened Mines; all Commons and Rights of Common, and all other Profits to be had or received or taken out of any Land; [and in the Case of Land or Buildings used exclusively for public, scientific, or charitable Purposes, as herein-after specified, Half the annual Rent derived by the Owner or other Person interested in the same, so far as the same can or may be ascertained by the said Commissioner of Valuation] and all Rights of Fishery; all Canals, Navigations, and Rights of Navigation; all Railways and Tramroads; all Rights of Way and other Rights of Easements over Land, and the Tolls levied in respect of such Rights and Easements; and all other Tolls: Provided always, that no Turf Bog or Turf Bank used for the exclusive Purpose of cutting or saving Turf, or for making Turf Mould therefrom, for Fuel or Manure, shall be deemed rateable under this Act, unless a Rent or other valuable Consideration shall be payable for the same: And provided also, that no Mines which have not been opened Seven Years before the passing of this Act shall be deemed rateable until the Term of Seven Years from the Time of opening thereof shall have expired; and no Mines hereafter to be opened shall be deemed rateable until Seven Years after the same shall have been opened; and Mines *bona fide* reopened after the same shall have been *bona fide* abandoned shall be deemed an opening of Mines within the Meaning of this Act.

* [square brackets] repealed by s.3 and schedule to Local Government (Rateability of Rents) (Abolition) Act, 1971.

S. 2 of the Valuation Act 1986, provided that for the purposes of the Act of 1852, property falling within any of the categories of fixed property specified in the schedule to the Act of 1852 (inserted by the Act) shall be deemed to be rateable hereditaments in addition to those specified in S. 12 of that Act.

The schedule is in the following terms -

SCHEDULE

(1) Reference Number	(2) Categories of Fixed Property
1.	All constructions affixed to lands or tenements, other than buildings referred to in section 14 of this Act.
2.	All lands developed for any purpose other than agriculture, horticulture, forestry or sport, irrespective of whether or not such land is surfaced, and including any constructions affixed thereto which pertain to the development.
3.	All cables, pipelines and conduits (whether underground, on the surface or overhead), and including all pylons, supports and other constructions which pertain to them.
4.	All fixed moorings, piers and docks.
5.	Plant falling within any of the categories of plant specified in the Schedule to the Annual Revision of Rateable Property (Ireland) Amendment Act, 1860 (inserted by the *Valuation Act, 1986*).

Mr Wyer contended that the references to lands developed for any purpose other than sport and the reference to the inclusion of any construction affixed thereto meant that the buildings on the golf course, including the club premises and the professional's shop as well as the toolshed come

within the description of constructions affixed to the lands and which pertain to the development. He referred to Bennion: "Statutory Interpretation" at pp. 765 and 844.

Mr O Caoimh relied on the case of Roadstone Ltd. v. Commissioner of Valuation (1961) I.R. 239. Mr Justice KingsmillMoore's judgment contains an exhaustive analysis of S. 12 of the 1852 Act. That case, establishes that "lands" is to be given a restrictive meaning viz. lands other than any quarry development that might be on lands.

As he said at page 254 of the Report

> It seems to me that where land is used for business, manufacturing or commercial purposes (as for instance a cemetery or quarry) there is nothing to prevent it also from being described as property "the annual value of which is subject to frequent alteration." The intention of the section appears to be to put any property coming within this description into a class of its own, and one which must always abe valued on the basis of the hypothetical rent. If it were to be valued on the basis laid down for land by s. 11 there would be no object in providing for annual valuation since the valuation would be on a static basis and could not be altered to correspond with changes in value.

And at page 255 the judge summed up the position as follows:-

> On an examination of the statutes, without reference to any authorities, I arrive therefore at the conclusion that the only way to give a rational interpretation to this code, the deficient drafting of which has more than once been the subject of judicial comment, is to regard any land, which by reason of its use is liable to frequent alterations in annual value, as not being included in the expression, "the land," in s. 11 of the Act of 1852 or "the lands" in s. 5 of the 1854 Act.

Buildings are always categorised separately as being rateable and it significant that at references No. 1 to the Schedule now attached to the 1852 Act by virtue of the 1986 Act there is a reference to "buildings". If the Oireachtas had intended to exempt clubhouses built on lands developed for sport it would be thought that it would have said so in clear terms since "buildings" have always

been regarded as rateable. Why use a term such as "constructions affixed thereto" when what would be meant would simply be described as "buildings". Indeed, Mr O Caoimh has gone further and said that the reference to "constructions affixed thereto which pertain to the development" refers back to the first six words of reference No. 2 and should read: "All lands developed for any purpose .... including any constructions affixed thereto which pertain to the development .... other than (lands developed for) agriculture, horticulture, forestry or sport."

The Tribunal does not feel that it needs to resolve this latter point because it is convinced that the clear intention of the legislation is to exempt only lands, meaning thereby the actual lands, which have been developed in the sense of having been laid out as a golf course would be for the sport of golf and it may be that constructions, such a shelters, fences etc. would be encompassed in the exemption but the Tribunal is of the opinion that a building such as a club house does not come within the description of a construction affixed to any development but is, clearly, a building which have always been regarded as rateable unless it is expressly exempted.

In the circumstances, the Tribunal has come to the conclusion that the Respondent's decision must be upheld.