

Appeal No. VA88/0/153

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

**Southern Health Board**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Community Welfare Office at Killorglin, Co. Kerry

**B E F O R E**

**Hugh J O'Flaherty**

**S.C. Chairman**

**Paul Butler**

**Barrister**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 20TH DAY OF JANUARY, 1989**

By notice of appeal dated the 19th day of August 1988, the appellant appealed against the respondent's decision fixing a rateable valuation of £7 on the above described hereditament.

By letter dated 20th December, 1988, Messrs Hughes & MacEvilly of 11 Emmet Place, Cork, set out the grounds of appeal as follows:-

1. That the valuation fixed for such a small premises is excessive.

2. That premises are exempt from rates as they are used for public purposes. They are used exclusively by full time salaried staff of the Board in their person to person dealing with applicants for various services particularly of those of an income support nature and lower income services generally.

Mr Declan Lavelle, a Bachelor of Agricultural Science who is a valuer with 8 years experience in the Valuation Office, presented his written submission on the 22nd December, 1988.

The property is located on the 1st floor of the Health Centre at Mill Road, Killorglin, Co Kerry. It comprises a first floor office and waiting room used by two Community Welfare Officers employed by the Southern Health Board. The valuation history of the premises was as follows. The subject was first valued as an office in 1984, R.V. £7.00. It was listed for revision in 1987 - "S.H.B." seeking exemption". There was no change made as a result of the 1987 revision.

The oral hearing took place on the 10th January, 1989, in Tralee when Mr Nicholas S Hughes represented the appellant and Mr Aindrias O Caoimh (instructed by the Chief State Solicitor) appeared for the respondent.

Mr Michael Burke, who is a Welfare Officer with the appellant, gave evidence. He said that two officers attend and their function is to meet the public. The office provides a point to meet to discuss any problem any member of the public may have. There was also evidence that an opthalmic surgeon attended but he did not charge for his services. References was made to an office in Dingle but, on enquiry, it transpired that this was a health centre.

The appeal against quantum was not pursued.

Mr O Caoimh submitted that this case was governed by the decision of the Supreme Court in Kerry County Council v. Commissioner of Valuation (1934) IR 527.

The Tribunal has in the past reviewed extensively the statute and case law in relation to exemption of buildings on the grounds of public user (cf. St. Macartan's Diocesan Trust v. Commissioner of Valuation; judgment of the Tribunal delivered on 18th November, 1988 and Sister Sally Mounsey Sisters of Mercy Birr v. Commissioner of Valuation; judgment of the Tribunal delivered on 25th November, 1988.)

In the result, the Tribunal would repeat that property is "used for public purposes" where, and only where -

- (i) It belongs to the government; or
- (ii) Each member (emphasis added) of the public has an interest in the property.

Cf. Mr Justice Keane's "The Law of Local Government in Ireland", at p. 297. And see Kerry County Council v. Commissioner of Valuation (1934) IR 527.

In this case while, without any doubt there is a significant public benefit in the fact that these offices are available to members of the public to seek a resolution of their problems and to seek advice it is still, nonetheless, "private" rather than public property.

In the circumstances, the Tribunal will affirm the respondent's decision in this matter. However, since the appellant performs such a public service it would not be appropriate to make any order for costs in the matter.