

Appeal No. VA88/0/251

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

The National Yacht Club

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Boat Slip, Platform and Workshop at East Pier, Dun Laoghaire, Co. Dublin

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 6TH DAY OF JUNE, 1989

By notice of appeal dated the 24th day of August 1988, the appellants appealed against the valuation of £33 on the above described hereditament on the grounds that -

1. The assessment of rateable valuation herein is bad in law.

2. The subject entity comprises boat slips, platforms and workshop,

developed by t

3. The subject hereditament is exclusively occupied and used for sport, in consequence to
Ref. No. 2.

Mr Desmond M Killen A.R.I.C.S. A.R.V.A. of Donal O'Buachalla & Co Ltd presented a written submission on the 10th November, 1988, wherein he set forth the valuation history of the hereditament and submitted that the same should be exempted on the grounds that this was a development of land for sport within section 3(1) of the Valuation Act, 1986.

Mr P Murray, a district valuer with the respondent, with 27 years experience presented his written submission on the 7th November, 1988. In the course of that submission he said that he had inspected the hereditament in February, 1988, and found it to consist of a boat slip, concrete platform and workshop occupied by the National Yacht Club at Dun Laoghaire. He set forth the history of the hereditament as follows:-

Boat slip and platform first valued in 1957 @ £4 (abs). In 1962 following revision the R.V. was increased to £8.00 (abs) when the dinghy platform was extended.

In 1983 the rateable valuation was increased to £25 (abs) following a further extension to the platform.

The hereditament was again revised in 1987 Revision when a new valuation of £10.00 was placed on Buildings. No change was made in the valuation of £25 (abs) on boat slip and platform.

Oral hearing

The oral hearing took place on the 15th May, 1989. Mr Marcus Daly S.C. (instructed by Sheridan & Kenny, Solicitors), appeared for the appellants. Mr Aindrias O'Caomh (instructed by the Chief State Solicitor) appeared for the respondent.

It should be noted that this case was heard in conjunction with Howth Yacht Club v. Commissioner of Valuation (Appeal No. 88/47). It was agreed between the parties that the decision in each case would have to be the same; if one were exempt, the other would be exempt also.

Mr Sean J P Nolan when Honourary Secretary of the club had then presented a precis of the evidence that he proposed to give on the 10th November, 1988. He is now Vice Commodore of the club and attended to give evidence. His precis of evidence was adopted. A summary of it is as follows:-

The National Yacht Club was founded in or about the year 1897 and its objects are the education of its members in the study of seamanship, encouragement of amateur yacht racing, rowing and other sports, the holding of regattas and competitions in yachting and other sports and the promotion of social intercourse between the members of the club and their friends.

The club has 968 members in various classes comprising full members (ladies and gentlemen) associate members, country, overseas and cadet members. The club has in addition about 100 junior members under 18 years of age.

The members of the club are very active in all forms of amateur yacht racing and sailing. Each year the club runs a regatta and several junior and senior championships. Members also compete in racing organised by Dublin Bay Sailing club on three days each week from April to September. This year club members were successful in winning seven National Championships and a British National Championship; also two club members represented Ireland in the

Olympics in South Korea in the 470 class. A club member won the premier prize in the Round Ireland Yacht Race this year.

Each summer the club organizes a Junior Section where about 100 youngsters are given instruction, to standards set by the Irish Yachting Association, in all aspects of seamanship, sailing, racing safety at sea, boat maintenance and repairs etc.

The area in dispute, in conjunction with the other areas and platforms around the club, was used by the members as a dinghy park to store their boats; to rig their boats with spars sails etc. prior to launching and racing; to wash down and derig their boats after racing; for the holding of classes in all the shore based activities of the junior section including rigging,, tuning, knowledge of parts of a boat, repair and upkeep etc.

In addition, he said, these areas are also used for the storage of keel boats belonging to members from October to March each year. The area is also used to store club launches and rescue boats; to service repair and paint club launches and rescue boats; to repair and service chains and mooring apparatus for yachts; to service engines for launches and rescue boats and to store masts and spars from members boats.

The evidence given by Patrick K O'Neill who is president of the Irish Yachting Association in the Howth Yacht Club case was adopted for the purpose of this appeal also.

The submissions made were the same as those in the Howth Yacht Club case and the judgment of the Tribunal is the same as in the Howth Yacht Club case as set out below.

Findings

The question posed for resolution in this case is basically a simple one. Is this development "for sport" or is it something ancillary to the sport. Of course, the point can be made that the main "sport" is on the water but the Tribunal is of the opinion that what is done at the dinghy park both prior to the dinghies going on the sea and when they are brought ashore is not only something ancillary to the sport but is part of the sport; in a word it is essential to the sport. Whilst the sportsperson could go straight to the football pitch, crease, court or tee these dinghy sailors could not go directly into the water in safety to participate in their sport. Participation in this sport begins of necessity in the marina yard.

In these circumstances, the Tribunal has reached the conclusion that the hereditaments are entitled to exemption under reference number 2 to the schedule inserted after section 48 of the Valuation (Ireland) Act, 1852 which provides -

"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."

Paragraph 12 of the First Schedule to the Valuation Act, 1988, provides that the costs of the appeal should be ordered to be paid by the unsuccessful respondent or appellant as the case may be in the Appeal "unless there is good reason for not doing so."

The Tribunal has in two cases in the past involving the "sporting" exemption made no order as to costs where the Commissioner was successful on the grounds that they were cases that were "test" cases and might govern many other cases.

That has come to pass. Other cases have abided the results of those cases. These appellants, however, are only concerned with their individual cases and are not concerned that the results may govern other cases.

Accordingly, the appellants are entitled to their costs.