

Appeal No. VA90/3/003

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

**Limerick Youth Services Board**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Offices, hair salon, restaurant and workrooms at Lot No. 56 Henry Street, County Borough of Limerick

**B E F O R E**

**Henry Abbott**

**Barrister Chairman**

**Padraig Connellan**

**Solicitor**

**Joe Carey**

**P.C. M.I.A.V.I.**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 19TH DAY OF JULY, 1991**

By notice of appeal dated 12 September, 1990, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £180.00 on the above described hereditament.

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

1. the assessed valuation of £180.00 is unfair, inequitable and bad in law.

2. The Limerick Youth Service Board is a registered charity and was founded specifically for the training of youths from disadvantaged areas and families in Limerick city.
3. The Limerick Youth Service Board are entitled to distinguished status under Section 2 of the Valuation (Ireland) Amendment Act 1854 and have already been granted this status in respect of 5 Lower Glentworth Street.

### **THE PREMISES**

The hereditament under appeal is a purpose-built centre containing a number of training modules suitable for instruction of young people in the skills of hairdressing, shoe repairs, baking, food preparation and catering. The site was purchased in 1985 at a cost of £99,000. The fee simple was later purchased for £4,400 and building commenced in 1986. The actual cost of construction was £750,000. Of this a grant of £150,000 was received from the Department of Justice and a further £48,000 from F.A.S. The remainder was collected through voluntary fund raising. The buildings were completed in July, 1987 and officially opened on 5th October, 1987. The following is a description of the accommodation:-

#### **Ground Floor**

Reception  
Bakery  
Fast Food  
Kitchen  
Heel Bar  
Quiet Room  
Hair Dressing Salon  
Dining Room

#### **First Floor**

2 Counselling Rooms  
2 Offices  
Soft Furnishing Manufacture

**VALUATION HISTORY**

In 1987 the premises were inspected by the Valuation Office and a valuation of £180.00 was fixed by the Commissioner. There was a subsequent first appeal to the Commissioner on grounds of an "Exemption Claim". Arising from this appeal no change was made in the valuation or in its rateable status. The premises were again revised in 1989 and exemption was sought. The Commissioner issued his decision which made no change in the valuation or in the rateability status. This was appealed to the Commissioner and no change was made at first appeal stage. It is against this determination that the appeal now lies with the Tribunal.

**WRITTEN SUBMISSIONS**

A written submission was received on 19th March, 1991 from Mr Frank O'Donnell of Frank O'Donnell & Co., Valuation, Rating and Property Consultants, on behalf of the appellant. In this submission Mr O'Donnell outlines the accommodation in the building and the valuation history of the property. He said that Limerick Youth Service is a charity incorporated in 1985 by the Commissioners of Charitable Donations and Bequests under Section 2 of the Charities Act, 1973. He said that it is a voluntary, non-profit making training and educational agency established for the benefit of young people from the disadvantaged sectors of society. Mr O'Donnell said the charity is administered by a Board, initially constituted under the Patronage of the Roman Catholic and Church of Ireland Bishops of Limerick for the guidance, direction and development of the Youth Service. The Board was subsequently incorporated by the Commissioners with the same objectives.

Mr O'Donnell said that all the property of the Charity, including the hereditament under appeal, is vested in the Corporation. Under the terms of its constitution which is read into the Scheme of Incorporation, the Corporation is obliged to devote all income and property solely

to the purposes of the charity. He said that no portion of its income or assets may be paid directly or indirectly by way of dividend, bonus or otherwise to any member of the Corporation.

Mr O'Donnell said that in the event of a dissolution the Corporation is obliged, after discharging all debts and liabilities, to devote any surplus remaining to such other charitable institution or institutions as have objectives similar to those of the Limerick Youth Service. He said that the activities of the Limerick Youth Service fall mainly into four categories:

- (1) Training projects with integrated elements of training in literacy and social skills for unemployed young people drawn from deprived backgrounds.
- (2) General mainline youth services such as the organising of recreational and leisure activities for young people in Limerick City and County, and such as the training of voluntary youth club leaders.
- (3) Outreach programmes which aim to make contact with young people at risk, in their own communities.
- (4) The provision of Ancillary services such as the Youth Information Bureau or weekend activity programmes for second level students.

Mr O'Donnell said the premises are not used or operated as a commercial venture and such service to the public as is provided is provided only as a training medium - communication skills and practice in dealing with the public are considered by the Youth Service to be among the basic skills. He comments that the hereditament is wrongly described in the Valuation Lists and that it should more appropriately be described as "Training Centre". Mr O'Donnell said the programmes are aimed at young people aged fifteen and upwards from deprived or disadvantaged backgrounds. He said that the programmes are non discriminatory as to sex, colour, creed or class.

Mr O'Donnell said that the Limerick Youth Service is essentially a voluntary organisation dependant on the enlightened interest of the public at large. He said that approximately 75% of the cost of the training centre was raised by collections, donations, sponsored events and other such fund-raising activities. The training and Youth Advisory Services provided in the Centre are, he said provided free or at a nominal charge.

Mr O'Donnell said that exemption had been granted to the following premises used for comparable purposes;-

- (i) The Charity's existing premises at Lower Glentworth Street, Limerick, R.V. £39.00 exempt.
- (ii) The Itinerant Educational Centre run by the Limerick Committee for Travelling People (exempted on charitable grounds).
- (iii) A Training Centre at Castlebar run by the Western Care Association (R.V. £18.00 exempt).
- (iv) Various Boy Scout Halls at Dundalk, Castleblaney, Rathfarnham, and other venues (all marked exempt).
- (v) The Free Legal Advice Centre at Coolock, Dublin.
- (vi) St. Malachy's Youth Centre at Tonglegree, Coolock, Dublin.
- (vii) Hostels of the Los Angeles Society at Seville Place and Conyngnam Road, Dublin (refuges for boys in need of protection).
- (viii) O'Connell's Schools Boys Club, Seville Place, Dublin (exempted on charitable grounds).
- (ix) Various Rehab Training Centres including Rehab Retail Shops (all exempt).
- (x) Various St. John of God's Training Centres and also various S.T.E.P. enterprises.
- (xi) Brothers of Charity, Newcastle West. "Office, Workshop and Store".R.V. £117.00 Exempt by Commissioner. 1988
- (xii) Brothers of Charity, Baunmore, Limerick."Community Workshop" - Exempt.
- (xiii) St. Francis Community Training Centre & Workshop, Father Matthew Street, Cork. Exempt (incl. Bakery Outlet).

- (xiv) Charleville and District Association for the Handicapped inc. St. Joseph's Community Workshop. -Exempt.
- (xv) The National Association of Widows in Ireland Ltd. (Appeal No. 88/130). Exempt under Section 63 of the Poor Relief (Ireland) Act, 1838.

Mr O'Donnell submitted that this hereditament is entitled to exemption under the provisions of Section 63 of the 1838 Act and Section 2 of the 1854 Act by reason of the charitable nature of its user.

A summary of evidence was received on the 19th March, 1991 from Sr. Joan Bowles, Director, Limerick Youth Service. In this Sr Bowles said that the Youth Service is a voluntary organisation established in 1973. She said that the programmes of the Youth Service fall mainly into the following categories;-

- (a) Trained projects with integrated literacy and social skills elements for unemployed young people drawn from deprived backgrounds.
- (b) General mainline youth services organising recreational and leisure activities for young people in Limerick City and County and training for voluntary youth club leaders.
- (c) Outreach programmes which aim to make contact with young people at risk, in their own communities.
- (d) Other services.  
Youth Information Bureau.  
Evening and weekend activity programmes for senior cycle second level students.

Sr Bowles said that up to July, 1987 when the new premises at 56 Henry Street on the site of the former Glentworth Garage was completed, all Limerick Youth Service activities were based at 5 Lr. Glentworth Street and that during the period up to July, 1987 the Limerick Youth Service had been exempted from payment of rates. She said that programmes have

remained unchanged except for the addition of a Youth Information Bureau which was established on taking up residence in the new premises at 56 Henry Street. Activities at 5 Lr. Glentworth Street now consist mainly of the following;- administration offices, mainline youthwork offices, recreational hall, machine knitting project, trainee canteen, stores, social skills/literacy facilities and laundry.

Sr Bowles said that the premises at 56 Henry Street house the following Training Modules (formerly based at 5 Lr. Glentworth Street);- shoe repair, hairdressing, home baking, kitchen, restaurant, fast foods and soft furnishing. She said that also housed are social work offices/counselling rooms, reception, quiet room and a youth information bureau.

Sr Bowles said that there has been no change in emphasis following construction of the Youth Resource Centre at 56 Henry Street. She said that programmes are still centered on the provision of training projects with integrated literacy and social skills elements for young people drawn from disadvantaged backgrounds. She said that Limerick Youth Service is a voluntary non-profit making training and educational agency dependent on statutory funding, voluntary contributions and fundraising ventures.

Sr Bowles said that the Limerick Youth Service has, to date, been exempted from payment of rates in recognition of its standing in the field of provision of educational and training services for young people from the disadvantaged sectors of society.

A written submission was received on the 19th March, 1991 from Mr William M. Walsh, B.Agr.Sc. F.R.I.C.S. a Chartered Valuation Surveyor and District Valuer in the Valuation Office. In this precis Mr Walsh outlined the valuation history of the premises and said that the hereditament occupied is a prominent corner site at the junction of Henry Street and Lr.

Glentworth Street, Limerick. He said that the immediate area whilst close to O'Connell Street and the commercial heart of the city is generally run down. He said that the predominant land uses are storage/warehousing and that there are some secondary retail uses mixed with services and residential. Mr Walsh said that the site was purchased for £99,000 in a derelict condition in 1986. He said that the fee simple was subsequently acquired at a cost of £4,500.00 and that the old building was totally refurbished and rebuilt to provide a modern, well designed functional complex with self contained, workrooms, restaurant, bakery, hairdressing saloon, heel bar etc. He said that goods and services are sold to the public in addition to providing training for the youth in charge of the Limerick Youth Service Board. He said that the undertaking was funded by a Department of Justice grant, Youth Employment Agency grant, and voluntary fund raising. As regards the funding of the Limerick Youth Service Board he said that 70% of total income is funded by substantial grants from F.A.S. the Health Board, Limerick Corporation and County Council. He said that the balance is substantially made up of fundraising and contributions. Mr Walsh said that the Limerick Youth Service Board is a charity incorporated in 1985 by the Commissioners of Charitable Donations and Bequests. He said that the main purpose of the Limerick Youth Service Board is that it was established for charitable purposes for the young people of Limerick and Clare and any funds received for this purpose will be applied to this charitable purpose only. He said that the subject property operates as workshop/training workshop for 15/16 year olds. He said that these trainees are all from disadvantaged backgrounds, socially economically and emotionally. Virtually all, he said, have dropped out of school and lack any vocational training. Mr Walsh said that training is provided in as near as possible to a normal commercial situation. He said that courses are provided in hairdressing, shoe repair, confectionary, catering sewing etc. The services are provided by the trainees under the guidance of the instructors. Mr Walsh said that it is argued that the interaction with the public is a necessary element in the training of the disadvantaged youths,



an essential element in the operation of the complex is the selling of the goods, and services to members of the public.

Mr Walsh said that it is the Commissioner's view that having regard to the fact that goods and services are sold on this premises to the public and that the use of the premises is not "exclusively for charitable purposes" or "exclusively for the education of the poor". He said that the policy of the Commissioner has been to value as rateable retail shops run by charities for fund raising purposes. He said that normally the administrative offices of such charities are distinguished. He said that it is to be noted that the following were valued as rateable by the Commissioner:-

- (i) Oxfam retail shop at 54 Sth King Street
- (ii) Unicef at 4 St Andrews Street, Dublin (Administrative offices exempt, shop rateable).
- (iii) Ballymun Training Centre, Dublin (Training workshop rateable).

### **ORAL HEARING**

At the oral hearing which took place in Ennis on the 26th March, 1991, Mr John Punch, Solicitor, of Connolly, Sellors, Geraghty, Fitt, Solicitors represented the appellant. Mr Brendan Nix, Barrister, instructed by the Chief State Solicitor represented the respondent. Also present was Mr Frank O'Donnell, Valuer and Sr Joan Bowles, Director Limerick Youth Services on behalf of the appellants and Mr William Walsh, Valuer on behalf of the respondent.

Sr Bowles gave evidence as set out in her precis of evidence and summarised above. In addition she said that the activities broke down into two areas as follows;- social education, and group work skills. She said that the age of participants range from fifteen to twenty two

and that it was very different from working in an ordinary work place. She said that the activities in the centre were not run on a commercial basis and there was no record of the amounts of turnover associated with each of the activities. However, when questioned further she said that the turnover in the restaurant would be in the region of £100 to £150 per day. She said that a limited number of people would come in and that the menu itself was limited for operational reasons. She said the purpose of the restaurant was to make the training meaningful for the youths involved and to bridge the gap between working in the type of environment offered by the Limerick Youth Services Board and a commercial restaurant such as in a hotel. She said that because of the kind of young people that are being trained there is a lot of wastage, breakages and as a result maintenance costs are very high. Sr Bowles said that it is a mistake to label the activities which are undertaken in the centre as enterprises. She said that what is involved is purely a medium for training of disadvantaged youths. She said an essential part of this is the inter-relationship with the public and the ability to handle cash. Any excess money derived from the centre goes back into an outreach programme for the youngsters. There is a recreational programme whereby part of each youngsters time is involved in coming to terms with the recreational facilities available. She also said that there is liaison with local businesses and local hotels whereby some of the young people are given opportunities to work there. She said that this is a very difficult operation because these young people have failed the educational system and have extreme difficulty in coping with the commercial world. It was to bridge this gap that the centre was set-up initially. Sr Bowles said that the young people being trained at the centre would, more than likely, have been in trouble with the law both prior to, and indeed often during, their training. She said that this was one of the reasons that the centre received the £150,000 grant from the Department of Justice. Sr Bowles in reply to questions said that initially there was a 70% placement rate of participants with businesses following training in the centre, however, in recent times this is reduced to about 20% due to increased competition from well educated young people in the area.

Sr Bowles said that the trainers employed by the Limerick Youth Services Board are on the FAS supervisor's scale but that the board itself subsidises two members of the staff including the social worker. She said that the Youth Services Board provides the back-up services in terms of administration and her own services are provided free of charge. Under cross examination by Mr Nix, Sr Bowles said that the chocolate, sweets project is in its infancy and it is an effort to see if some job creation project might work in relation to the work carried out by the Youth Services Board. She said that six young people are employed there and that the sweets are manufactured in the Board's other building and that the sales outlet is in the subject premises. In reply to Mr Nix, Sr Bowles said that in the week before Christmas the people other than trainees selling these sweets in the subject property were volunteers of the Limerick Youth Services Board. She agreed with Mr Nix that there is a turnover of at least £100,000 per year even allowing for a pilferage of £2,000 to £3,000. She said that the expenditure on materials is in the region of £80,000 per annum. In response to Mr Nix, Sr Bowles said that the hairdressing is only open to the public for three out of the five days per week and that the amounts paid to the trainees are £20.00 for the fifteen year olds, £29.50 for seventeen year olds and £37.50 for the eighteen year olds. She said that the equipment in the heel bar is less sophisticated than would be found in a commercial heel bar outlet. She said that there is a workroom for soft- furnishings such as curtains and she agreed with Mr Nix that they are available to receive orders and fulfil them. She said that people come to them because they know of the educational function of the Youth Services Board. She said that the prices are a little lower than usual because they cannot guarantee the continuity of service or the quality of the product. She said that FAS would admit that, even after one year's training in the Limerick Youth Services Centre, despite courses on self esteem and assertiveness etc., the youths would not be ready to go into a main-stream FAS course which, she said, is an indication of how deprived these children are. Sr Bowles said that the youths concerned have no motivation whatsoever to go into the real world of work. She said that they only receive

funding for two years in respect of any trainee and that they have not placed any youngster within one year of coming into the centre.

Mr Frank O'Donnell gave evidence as outlined in his precis of evidence and said that, in his opinion, the provision under the terms of the scheme of incorporation, whereby the Corporation is obliged to devote all income and property solely to the purposes of the Charity, fulfils Section 63 of the 1838 Act. He said that in the case of dissolution of the organisation the money has to be put back into similar activities. He said that the primary purpose of the building is the training and education of the trainees. Mr O'Donnell went through the comparisons which he supplied in his precis and said that in relation to comparison 14 - Charleville & District Association for the Handicapped incorporating St Joseph's Community Workshop that the exact situation applies there in relation to garden furniture and printing and that that premises is exempt. Also, in relation to St Francis Community Training Centre & Workshop, Fr Matthew Street, Cork there is a bakery outlet there which is exempt. He said that all of the Rehab premises including the workshops and a sales room at Harolds Cross are exempt from rating. He also referred to the appellant's premises at Lower Glentworth Street which is exempt. He said that the St John of God's hospital is exempted because of a clause in the constitution prohibiting the private use of profit.

Mr Brendan Nix said that the site is in an improving part of the city. He said that the hereditament is clearly intended for business and that the overall thrust is one of commerciality. He said that the services offered by the centre are advertised, that they are competing in the market place with other local businesses and that, if the activities were simply educational, there would be no need for this commercial aspect. Mr Nix said that the training carried out in the subject premises does not differ from any other scheme of apprenticeship and that it has all the trimmings of a commercial enterprise. He submitted that

the subject property was not exclusively used for education. Mr William Walsh said that in dealing with associations involved in charity or educational purposes, the approach adopted by the Commissioner is broadly to exempt the administrative offices but where anything is of the nature of a retail outlet he regards them as being closer to commercial retail enterprises and he would normally rate the "shop" aspect of the operation.

### **THE LAW**

The Valuation (Ireland) Act 1854 Section 2 provides that in making out the lists or tables of valuation mentioned in the Valuation (Ireland) Act 1852, the Commissioner of Valuation shall distinguish all hereditaments and tenements or portions of same of a public nature or used for charitable purposes or for the purposes of science, literature and the fine arts as specified in 5 & 6 Victoria Chapter 36, and that all such hereditaments or tenements or portions of the same, so distinguished, shall as long as they shall continue to be of a public nature and occupied for the public service or used for the purposes of the aforesaid, be deemed exempt from all assessment for the relief of the destitute poor in Ireland and for grand jury and county rates.

The grounds for exemption from rates are stated by the judgment of the Tribunal in the St Patrick's Agricultural College, Co. Monaghan case, appeal no 88/100 to have been held by the Supreme Court in the cases of McGahon and Ryan V Commissioner of Valuation (1934) I.R. 76 and Barrington's Hospital V Commissioner of Valuation (1957) I.R. 299 are to be found in the proviso to S. 63 of the Poor Relief (Ireland) Act 1838 -

"Provided also, that no church, chapel, or other building exclusively dedicated to religious worship, or exclusively used for the education of the poor, nor any burial ground or cemetery, nor infirmary, hospital, or charity school or other building exclusively used for charitable purposes, nor any building, land, or hereditament dedicated to or used for public purposes, shall be rateable, except where any private

profit or use shall be directly derived therefrom in which case the person deriving such profit or use shall be liable to be rated as an occupier according to the annual value of such profit or use".

In submissions by both parties the analysis of the issues in this case was stated to be helped by the principles enunciated in the case *Oxfam V City of Birmingham District Council* 1975 2 All England Reports 289. In the *Oxfam* case, gift shops which were staffed by voluntary helpers were used for the sale of articles donated to Oxfam and consisted mainly of clothing. The profit from the sales in the Oxfam shops were applied to the objects of Oxfam which is a well known charitable organisation dedicated to the relief of poverty in under- developed countries. In that case Lord Cross of Chelsea stated

'So the first question which arises is" what are the "charitable purposes" of a charity as distinct from its other purposes" the answer must be, I think those purposes or objects the pursuit of which make it a charity - i.e. to say in this case the relief of poverty, suffering and distress'.

The Tribunal finds it impossible to come to any conclusion other than that the purposes for which the young persons are employed in the shops the subject of the appeal in this case are those of the charitable purposes of the appellant. The Tribunal finds that the appellant is a charity in relation to its constitution and general objectives.

In reaching this conclusion the Tribunal has had regard to the essence of the charitable objectives of the appellant being to provide a working environment as close to the real environment as possible for the young people involved.

This type of situation was analysed by McVeigh L J in the case *Belfast Association for Employment of Industrious Blind V. Commissioner of Valuation* 1968 Northern Ireland Law

Reports page 21 when dealing with the provision of a shop for blind persons in respect whereof the Belfast Association for Employment of Industrious Blind claimed exemption for rating -

"ameliorating the condition of the industrious blind is not exhausted by providing, as it were, occupational therapy in workshops. There is more to it than that. The blind are to be trained for various trades and are to be found employment whether in the association workshop or elsewhere. By the nature of things, most of them I presume, will only find employment in the associations workshop. I would have thought that providing them with useful, rewarding, paid employment is part and parcel of the charitable purpose for which the association exists. This provision could to some extent be achieved by merely setting up an employment bureau to find jobs for the blind. The purpose is, I am sure, more efficiently achieved by the association creating, as they have done, an organisation which provides the workshops and materials and the jobs which sells the products to pay or help to pay the wages. Without the proceeds of the sale the employment of the workers could be adversely affected. Because this selling is done in a shop does not seem to me to detract from its charitable purpose in the present circumstances. Indeed, this may be the most efficient and economic way of doing it and if I ask myself the question - is such a shop directly facilitating the carrying out of the main charitable purpose I would answer "yes" ".

In the present case under appeal the trainees or employees are given a mere subsistence wage related to the FAS training programme. The Tribunal is satisfied that there is no question of a private profit being made such as would disqualify the premises the subject of the appeal or any part of them from the exemption claimed.

Accordingly the Tribunal holds that the appellants are entitled to the exemption sought in respect of the premises under appeal.

