

Appeal No. VA92/5/016

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

N.A.O.M.I.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office (2nd Floor Front) Lot No. 36 Washington Street, Electoral Division Centre West,
County Borough of Cork

Exemption - Charitable and public purposes

B E F O R E

Henry Abbott

S.C. Chairman

Paul Butler

S.C.

Paddy Farry

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF MARCH, 1993

By Notice of Appeal dated the 11th day of August, 1992 Mrs. Catherine Sheehan, Secretary N.A.O.M.I. appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £15 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "we feel we should be exempt from rates as we are a charitable organisation No. CHY 6595. No commercial business is carried out at the premises. The property is used solely as an administration centre for the southern region of a voluntary, non-profit making organisation which is funded by an annual grant from the Health Board. N.A.O.M.I. has qualified for this grant because of its charitable and supportive role within this community and has no other source of income. This area in Washington Street is a designated area".

Further grounds of appeal were attached to the Notice of Appeal and these are appended to this judgment as Appendix 1.

The Premises

The premises consists of a front room used as office and back room used as store. It is located on the second floor at the front of No. 36, Washington Street.

Valuation History

The property was listed for revision by Cork Corporation in 1991, revising valuer estimated the rateable valuation at £15. On appeal to the Commissioner of Valuation the rateable valuation was affirmed.

Written Submissions

A written submission was received on the 8th of March, 1993 from N.A.O.M.I.. In the written submission was set out the reasons why the organisation considers it should be exempt from rates or at least to have the valuation of £15 reduced.

In the written submission it is stated that the office accommodation consists of one office 21ft X 11ft with two windows, used solely for charitable work and not for commercial business and a second room 13ft X 7ft 6" with no windows and only used for storage purposes. It is stated that there is only one toilet in the whole building to serve three different organisations and their personnel.

It is stated that the N.A.O.M.I. exists solely on grant aid from the Government and the Southern Health Board, that this grant was given for the sole purpose that the organisation teaches the ovulation method of natural family planning to all who required it. The only fee charged to clients is for literature if they can afford it. The organisation has been granted a certificate of recognition of charitable status No. CHY 6595 by the Revenue Commissioners. Appended to the written submission was a copy of expenses incurred by the regional office for the year 1992. It indicated that the organisation was barely covering expenses at the moment. In the written submission it is stated that if the organisation is to find money for yearly rates as well it will cease to exist. Attached to the written submission is a report on work carried out by the Southern region office of N.A.O.M.I., a certificate of recognition of charitable status issued by the Revenue Commissioners and a letter from the Southern Health Board agreeing to pay the grant to the organisation.

A written submission was received on the 8th of March, 1993 from Mr. Tom Costello, a District Valuer with 30 years experience in the Valuation Office on behalf of the respondent. In the

written submission Mr. Costello described the property and the grounds of appeal. He set out his estimate of Net Annual Value on the property as follows:-

Front Office	225sf @ £8.00 =	£1,800
Back Room Store	88sf @ £6.00 =	<u>£ 528</u>
		£2,328

R.V. £2,328 X 0.63% = £14.66

Say £15.00

He offered comparisons as follows:-

(1) 36 Washington Street. Office (1st Floor Front).

R.V. £15

Occupier: Capincur Limited t/a Compu - Secretarial Services.

1991 First Appeal. Letting 2yr 9mth from November, 1989.

Rent £2,640

Estimate of N.A.V.:

270sf @ £9.00 = £2,430

R.V. £2,430 X 0.63% = £15.30

Say £15

(2) 33, Washington Street. Offices (1st Floor) £35.00

72.6sm = 781sf

781sf @ £8.00 = £6,248

R.V. £6,000 X 0.63% = £37.80

Say £35

He also cited the example of the Catholic Social Centre at Paul Street, Dublin with a rateable valuation of £100 and a description as Community Centre and Yard. Exemption was sought at 1985 revision but not granted. It was listed for Circuit Court hearing '85 Circuit Court 132 but the case did not proceed. It is used by the Catholic Marriage Advisory Council.

The final comparison was the Catholic Marriage Advisory Centre at 35, Harcourt Street with a rateable valuation of £75. Exemption was sought also at 1985 first appeal but not granted and although listed for Circuit Court hearing '85 CC306 the case did not proceed.

Mr. Costello stated that N.A.O.M.I. previously occupied offices on the first floor of No. 32, Washington Street. On 1987 first appeal N.A.O.M.I. had sought exemption, it was not granted and the case was listed for hearing by the Tribunal as VA/88/386, however, the case was agreed prior to hearing at R.V. £15 but exemption was not granted. The Dublin centre of the N.A.O.M.I. is located at 16, North Great Georges Street with an R.V. of £38.

In the written submission in Appendix C, Mr. Costello set out a description of the activities carried out by N.A.O.M.I. on which they based their argument for exemption. These are described as:-

- (1) Family Planning
- (2) Pre-Marriage Courses
- (3) Education for Life Programs
- (4) Interpersonal Relationships

A copy of the report and accounts for the year end 31st March, 1991 audited by Declan Long & Company, Newbridge, Co. Kildare were also included in the written submission.

Oral Hearing

The oral hearing took place on the 25th of March, 1993 in City Hall, Cork. Ms. Stella O'Connell, Member of the Executive Committee of the appellant and former Chairperson appeared for the appellants and Mr. Aindraís O'Caomh B.L. instructed by the Chief State Solicitor appeared for the respondent. Evidence was given by Ms. O'Connell along the lines of her submission and it appeared that the particular premises was taken by the appellants on the basis that whereas a less High Street location might have sufficed for their purposes. Because many of the clients of the appellants called at night they went for a more High Street location for security reasons.

The constitution for the appellant association which is non-incorporated sets out in Article 2 thereof the aims and objectives which are as follows:-

- "(1) To serve God by preserving the sanctity of marriage and the dignity of the family through the promotion of the ovulation method of natural family planning as researched and defined only by Dr. J.J. Billings and his team of workers in Melbourne, Australia.
- (2) To help establish centres to teach and explain human physiology

and to promote the understanding and use of the ovulation method in accordance with the rules and standards laid down by Dr. J.J. Billings.

- (3) To assist and encourage further research into the ovulation method.
- (4) To establish a reference centre incorporating a newsletter."

Ms. O'Connell said that the work of the association involved outside courses and courses within the subject premises not only dealing with the direct topic of contraception through the ovulation method but also dealing with young single mothers and their problems in coping and establishing self esteem. Lectures were given in schools and there was parallel working with education programmes. Self awareness courses were provided in relation to matters of physiology and fertility. While professional people were paid for certain talks and courses the organisation was essentially voluntary and it is accepted that the organisation is not dealing with a big money budget as is evidenced by the accounts produced and the whole tenor of the operation carried on by them.

Mr. O'Caoimh adverted to the case of the **National Association of Widows in Ireland Ltd -V- Commissioner of Valuation (VA/88/130)** decided by the Tribunal on the 25th of November, 1988. He referred to **Clancy & Others -V- Commissioner of Valuation 1911 I.R. Vol.2 page 173.**

The Tribunal having sympathically considered the valuable work which is being done in all areas by the appellant association does not consider that the objects of the association are such as would attract a charitable exemption under the Valuation Code, notwithstanding the registration of the association for income tax purposes as a charity, and finds that the work actually carried out is of so universal an application that it cannot be regarded as a charity in any event.

In relation to the quantum of the case the Tribunal notes that the Commissioner of Valuation rounded figures down in relation to comparisons, whereas the figures for the subject were rounded up when coming to a conclusion in relation to valuation for the subject. The only concession which the Tribunal can see possible in this case is to round the valuation "down" instead of "up" and accordingly holds that the valuation for the premises is £14.

It is noted that the Tribunal record in this appeal was amended to cite Mr. Michael Higgins, Treasurer and Ms. Vera O'Donoghue, Secretary as rated occupiers, and the Tribunal accordingly directs amendment of the list by noting these persons as occupiers on behalf of N.A.O.M.I..