

Appeal No. VA94/3/055

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

Bantry and District Resource and Social Development Group Limited APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices at Map Ref: 35a, Townland: Glengarrif Road, E.D. Bantry Urban, R.D. Bantry, Co. Cork

Exemption - Charitable and public purposes

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Brian O'Farrell

Valuer

Joe Carey

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

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF JUNE, 1995

By Notice of Appeal dated the 28th day of October 1994 the appellant 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 were set out in a letter attached to the Notice of Appeal and summarised below:-

"The property should be exempt rather than revised. The Community Resource Centre is funded under the Community Development Program by the Department of Social Welfare. It is not a business, it is not involved in any commercial activity and does not profit from any of the activities of the centre. The centre is managed by a voluntary committee. The main areas of work include rural development, women, unemployed youths, community education, information service, community arts and housing on the premises for the community play group and adult literacy group."

The Property:

The property is a two storey mid terrace building on the Glengarrif Road out of the town of Bantry in West Cork. Before its current use a continental occupied the first floor and operated a jumper making -outwork- business from the ground floor.

Accommodation:

Ground floor: Reception, information centre, playroom/kitchen, hall/waiting room.

First floor: One large meeting/training room, two offices, toilet, hall. Light partitions.

Services are telephone, electricity, town water and sewerage, storage heaters.

Tenure:

The property is held on a three year lease from November 1992.

Rent: Year 1 £60.00 per week
 Year 2 £65.00 per week
 Year 3 £70.00 per week

Written Submissions:

A written submission was received on the 15th day of March 1995 from Mr. Terry Dineen, District Valuer in the Valuation Office on behalf of the respondent. In his written submission, Mr. Dineen described the property, its accommodation and tenure. He said that exemption was being sought by the appellant on two grounds:

- (1) public grounds
- (2) charitable grounds.

1) In relation to public grounds, Mr. Dineen said that the group was funded by the Department of Social Welfare. He said that the Articles of Association referred to annual membership subscriptions but that none were collected. He said that the staff were not civil servants but that the Memorandum of Association referred to the "initial contract with the Department of Social Welfare."

In summary he said that the body seemed to act as an "independent contractor to the Minister" to encourage and develop the voluntary sector. He said that there was no provision for control by the Department.

2) In relation to charitable grounds, Mr. Dineen said that the concentration of the group was on the poor and disadvantaged, unwaged, single mothers, illiterates, and travellers. Mr. Dineen said that unless the objects of the charity were exclusively a lower class than those the local authority would consider "poor" that is entitled to housing, water rate waivers etc. there is not much point in transferring money out of democratic control. Mr. Dineen attached to his written submission three appendices as follows:

Appendix A: Memorandum and Articles of Association of the Bantry and District Resource and Social Development Group Limited

Appendix B: Bantry and District Resource and Social Development Group Limited Annual Report 1992.

Appendix C: Bantry and District Resource and Social Development Group Limited Financial Statements for the period ended 31st December 1992.

A written submission was received on the 10th April 1995 from Noreen Minehane, Administrator, Community Resource Centre on behalf of the appellant. In the written submission Ms. Minehane attached copies of correspondence with the Department of Social Welfare, Cork County Council in addition to the Annual Report, Financial Statements and Memorandum and Articles of Association of the group.

Oral Hearing:

The oral hearing took place in Cork on the 25th day of April 1995. Ms. Noreen Minehane, Administrator (part time) of the appellant appeared on behalf of the appellant and John Lucey, Barrister at Law appeared on behalf of the respondent with Mr. Terry Dineen, District Valuer.

Ms. Minehane argued strongly for exemption on the basis that the premises were used for charitable and public purposes.

Mr. Lucey submitted that the Commissioner must take into account Section 3 of the Poor Relief Act, 1838. To qualify for exemption, the premises had to be exclusively used for charitable or public purposes. He referred to a number of reported cases including the **Barrington Hospital case (1957 Irish Reports 299)** where it was said *inter alia*, that for a building to qualify for exemption it must be used for charitable purposes only. On the question of public purposes, he referred to Mr. Justice Keane's book (**The Law of Local**

Government in Ireland) and in particular, page 297 thereof, where it states on the basis of case law, that property is "used for public purposes" only where:

- (1) it belongs to the Government or
- (2) each member of the public has an interest in the property.

He further referred to a number of decisions of the Tribunal.

At the conclusion of the hearing, the Tribunal formed a preliminary view that it was driven by the law to hold that the premises were not exempt. It was, however, indicated that delivery of judgment would be withheld for at least a month to enable the appellant to negotiate with the Local Authority in seeking a waiver in respect of the premises.

Determination:

The Tribunal is satisfied as a matter of law that there was no evidence before it upon which it could bring the premises into the very narrow definition of charitable and/or public purposes. The rateable valuation of £15 is therefore affirmed.