

Appeal No: VA17/5/313

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Helen Kennedy, Ita Tansey, Lisa Duignan, Mary Bracken

APPELLANTS

and

Commissioner Of Valuation

RESPONDENT

In relation to the valuation of
Property No. 2162867, Unit 8 Northwest Business & Technology Park, Castlecara Road,
Carrick on Shannon County Leitrim

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8th DAY OF MARCH 2023**

BEFORE

Úna Ní Chatháin - BL

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th day of October, 2017 the Appellants appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV’) of the above relevant Property was fixed in the sum of €8,710.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the Property ought to have been excluded from the Valuation List because it is occupied by a: *“Non profit group and should be exempt.”*

1.3 On that basis, the Appellants consider that the valuation of the Property ought to have been determined in the sum of €0.

2. RE-VALUATION HISTORY

2.1 On the 19th day of January, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellants indicating a valuation of €8,710.

2.2 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €8,710.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is the 30th day of October, 2015.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. DOCUMENTS

4.1 The Tribunal had before it the following documents:

- (i) Notice of Appeal dated 9 October 2017;
- (ii) Written submission of Helen Kennedy on behalf of the Appellants dated 9 July 2018;
- (iii) Statement of evidence of Linda Edwards on behalf of the Respondent, dated 7 August 2018;
- (iv) Appendix (iii) to the statement of evidence of Linda Edwards: the Constitution of Carrick-on-Shannon Gymnastics Club (n/a to the public).
- (v) Appendix (iv) to the statement of evidence of Linda Edwards: an unsigned financial statement from 21 October 2016 to 31 August 2017, submitted by the Appellants to the respondent (n/a to the public).

5. FACTS

5.1 The parties are agreed as to the following facts.

5.2 The Property is located at Unit 8 Northwest Business & Technology Park, Castlecara Road, Carrick-on-Shannon, Co. Leitrim and is an end-of-terrace industrial showroom. The business park is located on the outskirts of Carrick-on-Shannon. The Property is located approximately 2 kilometres from the border with Co. Roscommon, approximately 20 kilometres from the border with Co. Sligo, and approximately 30 kilometres from the border with Co. Longford.

5.3 The property is occupied by Carrick-on-Shannon Gymnastics Club and is in use as gymnastics club gym and is held under a lease entered into in 2010. No information as to area was submitted.

5.4 Gymnastics is a sport.

5.5 The Property is not the premises of a club for the time being registered under the Registration of Clubs (Ireland) Act 1904.

6. ISSUES

6.1 The single issue arising on this appeal is whether the Property ought to be included in the Valuation List or whether it is exempt from rating by reason of being a property falling within paragraph 4A of Schedule 4 of the Act and used exclusively for community sport, and otherwise than for profit.

7. RELEVANT STATUTORY PROVISIONS:

7.1 The provisions of the Valuation Act 2001 in so far as relevant to this appeal are set out below for ease of reference. All references hereinafter to a particular section of the Valuation Act 2001 ('the Act') refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act, 2015.

7.2 Section 15 of the Valuation Act 2001 provides:

(1) Subject to the following subsections and sections 16 and 59, relevant property shall be rateable

(2) Subject to sections 16 and 59, relevant property referred to in Schedule 4 shall not be rateable.

7.3 Schedule 4 of the Valuation Act 2001 sets out what is relevant property not rateable for the purposes of the Act. Paragraph 4A thereof provides:

4A. (1) Any building or part of a building used exclusively for community sport, and otherwise than for profit and not being the premises of a club for the time being registered under the Registration of Clubs (Ireland) Act 1904.

(2) In this paragraph "community sport" means sport, the principal participants in which are—

- (a) inhabitants of the locality in which the building concerned (or part of the building concerned) is situate,
- (b) inhabitants of localities neighbouring the first-mentioned locality, or
- (c) in the case of sporting activities involving teams and with the consent of those responsible in the first-mentioned locality for organising sporting activities in that locality, persons from any geographical area.

8. APPELLANTS' SUBMISSIONS

8.1 The Appellants are the trustees of Carrick-on-Shannon Gymnastics Club. The first named Appellant submitted evidence on behalf of the trustees. She submitted that the club is a voluntary, not-for-profit group of parents interested in providing an outlet for children and teenagers. They run the club for the benefit of the community, and nobody involved in the committee or in coaching receives any payment for the time they give to the club. The fees for membership are consequently kept low and the club is accessible to all.

8.2 The club has been in existence for over 30 years and for most of that time rented hours in a local sports centre. The club had a long waiting list, and there were not enough available hours at the sports centre. The club also required space to store gymnastics equipment. The club sought a more permanent premises and found the Property was affordable. The club has progressed and grown since moving to the Property.

8.3 The club has a membership of 144 children aged between 4 and 16, 12 coaches and 2 junior coaches. The coaches provide 30 coaching hours a week on a voluntary basis. The club serves

a wide catchment area including Leitrim, Roscommon, Longford and Sligo. The club is affiliated to Gymnastics Ireland and all members are members of Gymnastics Ireland.

8.4 The ethos of the club is to provide quality gymnastic training to all in a child-centred and friendly environment. To that end the club fundraises to add to its equipment each year and is equipped with Olympic-standard bars, vault, beams, and has additional training equipment.

9. RESPONDENT'S SUBMISSIONS

9.1 Ms. Linda Edwards is a valuer employed in the Valuation Office. Her précis of evidence contained a summary of the background to the appeal, some details of the subject Property, including its location, a floor plan and a photograph, its valuation history, and her response to the Appellants' appeal.

9.2 Ms. Edwards in her précis stated that the Respondent accepted that gymnastics is a sport but did not accept that the activity carried out at the Property was on a not-for-profit basis. First, Carrick-on-Shannon Gymnastics Club's unsigned Constitution did not, in Ms. Edwards's submission, satisfy the condition contained within paragraph 4A(1) that the activity must be on a not-for-profit basis. Secondly, Ms Edwards submitted, a financial statement was furnished by the Appellants which indicated that funds were "used for purposes other than sport", and the Appellants had not submitted any other evidence that the Property was used otherwise than for profit.

9.3 Furthermore, the Respondent's witness submitted that as the Appellants' witness stated the club's membership was drawn from a wide geographical area, encompassing four counties, this, she said, could not be deemed to be in compliance with paragraph 4A(2).

9.4 Consequently the Respondent submitted that the Property was not relevant property not rateable pursuant to paragraph 4A of Schedule 4.

10. FINDINGS AND CONCLUSIONS

10.1 The Appellants did not put further an alternative ground of appeal, in the event the claim for exemption from rating failed, that the valuation of the Property was incorrect.

10.2 The Respondent has not disputed the information provided by the Appellants to support the contention that Carrick-on-Shannon Gymnastics Club is a not-for-profit community sports club, essentially that the committee and staff of the club are unremunerated volunteers, and that the club does not seek to profit from the services it provides to the community.

10.3 Instead the Respondent submits that the copy of the club's Constitution does not "satisfy the condition" in paragraph 4A(1) that the activity must be on a not-for-profit basis. The Respondent has not elaborated on this submission. The Constitution provides at paragraph (2) that the club's objective is "to provide facilities for and promote participation of the whole community in the sport of gymnastics." Paragraph (3) provides inter alia that subscriptions are to be kept at levels that will not pose a significant obstacle to participation. Paragraph (10) provides that on winding up, net assets are to be disposed of to another club with similar sports purposes which is a registered charity or community group and/or to the sports governing body for use by them for related community sports. Paragraph (11) deals with finance and empowers the club to provide various "ordinary benefits of community amateur sports club", and , "in connection with the sports purposes of the club", to sell and supply sports clothing and equipment, employ members and remunerate them for the provision of goods and services, and to pay for reasonable hospitality for visiting teams and guests, and to provide certain indemnities. Contrary to the submission on behalf of the Respondent, the Tribunal considers that the Constitution supports the Appellants' submission in that no profit-making activity is alluded to, and the Constitution refers repeatedly to the community and amateur nature of the club.

10.4 The Respondent also submitted that the financial statement submitted on behalf of the club showed that funds were used for purposes other than sport and for that reason, the Property was not shown to be used otherwise than for profit. The statement in question covered the period from 21 October 2016 to 31 August 2017. It outlined the assets and income of the club (income being from classes, late registration, competition entries, fund raising, and leotards from stock), and listed expenses. The only expenses listed in the financial statement which are not obviously directly connected to sport, apart from rent and utilities are:

- (i) AGM Bush Hotel €33.60
- (ii) Ardcarne – Gift for Marie €100
- (iii) 30th party (cake, gifts, decorations, food, flowers, Bush Hotel) €906.78
- (iv) Child protection course (Mary) €20

(v) Stationery €13

(vi) Christmas party and selection boxes €1,000

(vii) End of year gifts & gift for Leia and night out €1,120

10.5 The above expenses are reasonable expenses connected to the running of a community sports club staffed by volunteers and the Tribunal rejects the Respondent's submission that those items of expenditure render the club a profit-making club. It is not accepted that, for example, club celebrations for its 30th anniversary or for Christmas somehow change the nature of the club into a for-profit venture. Such is not the effect nor the intended effect of paragraph 4A of Schedule 4.

10.6 The Tribunal also rejects the Respondent's submission that the fact that the club's membership is drawn from four counties meant that the property was not being used for community sport as required by paragraph 4A(2). That paragraph provides that a community sport is a sport, the principal participants in which are inhabitants of the locality in which the Property is situate, or of neighbouring localities, or, where the sporting activity involves teams and the occupants of the locality consent, persons from any geographical area.

10.7 The Property is located near the border of two counties, and approximately 30 km or less from the border of two other counties. The Tribunal accepts that in the context of gymnastics, the principal participants in the sport carried out in the Property are inhabitants of the locality in which the Property is situate, or of neighbouring localities.

10.8 Accordingly, the Tribunal accepts the submission on behalf of the Appellants that the Property is exempt and ought not to be included in the Valuation List on the basis that it is used exclusively for community sport and otherwise than for profit

10. DETERMINATION:

The Tribunal holds that the Property is a building occupied by the Appellants that is used exclusively for community sport, and otherwise than for profit and is not the premises of a club for the time being registered under the Registration of Clubs (Ireland) Act 1904. Accordingly, having regard to the provisions of section 15(2) and Schedule 4 of the Act, the Property is relevant property not rateable.

For the above reason, the Tribunal allows the appeal and determines that the Property ought to be excluded from the valuation list.