

Appeal No: VA18/4/0059

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2020**

Connacht Rugby

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 2186936, Galway Sportsground, College Road, Galway**

B E F O R E

Dairine Mac Fadden - Solicitor

Deputy Chairperson

Caroline Murphy - BL

Member

Thomas J Kearns - B.Sc. (Surv). MRICS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 31ST DAY OF MAY, 2023**

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 17th day of December, 2018 the Appellant 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 €576.
- 1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *"The Subject Property is exempt under section 4, schedule 4 of the Valuation act 2001 as amended, other than the designated bar area"*
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €17.

2. VALUATION HISTORY

- 2.1 On the 30th day of May, 2018 a copy of a valuation certificate proposed to be issued under section 28(4) of the Valuation Act 2001 ("the Act") in relation to the Property was sent to the Appellant indicating a valuation of €576.
- 2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the Revision manager did it not consider it appropriate to provide for a lower valuation.

- 2.3 A Final Valuation Certificate issued on the 30th day of November, 2018 stating a valuation of €576.

3. THE HEARING

- 3.1 The Appeal proceeded by way of a remote oral hearing on the 10th day of May 2022. At the hearing the Appellant was represented by Mr. David ES Halpin M.Sc. (Real Estate) Ba. (Mod) and the Respondent was represented by John O'Brien MSCSI, MRICS, ACI Arb of the Valuation Office together with Brian Murray B.L. and Michael Collins of the Chief State Solicitor's office. Karl Boylan of the Appellant attended the hearing in an observational capacity.
- 3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. ISSUES

- 4.1 The issue in this Appeal is whether the Property is entitled to be treated as exempt from rates pursuant to paragraph 4(a) of Schedule 4 of the Valuation Act, 2001, as amended.
- 4.2 The Appellant accepts the valuation of the bar area at RV€17.

5. RELEVANT STATUTORY PROVISIONS

- 5.1 The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

"(1) If the value of a relevant property (in subsection (2) referred to as the "first-mentioned property") falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

- 5.2 Paragraph 4(a) of Schedule of 4 of the, amended by the 2015 Act, 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.

6. APPELLANT'S CASE

6.1 The Appellant's witness, Mr. Halpin, Valuer, confirmed he had no issue with the late filing of the Respondent's written legal submissions but took issue with the measurements of the Property and the Respondent's revised valuation of €622. He said the sole ground of Appeal is the exemption and the Property's measurements have now changed and additional property has been added to the valuation which did not form part of the Appeal. Counsel for the Respondent, Mr. Murray said they were here on the grounds of the Appeal but had no issue with evidence being given on that issue, if necessary.

6.2 The Property is located at College Road, Galway adjacent to the Galway Sportsground (PN 1157559). Galway Sportsground is a stadium jointly occupied by the Appellant and the IGB (Irish Greyhound Board). This is a suburban location within the context of Galway City. The Property is occupied exclusively by the Connacht branch of the IRFU also known as Connacht Rugby, the Appellant.

6.3 The Property comprises a two storey clubhouse comprising changing rooms at ground floor and offices at first floor, two storey gymnasium/sports hall, equipment store and a bar. The Appellant accepted the measurements of the accommodation, of which ascribe to the Respondents original accommodation with the exception of the canopy which he could not identify at inspection. The measurements are as follows:

Clubhouse (ground floor)	630.83m ²
Clubhouse (first floor)	429.4m ²
Sports hall/Gym (ground floor)	461.36m ²
Sports hall/Gym (first floor)	219.73m ²
Equipment Store	152.80m ²
Bar	97.79m ² .

6.4 Mr. Halpin contended the Property under the occupation of the Appellant is exempt under Schedule 4, paragraph 4(a) save for what is described in the Notice of Appeal as "the designated bar area". He accepted that an explicit exception for the sale or consumption of alcohol only applies under paragraph 4(b) where the Property is held by a club registered under the 1904 Act. The Appellant is not such a club. There is no mention of any exceptions for use in paragraph 4(a). However, the Appellant accepts that the bar area does not provide any direct sporting activity nor any associated administrative function and hence it should not fall to be exempt. The remainder of the Property satisfies the test for exemption under paragraph 4(a).

6.5 Mr. Halpin said the Property was “used exclusively for community sport”. The Appellant is an organisation governed by constitution. The objects of the Appellant as set out in the Constitution are:

“2.2.1 *Purpose* To inspire our Community through rugby success.”

He said community was at the heart of Connacht Rugby and that the word “community” appeared in its objects and would not appear in many community sports organisations objects as their primary purpose. There was a strategic choices document which shows how the club progresses with children from 8 years old, teens, and older who can play rugby at any level and all the way to the potentiality of qualifying for a professional team. The community is enshrined in its constitution and players of all ages and genders are accommodated from within the locality, from the amateur game right up to the professional team and he referred to the document with the slogan “*Grassroots to Green Shirts*” which refers to the progression of a player.

6.6 The definition of “community sport” in paragraph 4(a) makes no mention of whether or not participants should be amateur or professional, but merely whether or not they are from the locality. 99% of the rugby played at Connacht Rugby is amateur, it is only really whether the players are from the locality. The Appellant draws its players from the locality. Indeed, to do otherwise would be impractical as well as contrary to its stated objects. There is no one even on the professional team who decides to fly in as they live locally and play locally.

6.7 In relation to the “Otherwise than for profit” aspect, Mr. Halpin said the Appellant is registered under Section 235 of the Taxes Consolidation Act 1997 as tax exempt. The primary qualification to obtain such exemption is a not for profit status and referred to a revenue briefing note on the section written in 2001: “Member controlled and not for profit.”

6.8 The Appellant is registered under no. 2397 which is proof of its tax exempt status so there is no question as to whether the Appellant is tax exempt as it is already approved by the State. Referring to the briefing note, he said in a given year, the Appellant may turn a profit on paper. However, any monies accrued are directly reinvested back immediately into the game. The Appellant may save up money over a period and spend it, for example, on clubhouse renovations, equipment, etc, but they don’t spend any money that accrues on anything other than rugby directly. As such, no private profit accrues.

6.9 Finally, the Appellant is not registered under the Registration of Clubs (Ireland) Act 1904 and if it was it would qualify under 4(b) as it is not it qualifies under paragraph 4(a).

6.10 Under cross examination, he agreed that the club derives a profit from the bar, and said they spend it on the rugby.

6.11 When asked what he meant by the professional team make up a small part of the clubs contingent, such as amount of personnel, he agreed but also the time they use the facilities, as if you turn up on a Saturday you are likely to find an under 14 player playing rather than the professional team. He confirmed that under 14’s played their matches on the training pitches adjacent to the stadium and they make use of those facilities in order to play their matches on those pitches.

- 6.12 When asked if he would accept that the professional team are at the frontline of the revenue making of the Appellant, Mr. Halpin said he had not done an analysis on the income of the Appellant so he didn't know. He had not done any breakdown of the accounts of the Appellant or attempted to ascertain where the club was without its professional club. It was put to him that the Connacht Rugby team play at the highest level of international club rugby which he agreed. He accepted the players earn wages and they can play in any geographical area.
- 6.13 When asked how he was able to say that the club channels all of its revenue back into the community he said he had seen it and had been told it specifically by the club itself. Mr. Murray put it to Mr. Halpin that he hadn't examined the facts about the main revenue stream, Mr Halpin said he had examined the taxable status of the Appellant and to obtain that status they must be not for profit thereby all their funds are channelled directly back otherwise they would not qualify.
- 6.14 Mr. Halpin accepted that the professional team worked out of the Property but did not accept that those members of Connacht Rugby are the primary users of the facilities but rather that they make use of the facilities on occasions but the facilities are occupied by all sorts of teams at League, club and under-age level.
- 6.15 Mr. Halpin was asked whether it was his contention that the reference to "locality" paragraph 4(a) meant the entire province of Connacht, Mr. Halpin said that the word locality was not defined and there is no question that the Appellant serves its locality. When Mr. Murray put it to Mr. Halpin the word "inhabitants" in paragraph 4(a)(2)(a) and (b) and the definition of locality in the oxford dictionary, means area or neighbourhood, and that this was a far cry from the entire province of Connacht, Mr. Halpin said the definitions did not change it and the province of Connacht is entitled to be counted as the locality for the purposes of the exemption.
- 6.16 When asked whether there was any evidence of the professional players living in the neighbourhood of the Property, he said they do because they have to, they all live reasonably close to the stadium to train. Asked how he knew that, he said he had been told by Karl Boylan of the Appellant. It would also be against their own objects to have people coming from abroad or Dublin to train every day of the week.
- 6.17 It was put to him that there was no evidence that the players live in the locality of the Property, Mr. Halpin said that at local and league levels, children make up the largest proportion of players and that the idea that children would want to come from two or more hours away to play at an under 14's rugby match is preposterous. It was put to him that the captain is Australian and there are New Zealand players on the team so they are an international professional sports team that sign players internationally and draws players from all around the world, to which Mr. Halpin answered that they are not when they go to play a game, they are drawn from the community because they already live in the locality and it's a provision in the contract that they must already live there otherwise they would fly in from Australia on a Monday morning. They choose to move their lives to Connacht in order to play. He agreed that they are professional at elite level not amateur, and they negotiate contracts and sponsorships. He conceded he did not have a list of players registered with the Appellant, amateur or professional.

- 6.18 Mr. Murray referred to the Constitution of the Appellant at Section 7, "*The Connacht Rugby Board, The Board is the ultimate decision-maker covering the governance matters delegated to it by the Council. This includes the affairs of both the community and professional game and all other operations.*" and asked if Mr. Halpin accepted that the Appellant makes a distinction between the professional game and the community game as is played under the Appellant. Mr. Halpin responded that it was the exact opposite, the board covers everything, it mentions community and professional game but doesn't say there is a different function for each, as they are all under that board.
- 6.19 When asked whether he accepted that the Appellant expressly recognised the difference between community rugby and professional rugby, he said there is different expertise from an administration point of view in the governance of each, and that it wouldn't be appropriate in an administration function to govern them in the same way.
- 6.20 Mr. Murray referred to the Appellant's Vision and Strategy Document: Our Strategic choices, Commercial Operations: The purpose is "*to maximise the commercial and marketing potential of Connacht Rugby to sustain consistent success across professional and community rugby in Connacht*" which Mr. Halpin confirmed was correct.
- 6.21 Under the heading "*Revenue: Specific financial milestones, including sponsorship, ticketing and commercial; Pricing/Yield management analysis and Greater Financial Capacity: The capacity to action our plan depends on our ability to grow the financial resources we have available to us. Key priorities include: growing our commercial revenues, maximising stakeholder support and developing an effective fundraising strategy*" Mr. Murray put it to Mr. Halpin that these pointed to clear ambitions and strategies by the club to develop the professional and community sport and to significant efforts to grow commercial revenues. Mr. Halpin agreed with this and said no sporting organisation of any scale in Ireland was any different, for example, Dublin GAA will have these targets because the more revenue they bring in the more they can spend on the sport.
- 6.22 Mr. Murray said that Mr. Halpin had accepted that the Property is used by the professional team and the Respondent's argument is as the professional limb of the Appellant is a significant commercial entity as well as a sporting entity it cannot be the case that the Property is used exclusively for community sport when the Appellant expressly delineates between the community and professional game. In response, Mr. Halpin said that the delineation is admin related and it qualifies under paragraph 4(a) and the Respondent is attempting to imply that the definition in the legislation says something about "amateur" but it does not. It was put to him that was the clear intention of the legislation but he disagreed and said there was no intention that could be drawn out of a document other than what was written down.
- 6.23 It was put to him that buildings must be used, otherwise than for profit, and said Mr. Halpin accepted that the bar area was used to generate profit. In reply, Mr. Halpin said he accepted the bar wasn't used exclusively for the provision of community sport but did not really accept that it was used for profit in so far as the profit is used by the Appellant for the sport of community rugby; there is no private profit from the bar area.
- 6.24 He put it to Mr. Halpin from the Constitution and Vision and Strategy document that clearly there are intentions and that there are activities that are growing commercial

revenues using the Property. Mr. Halpin agreed but that there was no such guarantee that those activities are profitable and the Appellant's aim is to put its money back into the Appellant, for there to be a profit it must be someone who benefits other than the Appellant and the game of rugby in general.

- 6.25 It was put to Mr. Halpin that in his submissions that he said no private profit accrues to which he agreed. It was put to him that the Act did not say private profit which he accepted but said that on that basis nobody would qualify under paragraphs 4(a) and 4(b), as every organisation makes some element of profit on some things and it would be impossible to satisfy.
- 6.26 It was put to Mr. Halpin that a local GAA club could be raising funds from its members or local participants whereas the Appellant are seeking and attracting revenue from corporate entities and anybody can engage in corporate sponsorship or join the business club to which he agreed. However, he said it didn't matter where the sponsorship comes from as it is spent on community sport and paragraph 4(a) doesn't reference this.
- 6.27 Mr. Murray put it to him that paragraphs 8(a), 9,10(a), 11, 14(a), 16(a), 16(b) and 17 of Schedule 4 of the Act exempt lands or buildings where the affairs conducted there are for the purposes of making a "private profit" which was a very clear intention by the legislation, Mr. Halpin did not dispute the reference to private profit in those sections.
- 6.28 When asked whether he accepted that there are a number of commercial ventures for the purposes of deriving a profit being carried on at the Property giving the example of an upcoming match with hospitality tickets for sale on the website, Mr. Halpin said they are selling tickets but he could not say whether any of these people will or won't be in the buildings, other than the bar and could not see how any of the people buying a hospitality or corporate ticket would be in any of the buildings like the clubhouse, sports hall or equipment store. Mr. Murray referred to the hospitality ticket which he said included a stand match ticket, two-course meal, live music entertainment in the Heineken Clubhouse which Mr. Halpin said was a temporary marquee where the hospitality is held not a building and is not part of the assessment. Mr. Murray said there are other commercial activities including bronze, silver, and gold packages for sponsoring professional players advertised on their website and said the purpose is to derive profit, Mr. Halpin answered that it's purpose is to derive income and that there was no guarantee of any profit.
- 6.29 Mr. Murray put it to him that Connacht Rugby Business Club entitles companies or corporate entities to benefits including hospitality events, networking events, and grand promotion and an excellent opportunity for progressive and proactive business to host customers, impress prospects and or reward staff and put it to him it was not community sport. Mr. Halpin said it didn't have to be; it's not carried on in any of the buildings the subject of the assessment. When asked where these activities take place, Mr. Halpin said they were in a separate marquee which isn't valued. When it was put to him that all of these activities were derived directly from the professional aspect Mr. Halpin said it would be difficult to derive income from the amateur game but it doesn't matter as it is not relevant to the buildings before the Tribunal.

- 6.30 The Tribunal asked Mr. Halpin whether the names of the Juvenile team who played in this area were called Connacht Rugby or denominated by a local club name, e,g Salthill or Gort. He confirmed they were denominated by their local club name.

7. RESPONDENT'S CASE

- 7.1 Mr. O'Brien referred to his précis. The Property consists of a two-storey clubhouse with offices on the first floor, two storey gymnasium, bar, toilets, stores, portacabins, an open stand and two terrace areas located at both ends of the pitch. Following his re-inspection of the Property in March 2022, Mr. O'Brien included all the accommodation set out in his précis in the valuation. His valuation increased from €576.00 to €622.00 as all buildings and associated areas on the site are now included in the valuation.
- 7.2 His comparisons were PN2186936, PN 1157599, PN 1145504, 1148474. The previous valuation of the Property (PN2186936) was pre revision in 2018 and the clubhouse, offices and stands had been previously valued with a Valuation of €276. He requested his Valuation of €622 to be entered on to the Valuation List.
- 7.3 Under cross examination, Mr. Halpin referred Mr. O'Brien to his schedule which referred to gym, store, offices and to his decision as to what disqualifies the Property under paragraph 4(a). Mr. O'Brien said the Property was relevant Property under schedule 3 and did not qualify under schedule 4. As per his comparisons, the Property was previously rated with a clubhouse on the first floor and offices and post revision there were significant improvements made which he added to the valuation.
- 7.4 He confirmed the request was made by the Local Authority. When asked why the Property did not qualify under paragraph 4(a) he said he dealt with the request to value all buildings on site so he valued all buildings on site, treated them under Schedule 3, had regard to the amendment of the Act and did not feel they fell under Schedule 4 of the Act.
- 7.5 When asked why he reinspected the Property on 24th March 2022 and included new measurements and additional buildings he said he checked everything before the hearing.
- 7.6 In relation to Comparison 1 (the Property), Mr. Halpin questioned Mr. O'Brien's Précis which says the capacity is 9,200 people, he answered the stadium has a capacity of 9,200 and the stands and the terraces are valued as part of the valuation but it should have been categorised as a stadium and valued in line with his comparisons. It was put to him that none of his comparisons have been assessed since the change in the 2015 Act which he accepted. He agreed that as his comparisons were all assessed pre amendment one wouldn't know whether they would be exempt or not.
- 7.7 Asked whether it was correct that under 14,16, 17's, local club level, county club level, AIL level, use the facilities of the Property, he agreed, and whether he believed on that basis that the Property constitutes community sport, he said he valued it in line with Schedule 3 and the improvements added as a result of the revision.

8. SUBMISSIONS

Appellant's Legal Submissions

- 8.1 Mr. Halpin relied on his précis in support of the Appeal. The only additional legal point he wished to make was that the Appellant's only ground of appeal is that most of the Property is exempt and the Tribunal cannot deal with the increased valuation contended for by the Respondent and that the valuation of the Property was either €17 or €576, not €622. His point on "community sport" was made in his direct evidence.

Respondent's Legal Submissions

- 8.2 Mr. Murray provided written legal submissions to the Tribunal. He confirmed the Respondent would not pursue the valuation of €622. He referred to ***CRG PortLaois Limited v Commissioner Appeal No. 114/4022*** which stated if the Tribunal disallowed the appeal it must confirm the decision of the Respondent and there is no statutory power to insert a higher figure from the Respondent on the Valuation Certificate.
- 8.3 Mr. Murray said the Notice of Appeal requires a detailed description of the Property and "Clubhouse" is named in the Appellant's Notice of Appeal. The Grounds of the Appeal state *"this Notice must set out exhaustively the Grounds of Appeal upon which the appellant intends to rely. Those Grounds of Appeal may NOT be changed or extended (and liberty to amend will not be granted) save in exceptional circumstances."* No. 6 of the Grounds of Appeal state "the subject property is exempt under section 4, schedule 4 of the Valuation Act 2001 as amended other than the designated bar area" and therefore the only ground is the clubhouse if confined to the content of the Notice of Appeal.
- 8.4 Paragraph 4(a) provides that any building or part of a building must firstly be used exclusively for community sport and once that criteria is met it must be established that it is used other than for profit. In ***Lawlor v Flood*** [1999] 3 IR 107 Denham J in the Supreme Court emphasised the importance of the ordinary meaning rule in determining the legislature's intention and in respecting the separation of powers envisaged by the Constitution which held:
- "In applying the ordinary meaning of the words the Court is enforcing the clear intention of the legislature. This aspect of statutory construction is an essential part of the separation of powers. Further, it is an illustration of appropriate respect by one organ of government to another."*
- He said the ordinary meaning of community sport was very clear, even the evidence that the Appellant itself makes a very clear distinction between what it terms community rugby and professional rugby.
- 8.5 Mr. Murray said in paragraph 4(a)(2) 'community sport' means sport, the principal participants are members of the locality in which the building is concerned. Aside from the fact the inhabitants have to be inhabitants of the locality or inhabitants of localities neighbouring the locality, he said the Appellant must engage in community sport which there was no doubt about, but they also have high profile professional rugby teams in professional rugby and it is not in dispute that the professional team uses the Property for training and for playing matches on a regular basis.
- 8.6 He said it is presumed that the professional team would use the Property for meetings and corporate hospitality networking events to meet sponsors. The fact that a professional club is operating out of this building generating huge revenue, when they

play at home with ability to broadcast the game around the world on a pay per view basis was a very strained interpretation of the Act that the Property is being used exclusively for community sport and nothing else.

- 8.7 In relation to “other than for profit”, he said Mr. Halpin relied on the Appellant’s status as a not for profit organisation and he accepted that income is generated certainly from the bar area and he suggested that as it goes back into the club it’s apparently exempt under the Taxes and Consolidation Act because it’s not for profit which means they are excluded under paragraph 4(a). He suggested these buildings are not being used for local bingo rather they are being used in the spirit of the Vision and Strategy documents which is they are engaged in commercial ventures with the primary purpose of financial gain. He argued that where the profit derives from that goes doesn't matter because that's not what section 4 provides; rather whether or not buildings or part of the buildings are used otherwise than for profit. It was quite clear that all of the commercial ventures which are being carried out involve the Property one way or another, but they are being used for the primary purpose to make profit.
- 8.8 He said the Property was open to everybody such as commercial sponsors and international entities are entitled to avail of the facilities upon payment of a sponsorship fee or a corporate hospitality fee. The Property is not, firstly, clearly a building used for community purposes exclusively and secondly, it's quite clear that there are ventures and activities going on that are for the purposes of financial gain and for profit, and it doesn't matter where the monies received go because that’s not what the section provides.
- 8.9 If there is any ambiguity, *Nangles Nurseries -v- Commissioners of Valuation* [2008] IEHC 73, sets out at paragraph 7 that the Act is to be strictly interpreted and exemptions or relieving provisions are to be interpreted strictly against the rate payer; ambiguities, if they are to be found in an exemption are to be interpreted against the rate payer, and in the case of ambiguity the court must have resort to the strict and literal interpretation of the Act, to the statutory pattern of the Act, and by reference to other provisions of the statute or other statutes expressed to be considered with it.
- 8.10 He said as there are a significant number of provisions under the Act that exempt entities and buildings from earning a “private profit”, which is not mentioned in paragraph 4(a) rather that the building is being used exclusively for community sport and if it's being used for profit, it is not subject to the exemption. The evidence is very clear and it would be a very strained interpretation if there are professional clubs generating billions of euro in revenue arising out of their use of these buildings, which could be deemed to be being used exclusively for community sport.

Appellant’s Summing up

- 8.11 Mr. Halpin said the Property is used for community sport and the Appellant happens to have a professional team which does not exclude it under paragraph 4(a). The main purpose of the Appellant’s success is to inspire the community through rugby’s success and there must be a professional arm in that regard which does not disqualify them under paragraph 4(a) in any way. There is no mention of professionalism, amateurism or otherwise in the Act and what the Respondent appears to want to do is infer that the Act should have mentioned “amateur” and “professional”. Mr Halpin said that the Property is

tax exempt on the basis that it is not for profit, no profit can possibly arise otherwise it is immediately deprived of its status as tax exempt. He noted the Respondent's agreement that the additional property cannot be included for consideration in the Appeal and confirmed his opposition to the inclusion of same.

Respondents Summing up

8.12 Mr. Murray said the Property is not tax exempt, it is the Appellant who has a tax exemption.

9. FINDINGS AND CONCLUSION

9.1 A Valuation Certificate was issued pursuant to Section 29 of the Act in respect of the Property on the 30th day of November, 2018 with a valuation of €576 and it is this determination that is under Appeal as contended by the Appellant and confirmed by Counsel for the Respondent in his submissions.

9.2 Counsel for the Respondent contended that the only part of the Property appealed in this Appeal is the clubhouse if the Appeal is confined to the Notice of Appeal as it is named in the description of the Property. The Notice of Appeal must set out exhaustively the Grounds of Appeal upon which the Appellant intends to rely. The Grounds of Appeal set out at No. 6 of the Notice of Appeal state that "the subject property is exempt under section 4, schedule 4 of the Valuation Act 2001 as amended, other than the designated bar area." The Tribunal finds the Notice of Appeal states that the Property other than the designated bar area is exempt and puts forward a valuation for the bar of €17 in that Notice of Appeal. The Tribunal finds that as no valuation was put forward by the Appellant for the clubhouse, gymnasium and the equipment store, that those buildings were appealed along with the clubhouse as it is clear that it is only the Valuation of the bar area that the Appellant accepts.

9.3 The Tribunal finds the remainder of the Property, the subject of the Appeal, comprises a clubhouse, sports hall/gym and equipment store.

9.4 For the Property to be exempt under paragraph 4(a) of Schedule 4 of the 2001 Act (as amended) it must be a 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.

9.5 The Property is located at College Road, Galway and occupied by the Connacht branch of the IRFU (Irish Rugby Football Union) known as Connacht Rugby, the Appellant.

9.6 The Appellant's purpose as set out in their objects in their constitution is "to promote the success of rugby in the community". On the evidence adduced, the Tribunal finds that the Property is used by amateur teams and the professional team.

"Community Sport" is defined in the Act:

(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.

- 9.7 The Appellant's evidence is that their players live in Connacht. In the Appellant's Constitution, members are, "*Any club, school, college, university or association in Connacht participating in or playing the Game who is willing to conform to the Laws of the Union, Regulations relating to the Game and to these Bye-Laws shall be eligible for membership.*" The Tribunal does not consider the province of Connacht to be a locality in the ordinary sense of the meaning of the word "locality" in the context of the sport of rugby. The Tribunal considers that the word "locality" concerns an area or neighbourhood and that the members must be based in their own specific area or neighbourhood within the province of Connacht.
- 9.8 Further, the Tribunal finds as part of the requirements to be a member of the Appellant, the Constitution states that such a member must satisfy the Appellant that such member has the use of a satisfactory ground and dressing accommodation before being admitted to membership. The Tribunal considers that it is the locality of that ground and dressing accommodation of that member that would be considered to be a locality in the ordinary meaning of the word locality in so far as it is the area or neighbourhood of those who play in those member clubs rather than the province of Connacht.
- 9.9 The Tribunal considers the definition of "*Community sport*" means sport, the principal participants in which are "inhabitants of the locality" in the ordinary sense of the meaning of those words to mean as many inhabitants as possible to participate in such sport, at all levels and ages. The Tribunal does not consider professional sport to be the same thing as community sport in circumstances where members of the professional team move to live in the province of Connacht to play for the team because of their ability and contract of employment.
- 9.10 Whilst the Tribunal finds that the Property is used by all sorts of teams at League, club and under-age level it is not used exclusively for community sport for the foregoing reasons.
- 9.11 The Tribunal considers it appropriate to consider the next criterion under paragraph 4(a) that provides that the building or part of the building must be used otherwise than for profit.
- 9.12 Evidence was given by Mr. Halpin that Revenue has granted the Appellant an exemption for tax purposes by virtue of their non for profit status. It is not the function of this Tribunal to go behind the reasons for this decision. However, designation of that status is not conclusive in relation to the claim for exemption from rates.
- 9.13 The Tribunal is not satisfied that the evidence provided shows that the Property is used otherwise than for profit. The Appellant's witness said he had seen and been told specifically by the club that the club channels all of its revenue back into the community. However, there was no evidence put before the Tribunal of what he had seen or any analysis on the income stream of the Appellant rather than he had only examined the

taxable status of the Appellant. For the foregoing reasons, the Tribunal finds that the Appellant has not discharged the burden of proof in respect of this aspect of the criteria under paragraph 4(a).

- 9.14 The Appellant contended that the Property is not occupied by a club for the time being registered under the Registration of Clubs (Ireland) Act 1904 unchallenged by the Respondent and the Tribunal accepts that it is not registered under that Act accordingly. However, as the Tribunal concludes that the Property is not used exclusively for community sport, otherwise than for profit, the Tribunal finds that the Appellant has not discharged the burden of proof in respect of the criteria under paragraph 4(a) and the claim for exemption under paragraph 4 (a) of Schedule 4 must fail.
- 9.15 As accepted by the Respondent, if the Tribunal disallowed the Appeal it must confirm the decision of the Respondent and there is no statutory power to insert a higher figure from the Respondent on the Valuation Certificate. Accordingly, the Tribunal confirms the valuation of €576 in respect of the Property as it was valued prior to the inclusion by the Respondent of additional buildings after the Appeal was lodged by the Appellant.

DETERMINATION

The Tribunal refuses the appeal and confirms the decision of the revision manager. And the Tribunal so determines.

RIGHT OF APPEAL

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal's determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.