

Appeal No: VA19/5/0815

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

THE REHAB GROUP

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1281722, Industrial Uses at part of 30A Clanbrassil Street, Dundalk, County Louth.

JUDGMENT OF THE VALUATION TRIBUNAL ISSUED ON THE 3rd DAY OF JULY 2023

BEFORE

Carol O'Farrell - BL

Chairperson

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 11th day of October 2019 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 €5,310.00.
- 1.2 The sole ground of appeal is that the Property ought to be excluded from the valuation list As the Appellant is a charitable organisation and the relevant use of the Property is for charitable purposes.
- 1.3 The Appellant considers that the value of the Property ought to have been determined at nil.

2. RE-VALUATION HISTORY

- 2.1 On the 15th day of March 2019 a proposed valuation certificate issued to the Appellant under section 24(1) of the Valuation Act 2001 ("the Act") in relation to the Property indicating a valuation of €5,310. 00
- 2.2 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €5,310.00
- 2.3 The date by reference to which the value of the Property was determined is the 15th day of September 2017.

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.
- 3.2 In accordance with the Tribunal's directions, the Appellant filed a précis of evidence with the Tribunal on the 1st February 2023 which was forwarded to the Respondent on the 1st February 2023. In accordance with Rule 34 of the Valuation Tribunal (Appeals) Rule 2019, the Respondent was directed to file with the Tribunal a précis of evidence within 10 working days of the date of receipt of that email, that is on or before the 15th February 2023. The Respondent failed to do so and no application was made to the Tribunal for an extension of time to file a précis of evidence.
- 3.3 On notice to the Respondent, the Appellant was requested on the 20th June 2023 to provide additional information concerning the Property and its use. That information was provided by the Appellant to the Tribunal and the Respondent on the 22nd June 2023.

4. FACTS

- 4.1 The Tribunal finds the following facts:
- 4.2 The Appellant is a company limited by guarantees not having a share capital and is registered under the Companies Act 2014. The Appellant trades as Rehab Care. The Rehab Group is a NGO in special consultative status with the Economic and Social Council (ECOSOC) of the United Nations. It has its registered office at 10D Beckett Way, Park West Business Park, Dublin 12. It is a registered charity under registration number 2000671.

- 4.3 The main objects for which the Company is established are set out as follows in its Constitution as follows:

To provide or assist, by whatever manner or means from time to time available, in the provision of the assessment, preventative or remedial action, vocational training, encouragement, education, development, employment, care, housing, equipment and rehabilitation of persons with disabilities and other disadvantaged persons (which terms include without limitation persons mentally or physically handicapped, disabled, ill or suffering any disorder or disease) designed or adapted to meet their needs and to do all things as will improve the quality of life of such persons especially to enhance their social and economic independence, support the fundamental right of equal opportunity with specific actions and help prevent social exclusion.

- 4.4 The income and property of the Company is applied solely towards the promotion of the main objects as outlined above in paragraph 4.3 above. In the event the Appellant is wound up or dissolved, distribution of its income and property is prohibited. Any money or property remaining after all its debts and liabilities have been satisfied must be given or transferred to some other company or companies (being a charitable institution or institutions) having main objects similar to the main objects of the Appellant.
- 4.5 The Appellant occupies the appeal Property at 30A Clanbrassil Street, Dundalk where it operates a day service for persons with disabilities. The location is utilised as a base where holistic programmes are delivered to guide persons in achieving fuller independent lives.
- 4.6 The Property is located off Clanbrassil Street in the centre of Dundalk town. Clanbrassil Street is a busy commercial road with a mix of commercial uses. The properties on this street are predominantly in retail use at ground floor level.
- 4.7 The Property is located on the ground floor of 30A Clanbrassil Street which comprises a two storey extension to the rear of 30, Clanbrassil Street which is itself a four 4 storey commercial building with retail at ground and commercial use overhead. The net internal area of the Property which comprises three main rooms is 85 sq.m. The Property is in reasonable condition and includes a staff office where the Appellant's staff perform their ancillary administrative duties for the services provided at the Property. It is access on foot via a laneway from Clanbrassil Street.

4.8 The Appellant occupied the Property under a lease from the Knights of the Hibernia Friendly Benefit Society which is presently in the process of being renewed for a further period of ten years.

4.9 The Appellant occupies in excess of 150 commercial properties in Ireland for the provision of similar services, all of which were treated by the Respondent as exempt from rates under Schedule 4.

5. ISSUE

5.1 In determining this Appeal the sole issue is whether the Property is relevant property not rateable on the basis that it falls within paragraph 14 of the Schedule 4 of the Act.

6. RELEVANT STATUTORY PROVISIONS:

6.1 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.

6.2 Section 15 of the 2001 Act provides:

"(1) Subject to the following subsection 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."

6.3 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

"The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value."

6.4 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

"Subject to Section 50, for the purposes of this Act, "net annual value" means, in relation to a property, the rent for which, one year with another, the property

might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

- 6.5 Schedule 4 of the Act lists 19 types or categories of relevant property which are designated as “not rateable” by section 15(2). This appeal is concerned with the property specified in paragraph 14 of Schedule 4, which being as far as material provides:

Any land, building or part of a building occupied for the purpose of caring for elderly, handicapped or disabled persons by a body, being either

- (a) a body which is not established and the affairs of which are not conducted for the purpose of making a private profit from an activity as aforesaid, or*
(b) a body the expenses incurred by which in carrying on an activity as aforesaid are defrayed wholly or mainly out of moneys provided by the Exchequer.

7. APPELLANT’S CASE

- 7.1 Ms Aoife O’Neill, who is Property Transactions Manager reporting directly to Head of Property, in the Rehab Group, relies on paragraph 14 of Schedule 4 of the Act to claim that the Property is exempt from rates. She said there are two conditions for the exemption of commercial rates to apply to a charity. The organisation must be a charitable organisation and the property in respect of which exemption is claimed must be occupied for charitable purposes and not for private profit.
- 7.2 As regards the first condition, Ms O’Neill asserted that it is satisfied as the Appellant is a charitable organisation as defined in the Charities Act 2009 and is registered with the Charities Regulatory Authority. She claimed that if a charity is registered under the 2009 Act it is regarded as a charitable organisation for the purposes of the Valuation Act.
- 7.3 Ms. O’Neill stated that the Property is used by the Appellant for charitable purposes as the Appellant provides a ‘Day Service’ for persons with disabilities. She said the Property is used as a base where holistic programmes are delivered to guide persons in achieving fuller independent lives. The holistic programmes offered to the persons who

use the service include personal development programmes, drama, art, meditation, movement classes, LAMH (sign language) course. .

- 7.4 Ms. O'Neill described the accommodation in the Property as comprising a staff room with kitchenette that is used for administration and meetings ancillary to the services provided at the Property. A second room is utilised by persons who provide the services and activities offered by the Appellant or who avail of those services and activities and it is also used as a lunch and break room. A third room is an activity and learning room for those who use the Appellant's services.
- 7.5 Ms. O'Neill confirmed that aside from the provision of Holistic programmes no other use is made of the Property by the Rehab Group.

8. FINDINGS AND CONCLUSIONS

- 8.1 On this appeal question for determination is whether the Property is relevant property not rateable pursuant to section 15(2) of the 2001 Act and paragraph 14 of Schedule 4.
- 8.2 The Tribunal is satisfied that the Appellant is a company limited by guarantee and is a registered charity under the Charities 2009 Act. The Tribunal is satisfied that the Appellant occupies part of the building at 30A Clanbrassil Street Dundalk for the purpose of caring for disabled and handicapped persons. The Tribunal is further satisfied that the income and property of the Company is applied solely towards the promotion of the main objects of the Appellant's Constitution and that the Appellant is a non-profit making corporate body and that the activities and services which are provided by the Appellant at the Property are not conducted for the purpose of making a private profit.

9. DETERMINATION:

For the above reasons, the Tribunal holds that the Property is relevant property not rateable and is exempt under the provisions of section 15(2) and Schedule 4 of the Act. Accordingly, the Tribunal allows the appeal and determines that the Property ought to be excluded from the valuation list.

NOTIFICATION OF 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.