Appeal No: VA23/2/0028

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

NA hACHTANNA LUACHÁLA, 2001 – 2015
VALUATION ACTS, 2001 – 2015

Children's Books Ireland **APPELLANT**

and

Tailte Éireann **RESPONDENT**

In relation to the valuation of
Property No. 5027377, Office(s) at First Floor, 17 North Great George's Street, Dublin 1 ("the Property").

B E F O R E
Donal Madigan – MRICS, MSCSI **Deputy Chairperson**
Ken Enright – Solicitor **Member**
Mema Byrne – BL **Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF MARCH, 2025

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th day of May, 2023 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 €8,430

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by Section 28(4) of the Act because: "*We at Children's Books Ireland are appealing the rates decision which would see us liable to pay rates. It was the opinion of the valuer, pursuant to our representations, that in his opinion, our charitable purpose of 'advancement of education' was not a purpose which falls to be considered charitable for the purposes of exemption under Schedule 4 para 16. The valuer recommended that our valuation remain unchanged.*

However, we at Children's Books Ireland contend that our purpose extends far beyond advancement of education which we will demonstrate in the narrative below. It is our contention that we should be considered charitable for the purposes of exemption under Schedule 3 (sic) *para 16 (a):*

16.—Any land, building or part of a building which is occupied by a body, being either—
(a) a charitable organisation that uses the land, building or part exclusively for charitable purposes and otherwise than for private profit

or

17.—Any land, building or part of a building occupied by a society established for the advancement of science, literature or the fine arts and which is used exclusively for that purpose and otherwise than for private profit.

Children's Books Ireland is a registered charity and our entire purpose is charitable. Children's Books Ireland's CHY number is 12911 and charitable status number is 20038922.
We contend that we should be considered charitable for the purposes of exemption under Schedule 3 para 16. Furthermore, our work is fully centred around children's literature – inspiring and enabling children and young people to become readers, publishing information about children's books and supporting authors and illustrators who create books for young readers."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0 on the Notice of Appeal.

2. VALUATION HISTORY

2.1 On the 14th day of November, 2022 a copy of a valuation certificate proposed to be issued under Section 29 of the Valuation Act 2001 ("the Act") in relation to the Property was sent to the Appellant indicating a valuation of €8,430.

2.2 Being dissatisfied with the valuation proposed, representations were made to the Revision Manager in relation to the valuation. Following consideration of those representations, the valuation of the Property, the Revision Manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 14th day of April, 2023 stating a valuation of €8,430.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 19th day of July, 2024. At the hearing the Appellant was represented by Mr. Bernard Dunleavy SC, a member of the board of Children's Books Ireland, with Ms Elaina Ryan, CEO of Children's Books Ireland, as a witness. The Respondent was represented by Mr. Martin Scanlon BL, Mr. Adam Wickham of the CSSO with Ms. Triona McPartland B.Sc. (Hons) Estate Management, MSCSI, MRICS as the witness for Tailte Éireann.

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 their précis as their evidence-in-chief in addition to giving oral evidence.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The Appellant is in occupation of the Property which is located on the first floor of an otherwise entirely residential Georgian building on North Great George's Street in Dublin 1. The floor area is 88.81m^2.

4.3 The Appellant is a company limited by guarantee.

4.4 The Appellant is a charitable organisation within the meaning of Section 2 of the Charities Act 2009. It is registered in the register of charitable organisations established and maintained by the Charities Regulatory Authority under RCN 20038922 and is regarded by the Revenue Commissioners as established for charitable purposes.

4.5 The Appellant's principal objects are set out in its Constitution, as follows:

> *3. The Main Object for which the company is established is to promote the study and improve the understanding of arts as defined in the Arts Acts 1951 and 1973. With a view to the attainment of the above charitable object, the Company is authorised to exercise the powers conferred by sub-regulation 3.1 to sub-regulation 3.6:*
> *3.1. To promote the reading and enjoyment of children's books in homes, schools and libraries and in the wider community, and to develop the imaginations and enrich the minds of children through literature and the visual arts.*
> *3.2. To provide information for parents, teachers, librarians and all others interested in children's books while ensuring an independent voice.*
> *3.3. To provide a forum for discussion on children's books using seminars, lectures, exhibitions, workshops, awards and an annual children's literature conference.*
> *3.4 To encourage, develop and maintain links with corporate bodies and individuals in the field of children's literature and in particular with educationalists, librarians, writers, artists and illustrators, book sellers and publishers and to foster links with international activity in this area.*
> *3.5 To promote the study of and research into children's literature at all academic levels making use of all modern research facilities.*
> *3.6 To promote the writing and illustration of children's books and to involve children in the process.*

5. ISSUES

5.1 Whether the Property is relevant property not rateable by virtue of the provisions of Section 15 (2) of the Valuation Act 2001 being relevant property referred to in Schedule 4 paragraph 16(a) and/or Schedule 4 paragraph 17.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The preamble to the Valuation Act 2001 ("the 2001 Act") Act states:

An Act to revise the law relating to the valuation of properties, for the purposes of *the making of rates in relation to them*; *to make new provision in relation to the categories of properties in respect of which rates may not be made and to provide for related matters.*

6.2 Section 28(4) of the 2001 Act as amended by Section 13 of the Valuation (Amendment) Act 2015 states:

A revision manager, if he or she considers that a material change of circumstances which has occurred since a valuation under section 19 was last carried out in relation to the rating authority area in which the property concerned is situate or, as the case may be, since the last previous exercise (if any) of the powers under this subsection, or of comparable powers under the repealed enactments, in relation to the property warrants the doing of such, may, in respect of that property

(a) if that property appears on the valuation list relating to that area, do whichever of the following is or are appropriate —
(i) amend the valuation of that property as it appears on the list,
(ii) exclude that property from the list on the ground that the property is no longer relevant property, that the property no longer exists or that the property falls within Schedule 4,
(iii) amend any other material particular in relation to that property as it appears on the list,

6.3 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.

6.4 Schedule 4 of the 2001 Act lists 22 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 Schedule 4 paragraph 16 (a) and Schedule 4 paragraph 17 being:

"Any land, building or part of a building which is occupied by a body, being either a charitable organisation that uses the land, building or part exclusively for charitable purposes and otherwise than for private profit, or …."
and
"Any land, building or part of a building occupied by a society established for the advancement of science, literature or the fine arts and which is used exclusively for that purpose and otherwise than for private profit."

6.5 Section 3 of the 2001 Act as amended by Section 2 of the Valuation (Amendment) Act 2015 provides:

'charitable organisation' means a charitable organisation within the meaning of Section 2 of the Charities Act 2009 *that is entered in the register of charitable organisations pursuant to Part 3 of that Act;"*

6.6 Under Section 2 of the Charities Act 2009 ("the 2009 Act") "charitable organisation" means:
(a) the trustees of a charitable trust, or a body corporate or an unincorporated body of persons—
(i) that promotes a charitable purpose only,
(ii) that, under its constitution, is required to apply all of its property (both real and personal) in furtherance of that purpose, except for moneys expended—
(I) in the operation and maintenance of the body, including moneys paid in remuneration and superannuation of members of the staff of the body, and
(II) in the case of a religious organisation or community, on accommodation and care of members of the organisation or community, and
(iii) none of the property of which is payable to the members of the body other than in accordance with Section 89, *but shall not include an excluded body.*

6.7 Section 2 of the 2009 Act provides that “charitable purpose” shall be construed in accordance with Section 3 of that Act.

6.8 Section 3 (1) of the 2009 Act provides:

(1) For the purposes of this Act each of the following shall, subject to subsection (2), be a charitable purpose:
(a) the prevention or relief of poverty or economic hardship;
(b) the advancement of education;
(c) the advancement of religion;
(d) any other purpose that is of benefit to the community.

6.9 Section 1 of the Arts Act 1951 provides:

“In this Act…the expression “the arts” means painting, sculpture, architecture, music, the drama, literature, design in industry and the fine arts and applied arts generally”

6.10 Certain repealed legislation was referred to in submissions. It is presented here for convenience of reference.

6.11 Section 1 of the Scientific Societies Act 1843 provided:

" No person ... shall be assessed or rated or liable to pay rates in respect of any land, houses, or buildings belonging to any society instituted for purposes of science, literature or the fine arts, exclusively and occupied by it for the transaction of its business, and for carrying into effect its purposes, provided that such society shall be supported wholly or in part by annual voluntary contributions and shall not, and by its laws may not make any dividend, gift, division or bonus in money unto or between any of its members and provided also that such society shall obtain the certificate of the barrister at law or lord advocate, as herein-after mentioned."

6.12 Section 63 of the Poor Relief (Ireland) Act 1838 provided:

"The following hereditaments shall be rateable hereditaments under this Act; viz., all lands, buildings, […]Provided also, that no church, chapel, or other building exclusively dedicated to religious worship, or exclusively used for the education of the poor, nor any burial ground or cemetery, nor any infirmary, hospital, charity school, or other building used exclusively for charitable purposes, nor any building, land, or hereditament dedicated to or used for public purposes shall be rateable, except where any private profit or use shall be directly derived therefrom, in which case the person deriving such profit or use shall be liable to be rated as an occupier according to the annual value of such profit or use."

7. APPELLANT'S CASE

7.1 Before calling Ms Ryan as his witness, Mr Dunleavy made it clear to the Tribunal that he was appearing as a member of the Board of the Appellant charity rather than in a professional capacity as its legal representative.

7.2 Referring to the précis of the Appellant and the Respondent and the other quite extensive documentation that had been put before the Tribunal, Mr Dunleavy provided some background and summarised the issues from the Appellant's point of view.

7.3 Ms. Ryan confirmed she was the CEO of the Appellant since 2013 and was, in that capacity, responsible for the management, finance, fundraising and strategic direction of the charity.

7.4 The property was located on the first floor of an otherwise entirely residential Georgian building on North Great George's Street in Dublin 1. Referring to the photos in the précis, Ms Ryan described the Property as comprising two adjoining rooms with eight desks and a back room with tables, chairs and a kitchenette accommodating sixteen full- and part-time staff, working remotely and in-house on a hybrid basis. The Property was fitted out with shelves for books submitted by publishers for review and inclusion in the Appellant's reading guide and other publications.

7.5 Ms Ryan described the Property as a small space with no public access, no reception area and no retail space. She confirmed that the Appellant did not sell books and there was no-one engaged in any commercial or retail activity either in person or online. It was possible, she said, to purchase through the website individual copies of the Appellant's subscription magazine, 'Inis', as well as hard copies of the reading guides, the latter of which are sold to every public library in the State and then given out free to their users, with similar arrangements in Northern Ireland. The number of individual hard copies sold, she said, was very small and the price only covered the postage. Soft copies were free to download.

7.6 The work of the Appellant, Ms Ryan said, was not conducted for the purpose of profit.

7.7 The staff, said Ms Ryan, were a mixture of core and programme staff, the former including the office manager and financial controller, the latter including the book-gifting team and others who deliver the activities of the charity on the ground in various ways.

7.8 Ms Ryan outlined some of the work that goes on in the premises which included administration, planning, the assessment and selection of books for the charity's various reading lists, categorised according to age-suitability and other criteria, the selection of schools to benefit from the charity's various schemes, and meetings (in-person and on Zoom) with partners and other organisations involved in the promotion of literature.

7.9 The Appellant operates a paid membership scheme entitling its 250 to 300 members to receive the charity's in-house magazine, 'Inis', the three-times yearly publication of which, said Ms Ryan, is funded, only partly, by these subscriptions. Individual members pay €40, and organisations, €150. Funds are also raised through sales of reading guides to libraries and some advertising within those guides. Again, said Ms Ryan, the funds raised just about cover the cost of the print run. Other funding is received from the Arts Council and from various trusts and foundations (like the Ireland Fund) and individual donors and corporate partners, like KPMG. A long list of funders, partners and supporters was printed on the inside back cover of the reading guides contained in the appendix to the Appellant's precis. Ms Ryan noted that the diversification of income streams is a condition

of Arts Council funding. The Appellant runs ticketed conferences from time to time but covers the costs of tickets (and sometimes the accommodation) of attendees, including artists, who might not have sufficient funds to attend otherwise.

7.10 By reference to the documents attached to her précis, Ms Ryan presented to the Tribunal an impressive array of materials produced by the Appellant for the advancement of its charitable objects. These materials included a number of reading guides and Ms Ryan referred in particular to the 'Free To Be Me' reading guide and the 'Picture This' reading guide. The former comprised 138 pages and was a colourful, attractive and obviously very carefully-curated publication celebrating diversity, representation and inclusion in books for children and young people aged up to 18. Ms Ryan confirmed that a huge amount of work had gone into creating it. The guide presented and gave brief reviews of 370 books which, said Ms Ryan, had been chosen to ensure that all child readers would be able to see themselves reflected and celebrated in the books they read. Titles, "chosen for their excellence", were organised according to age under fiction, non-fiction and poetry categories in Irish and English and further indexed by tags that aligned to some extent with protected characteristics set out in equality legislation, as well as other themes. These included disability, gender, membership of the Traveller community, race and ethnicity, neurodiversity, sexual orientation and socio-economic status.

7.11 Ms Ryan referred to the 'Picture This' reading guide in order deal with a distinction between literature and the visual arts made by the Respondent in its submissions about the Schedule 4 paragraph 17 exemption. Ms Ryan explained that visual art is essential in children's books. She said that it is through pictures that children have their first engagement with books. "Pictures," she said, "are the way in." She referred to a scheme where the Appellant gave books to disadvantaged children at their first check-up with the public health nurse at 3 months and again at a year in order to impress upon parents that it was never too early to begin reading with your child. Ms Ryan said that all of the Appellant's reading guides contain illustrated books. For children up to 8 years of age, Ms Ryan said picture books were the norm. The 'Picture This' guide was, she said, designed to be a celebration of illustrated books. Ms Ryan quoted from and paraphrased the introduction to the guide, which reads as follows:

“Picture books are a child's first introduction to stories, to their own small world and the greater world around them, to colours and shapes. They are works of art, with some telling complex stories using no words at all. Too often, when a child reaches a certain age they are 'weaned off' picture books towards chapter books with more text and fewer illustrations. This guide not only recommends wonderful illustrated texts, but sends a clear message that there is no need to graduate from images to text – visual literacy is crucial, too, and stories with pictures are for everyone.

We have chosen over 230 books for children and young people aged 0–18 based on the strength of the imagery in telling a story or conveying information. Some use pictures exclusively, others are heavily illustrated. This guide is for all, and we are thinking particularly of children who don't have English as a first language or whose family may not speak English. We are thinking of the refugees we have welcomed and continue to welcome to Ireland. This guide may also be helpful when choosing books for those with reading difficulties, and for reluctant readers who can find large chunks of text daunting and may prefer a comic book or graphic novel. It's also for folks who just love pictures – like us!”

7.12 Ms Ryan argued that illustration, a visual art, is inextricable from literature when one talks about children’s literature. She said that illustrators of children’s books must apply under the category of literature rather than visual arts when seeking bursaries from the Arts Council. In her précis she quoted from the 2023 Literary Bursary guidelines, wherein the definition of literature included children’s fiction and poetry and illustrated picture books. She further referred to the categories of artistic works in the Revenue’s Artists’ Exemption scheme which include, *inter alia*, “books or other forms of writing” and “paintings or other similar pictures”. Mr Ryan said that children’s book illustrators who have received favourable determinations under the scheme (a number of which she named) did so under the “books or other forms of writing category” rather than the “paintings or other similar pictures” category.

7.13 Referring to Revenue and Charities Regulator documentation contained in the Appendix to her précis, Ms Ryan noted that the Appellant was included in the list of Resident Charities under the Scheme of Tax Relief for Donations to eligible Charities and other Approved Bodies under the terms of Section 848A of the Taxes Consolidation Act 1997. The Appellant was a company limited

by guarantee registered under charity number 20038922. The Appellant's charitable purpose was stated to be the advancement of education with its charitable objects set out as per Clause 3 of the Appellant's Constitution.

7.14 The advancement of education, Ms Ryan said, was done through the promotion of literature. Referring to passages contained in the Appellant's Strategic Plan document attached to her précis, Ms Ryan said that a robust body of research showed the positive impact that reading for pleasure in early years had on children's educational outcomes, their cognitive development, literacy and numeracy skills, their self-regard and mental well-being and so on. Ms Ryan said that everything the Appellant did was geared towards making children readers for pleasure.

7.15 Ms Ryan placed particular emphasis on how the work of the Appellant was a means to leverage social change; to level the playing field for children who come from homes where there were not a lot of books or no culture of reading or literacy issues spanning generations. The Strategic Plan which Ms Ryan referred to stated – in the section "Why do we do what we do?" – that reading was more important for children's cognitive development than their parents' level of education.

7.16 Every year, Ms Ryan said, the Appellant invites applications from schools to avail of its various programmes. She gave examples of the supports available which included substantial allocations of books to start or supplement a library, the arrangement of up to 6 visits to a school by writers and illustrators, as well as the access to the Appellant's publications, including the reading guides, attached to her précis. That year, said Ms Ryan, the Appellant received a record 750 applications. The primary criterion the Appellant applies when judging applications and allocating resources is that of need. To help target areas of need, the Appellant, said Ms Ryan, uses whatever information is available: it would take into account, for example, whether a particular school has DEIS status (meaning the school is, by virtue of its inclusion in the Department of Education's Delivering Equality of Opportunity in Schools scheme, in need of extra resources), or, if the school is in Northern Ireland, whether it has a high percentage of students receiving school meals, another indicator of disadvantage. Ms Ryan gave examples of individual schools in Galway and Dublin with large transient populations experiencing difficulties in the classroom and

another school in Cork with no local library access, all of which were helped by the Appellant. The Appellant looks, Ms Ryan said, at where its resources can be applied to make the greatest impact on the children in a school. She said that those children who have the least at home have the most to gain from the Appellant's work.

7.17 Continuing this theme, Ms Ryan outlined the Appellant's work in creating "reading communities" in areas of greatest need. She explained the Appellant received funding from the Late Late Toy Show appeal in the sum of €302,690 to roll out this project over 3 years. It was the first time the Appellant had been given the opportunity to work with a small number of schools on a long-term basis and the positive results showed, said Ms Ryan, the impact that can be achieved when children continue to receive books over a long period as well as continued access to a writer or illustrator to keep them excited about reading. She explained that four schools in Mayo, Galway, Cork and Louth had been assessed for inclusion in this project on the basis of need. Ms Ryan outlined the socio-economic problems the particular schools had and the deep need each of them were able to demonstrate. She explained the various aspects of the scheme and the way it was delivered on the ground.

7.18 Ms Ryan read out the Appellant's mission statement on the first page of the Strategic Plan, highlighting that the work of the charity was aimed at three audiences: firstly, the children, to whom they give books and in whom the Appellant strives to inspire a lifelong love of reading, secondly, the adults in children's lives, whose enthusiasm the Appellant seeks to raise through various means including media appearances (Ms Ryan mentioned relationships the Appellant had with Ireland AM and the Irish Examiner), and thirdly, artists, whom the charity nurtures and supports and whose work the Appellant promotes.

7.19 Ms Ryan stated that the Appellant was not doing anything else in the Property other than the promotion of literature and reading, as set out in the Appellant's mission statement.

7.20 Asked by Mr Dunleavy if she regarded these endeavours as "education", Ms Ryan replied that she did and that she would describe what the Appellant does as "arts in education". She distinguished the Appellant's educational aims from more readily identifiable and distinct

categories in the curriculum like literacy or numeracy or art or English or phonics. What the Appellant tries to do, she said, is inspire a love of reading as a good thing in itself but also as something that will enhance overall educational outcomes.

7.21 Mr Dunleavy took Ms Ryan through some other Sections of the Strategic Plan and other documents produced by the Appellant in the course of its work, including its 2022 Impact Report, a school library campaign flyer for Budget 2024, a list of schools selected for the 2023 Every Child a Reader programme, a news item from the Arts Council website about a Christmas gift from the Appellant (with the support of the Arts Council and KPMG) of 6,000 books to children in Direct Provision, a copy of 'Inis' magazine from 2024, details of the line-up for the Children's Books Ireland Conference 2023, an article about the appointment of children's author Patricia Forde as Laureate na nÓg, a role established in 2010 to celebrate children's literature and its contribution to cultural life, managed and delivered by the Appellant. All of the exhibits tended to the same effect in that they showed the numerous ways in which the Appellant goes about its work in trying to achieve its objects. A section of the 2022 Impact Report called A Year in Numbers is illustrative of the overall picture: 117,000 books were donated, over 350,000 children were reached through the Appellant's book-gifting and school engagement projects, 340 visits to schools by authors, illustrators and volunteers took place, 505 children were prescribed their next great read by "book doctors" at 23 Children's Books Ireland Book Clinics, €130,600 was paid to artists in award prizes and school visits, workshop and commission fees, and there were over 220 appearances involving Children's Books Ireland in national and local media.

7.22 Mr Scanlon in his cross-examination of Ms Ryan referred to Clause 3 of the Appellant's Constitution wherein it stated that the Appellant was established "to promote the study and improve the understanding of arts as defined in the Arts Acts 1951 and 1973". Ms Ryan agreed with Mr Scanlon that the definition of "arts" in Section 1 of the 1951 Act was much broader than that of literature and included other things, like painting, sculpture, music, drama, and so on. Ms Ryan further agreed with Mr Scanlon that the Appellant was permitted "in theory" to do other things but said that it did not have the time or inclination to do anything but the promotion of literature. She provided a similar response to Mr Scanlon in respect of Clause 4 and the wider powers afforded to the Appellant therein: in Clause 4.4, for example, where the Appellant is

empowered "to help raise funds for any charitable purpose". Ms Ryan confirmed on quite a number of occasions over the course of her evidence that the only work conducted in the Property was the promotion of reading and enjoyment of children's literature and no funds were ever raised for any purpose unconnected with that object.

7.23 Asked by Mr Scanlon about the references to "literature" and "the visual arts" in Clause 3.1 of the Appellant's Constitution, Ms Ryan agreed with Mr Scanlon that they can be distinct but said that in children's literature they go hand in hand. Visual art, she said, is an inseparable part of children's literature and the Appellant makes a point of explicitly referring to illustration and visual arts because, from a business point of view, illustrators, notwithstanding their importance, often go unrecognised, even to the extent of their names do not always appear on the cover of books.

7.24 Ms Ryan confirmed that any work the Appellant does relating to "visual arts" is exclusively related to visual art and illustration in the context of children's literature.

7.25 Ms Ryan agreed that the Appellant's work is done for the benefit of *all* children and was not limited to disadvantaged children. She said, however, that the vast majority of the Appellant's work is carried out for the benefit of children from marginalized backgrounds and that the intention of the Appellant's vision "Every Child a Reader" is to ensure such children are included. In other words, the Appellant's ambition was to inspire those who, without the Appellant's work, might not otherwise be readers. Children from such backgrounds, said Ms Ryan, are the Appellant's main focus.

8. RESPONDENT'S CASE

8.1 Ms McPartland's description of the Property was the same as Ms Ryan's in all material respects. She said it was in good condition and well-maintained throughout. She gave the floor area at 88.81m^2 and explained she'd arrived at a valuation of €95.00/m^2 making a total NAV of €8,436.95. Her précis gave details of the lease under which the Property was held and outlined the

history of the process including the evidence put before the Revision Manager at representations stage.

8.2 She confirmed that the only issue between the parties was whether the Property was rateable.

8.3 The revision request had been submitted by Dublin City Council on the basis that "some portions of the property are now occupied commercially". Ms McPartland said that a material change of circumstances had occurred in that a previously exempt property had now become rateable.

8.4 Ms McPartland had taken over the case at appeal stage but concurred with the opinion of her Tailte Éireann colleague, who had dealt with the matter at representations stage, that commercial activity was taking place at the Property. She said that when she read the Constitution of the Appellant "alarm bells" started to ring. She commended the work of the Appellant but "just wasn't sure" if it was within the scope of the exemptions available under the Act.

8.5 Ms McPartland in her précis said no evidence had been put forward by the Appellant which supported its opinion that the Property should be exempt from rates. Responding to questions from the Tribunal she agreed that evidence had been put forward that the Appellant was engaged in the promotion of literature but said "there was no evidence put forward that [the Appellant] wouldn't expand on that" and tomorrow, she said, it could decide to raise funds for something else. There wasn't, she said, "enough evidence to deem [the Property] relevant property not rateable."

8.6 Asked by Mr Dunleavy what was the nature of the commercial activity she observed at the Property, Ms McPartland said she saw an office. Notwithstanding several invitations from Mr Dunleavy in cross-examination to identify the specific commercial activity she saw going on in the office or what commercial activity had been referred to in Ms Ryan's evidence, Ms McPartland did not specify further, other than to say that following her visit to the Property she had taken into account what was stated in the Appellant's Constitution and looked at all matters in the context of the Act and deemed the Property to be rateable. She said that there does not need to be any selling going on for commercial activity to be taking place.

8.7 Ms Ryan said that the process is that she looks first at a property to see if it is relevant property under Schedule 3 and then looks to see if an exemption is applicable under Schedule 4.

8.8 Replying to questions from the Tribunal, Ms McPartland agreed that it was the "possibility" that the Appellant might engage in other activity outside the scope of the exemptions that concerned her, rather than the fact the Appellant was so engaged. She said "the scope" was there for the Appellant to engage in other activity.

8.9 Asked by the Tribunal if she was aware of any activity taking place in the Property other than the advancement of literature, Ms McPartland replied, "No."

9. SUBMISSIONS

9.1 Mr Dunleavy, noting that his Booklet of Authorities was perhaps rather more comprehensive than required in the circumstances, directed the Tribunal's attention to the decision of Keane J. in *re the Worth Library [1995] IR 2 301* ("Worth Library") in which the extent of the meaning of "education" was considered in the context of whether a testamentary bequest was a charitable gift. Keane J., said Mr Dunleavy, expressed the view that the term ought to be given broad meaning and this view had been applied by the Tribunal in *Citizens Information Service v Commissioner for Valuation VA06/1/012* ("CIS").

9.2 In Worth Library, Keane J. outlined some of the history of the law on charitable status and how the law identified new purposes as charitable as they arose for consideration. He said that the list of charitable purposes (in the statutes under consideration in that case) was not exhaustive and, quoting from the decision in *Morice v Bishop of Durham [1804] 1 Dr. & War. 258* expressed the view that "a trust may still be charitable if it is within [the statute's] spirit and intendment.'"

9.3 Mr Dunleavy quoted from page 336 of the judgment, where Keane J. remarked:

“The court leans in favour of charities and, consequently, will prefer a construction which gives effect to the testator's desire to benefit a stated object rather than one which leads to a failure of the bequest.”

Keane J. continued:

“I now turn to the specific forms of charitable bequests which arise for consideration in the present case. The first category – gifts for the advancement of education – would embrace, not merely gifts to schools and universities and the endowment of university chairs and scholarships: "education" has been given a broad meaning so as to encompass gifts for the establishment of theatres, art galleries and museums and the promotion of literature and music. In every case, however, the element of public benefit must be present and, if the benefit extends to a section of the community only, that section must not be numerically negligible.”

9.4 The Tribunal notes that Keane J. in that case, notwithstanding his liberal interpretation of the term “education”, rejected the submission that the particular bequest was a charitable gift for the advancement of education because of the very limited number of potential beneficiaries of the relevant bequest.

9.5 Referring to the decision of the Tribunal in CIS, Mr Dunleavy observed that the Appellant in that appeal gave advice to people and educated them about their rights and entitlements. Many of the people so assisted were unemployed, or migrants, or people with limited literacy skills, or otherwise disadvantaged. Mr Dunleavy noted that the decision of the Tribunal in that case took account of Keane J.’s opinion in Worth Library that the “spirit and intendment of a statute” should be considered and similarly applied Keane J.’s remarks quoted above to the effect that “education” should be interpreted in a broad sense. In the light of this, the Tribunal decided that the educational aspect of CIS, while not delivered in a classroom “chalk and talk” setting, should still be seen as a charitable purpose, specifically the purpose of the “advancement of education”, one of the four categories of charitable purpose set out by Lord MacNaghten in the *Commissioners for Special Purposes of Income Tax v Pemsel [1891] A.C. 531* (“Pemsel”).

9.6 For clarity, the Tribunal sets out the four Pemsel categories (adopted by the Supreme Court in *Barrington's Hospital v Commissioner for Valuation [1957] IR 299* ("Barrington's Hospital")), as follows:

(i) trusts for the relief of poverty
(ii) trusts for the advancement of education
(iii) trusts for the advancement of religion
(iv) trusts for other purposes beneficial to the community

9.7 Mr Dunleavy agreed with submissions made in CIS that the education so delivered did not have to be for the benefit of the poor in order to avail of the charitable exemption but observed that the evidence actually given by the witness for the CIS was that the services were, in fact, by virtue of their nature and the location of the particular premises, availed of by people of limited means. Mr Dunleavy pointed out that Ms Ryan had given similar evidence to the Tribunal. Children's Books Ireland, said Mr Dunleavy, works with schools to put books into the hands of children to enhance their educational experience but it is children of low socio-economic status who receive the greatest benefit from the work of the Appellant and that the primary factor the Appellant takes into account is that of need. The Tribunal in CIS acknowledged that the organisation "cater[ed] for the needy, and those on the lowest rung of the economic ladder."

9.8 Turning to Schedule 4 paragraph 17 of the Act, Mr Dunleavy observed that the Respondent was a society established for the advancement of literature and that the uncontradicted evidence of Ms Ryan was that the Property was used only for that purpose. Mr Dunleavy argued that for this reason, even if the Tribunal were to decide that the Appellant did not come within the paragraph 16 exemption, it nevertheless, quite clearly, came within the paragraph 17 exemption.

9.9 Mr Scanlon in his submissions helpfully confirmed what was not in dispute. Firstly, he said that there was no issue with the charitable status of the Appellant under the 2009 Act. Secondly, he accepted that the Property was not used for private profit. Thirdly, he was not contending that the use of the Property for administrative purposes in any way disentitled the Appellant to an

exemption. The only questions that needed to be decided, said Mr Scanlon, was whether the exemptions in Schedule 4 paragraph 16 or Schedule 4 paragraph 17 applied.

9.10 Mr Scanlon reminded the Tribunal that the burden of proof lay on the Appellant and referred to the seven well-known principles of interpretation laid down by MacMenamin J. in paragraph 39 of *Nangles Nurseries v Commissioner for Valuation [2008] IEHC 73* ("Nangles Nurseries"), in particular principles 4 and 5, which provide that "exemptions or relieving provisions are to be interpreted strictly against the rate payer [and] ambiguities, if they are to be found in an exemption are to be interpreted against the rate payer." In the case of ambiguity, the Tribunal must, in the words of MacMenamin J., "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."

9.11 Mr Scanlon characterised the Appellant's argument as being based on a belief that because it was a charitable organisation within the meaning of the 2009 Act, it meant that its activities were charitable purposes within the meaning of Schedule 4, paragraph 16 (a) of the 2001 Act.

9.12 Mr Scanlon referred to the decision of Barr J. in *Tearfund Ireland Limited v Commissioner of Valuation [2021] IEHC 534* ("Tearfund"). In that case, the court had to determine whether the advancement of religion (the third of the Pemsel categories) was a charitable purpose within the meaning of Schedule 4 paragraph 16(a). After examining the statutory background and the relevant interpretative principles and, in the light of those principles, applying the ordinary and natural meaning of the words "charitable purposes" as understood in rating law for over a century prior to the enactment of the 2001 Act, and assuming that the Oireachtas knew the law as it stood and legislated in the light of it, Barr J. was satisfied that the phrase did not include the advancement of religion. Thus, it was clear that even though Tearfund was a charitable organisation within the meaning of the 2009 Act, its purposes as carried on in the relevant property were not "charitable purposes" under the terms of Schedule 4 paragraph 16(a) of the 2001 Act. Mr Scanlon, having, as aforesaid, represented the Appellant's argument as proceeding from the premise that qualification as a charitable organisation under the 2009 Act necessarily carried with it an exemption under

Schedule 4 paragraph 16(a) of the 2001 Act, put forward the Tearfund decision as a refutation of that argument.

9.13 It needs to be said that Mr Dunleavy at this stage made it clear to the Tribunal that he was not making the argument Mr Scanlon suggested he was making and that while the Appellant, in its initial précis, and doing its best in the absence of legal advice, had placed some emphasis on the fact that it was a charitable organisation under the 2009 Act, the Appellant was not arguing before the Tribunal that this, of itself, entitled it to the exemptions available in the 2001 Act.

9.14 Moving on then, Mr Scanlon argued that given the interpretative principles invoked in Tearfund in circumstances where the words "charitable purposes" in the 2001 Act were found to be ambiguous as to whether (or to what extent) they included the advancement of religion, it was appropriate for the Tribunal to apply similar principles to the construction of the same words in so far as they concerned the advancement of education.

9.15 Mr Scanlon then, by reference to *O'Neill v Commissioner for Valuation [1914] 2 IR 447* ("O'Neill") and Barrington's Hospital argued that there was a clear line of authority – as there had been, analogously, concerning a different Pemsel category of charitable purpose, in Tearfund – restricting, for the purposes of rating law, the advancement of education to that exclusively for the education of the poor. He quoted from the judgment of Kingsmill Moore J. in Barrington's Hospital, as follows:

"5. Although, where a building is used for education, in order to secure exemption, it must, on the express wording of s. 63, be used "exclusively for the education of the poor," yet, even in the case of educational charities, the receipt of fees or income is not necessarily a bar to exemption if the fees are incidental to such user (Gibson J. in O'Neill's Case)."

Mr Scanlon further referred to the statement of O'Dálaigh J. in the same case:

"I accept that the charitable purposes referred to in s. 63 should in regard to education be limited to the poor."

9.16 Mr Scanlon argued that the paragraph 16(a) provision in the 2001 Act was a successor to the relevant legislation in O'Neill and Barrington's Hospital – Section 15 of the Valuation Act 1852 and Section 2 of the Valuation (Ireland) Amendment Act 1854 and Section 63 of the Poor Relief (Ireland) Act 1838 – and submitted that these decisions needed to be taken into account in the interpretation of paragraph 16(a).

9.17 Mr Scanlon further noted that this authority had been considered and applied by the Tribunal in *University of Limerick v Commissioner for Valuation (VA95/5/010, VA95/5/011, VA95/5/012, VA95/5/013 and VA95/5/014)* ("University of Limerick").

9.18 Mr Scanlon acknowledged that Section 63 of the 1838 Act included an express provision that the exemption would apply only to buildings used exclusively for the education of the poor and that there was no similar express provision in paragraph 16(a) of the 2001 Act. Nevertheless, Mr Scanlon argued, because the 2001 Act was a revision of the previous legislation then that previous legislation was part of the interpretative context and needed to be considered. And so, just because there was no express exclusion in paragraph 16(a), it did not necessarily follow that the restriction did not apply.

9.19 Mr Scanlon said that the Appellant's activities, meritorious though they were, and to a large extent of benefit to disadvantaged children, were not done "*exclusively* for the education of the poor" and accordingly, applying the law as he had outlined it, he submitted the Appellant was not entitled to the exemption under Schedule 4 paragraph 16(a).

9.20 Mr Scanlon further argued that even if the Tribunal were to accept that the Appellant's educational activities were carried out exclusively for the benefit of the poor, it was clear from the evidence that "not all the activities within the Appellant's scope" were charitable in nature. In this regard, he referred to Clauses 3 and 4 of the Appellant's Constitution, noting in particular, in this context, Clause 3.4 which empowered the Appellant to "encourage, develop and maintain links with corporate bodies and individuals in the field of children's literature". This, he submitted, especially in the light of the requirement to construe relieving provisions strictly, was not a

charitable activity. Having regard then to the requirement in Section 16(a) that the buildings be used "exclusively" for charitable purposes, Mr Scanlon submitted that the Appellant was not entitled to the exemption.

9.21 The written submissions of Mr Scanlon contained one other point in regard to the Schedule 4 paragraph 16 exemption. He said that the Act of 2001 as a whole "included a number of provisions to exempt institutions of an educational nature, most notably Schedule 4 paragraph 10" as well as what he described as "distinct exemptions for certain buildings used for the advancement of "science, literature and fine arts"…under paragraph 17." He argued that in the light of the Nangles Nurseries principles it would be improper to "artificially extend paragraph 16(a) to all activities of an educational nature (using that term loosely) carried out by a charitable institution."

9.22 Mr Scanlon then turned to the said Schedule 4 paragraph 17, which he described as "an exemption of some antiquity" in that it had, he said, first been provided for in the Scientific Societies Act 1843. Mr Scanlon acknowledged that that Act had been repealed by the 2001 Act but argued that the case law under that Act was still relevant to the interpretation of paragraph 17.

9.23 In this context, Mr Scanlon referred to a case included in his Booklet of Authorities but not mentioned in his written submissions, namely *Metropolitan Borough of Battersea v The British Iron and Steel Research Association [1949] KB 434* ("Battersea"). This case, he said, had been concerned with the "predecessor" of the paragraph 17 exemption, namely Section 1 of the Scientific Societies Act 1843 wherein it was provided that for a society to obtain the relevant exemption from rates, it – i.e. the society – had to have been "instituted for the purposes of science, literature or the fine arts, exclusively". Mr Scanlon said that while Battersea involved a scientific as distinct from a literature exemption the same principles applied.

9.24 Directing the Tribunal to the headnote of that case, Mr Scanlon opened the following two passages:

"The word "exclusively" in the phrase "society instituted for purposes of science, literature or the fine arts exclusively" in s. 1 of the Scientific Societies Act, 1843, must be given its full effect. It

is not sufficient to secure exemption from rateability that a society should be instituted mainly, primarily or chiefly for purposes of science, architecture or the fine arts – the test put forward in *Reg. v. Institution of Civil Engineers (1879) 5 Q. B. D. 48*"

And,

"Where there is a document or documents containing the constitution of a society such as a memorandum and articles of association, it or they are the best evidence of the purposes for which a society is instituted."

9.25 The headnote accurately summarised the decision and reasoning of Jenkins J. but Mr Scanlon opened certain additional passages from pages 450 to 453 of the report. In these passages, Jenkins J. stated that the question – of whether a society was instituted for the purposes of science, literature or the fine arts exclusively – was to be determined "by reference to the purposes of the society as defined in its constitution rather than the purposes it may actually have pursued in practice". The court went on to state that the exemption must stand or fall by reference simply to the society's authorized purposes" deeming "the circumstance that an authorized purpose has never in fact been pursued…irrelevant".

9.26 Jenkins J. quoted Lord Watson's speech in *Commissioners of Inland Revenue v Forrest*, as follows:

"It is not sufficient compliance with the plain language of the Act that a society be established chiefly for the purpose of promoting science, literature, or the fine arts. One or other of these must be its exclusive object; so that an institution which also contemplated some other, though altogether subsidiary, object could not claim the benefit of the exemption."

9.27 Continuing to have regard to Lord Watson's ruling, and quoting therefrom, Jenkins J. said it was not enough that the society be established "*chiefly* for the purpose of promoting science, literature or the fine arts" (emphasis added) it must be established *exclusively* for that purpose; the

contemplation of any other object would be "fatal to the claim for an exemption". Jenkins J. made it clear that the word "exclusively" in Section 1 of the Act of 1843, "means what it says".

9.28 In the light of these observations, Mr Scanlon, at paragraph 39 of his written submissions expressed the view that at least four matters must be proven by an occupier to avail of the Schedule 4 paragraph 17 exemption. He set them out as follows:

"(i) That the property is occupied by a society;
(ii) That the society is established for the advancement of science, literature or the fine arts
(iii) That the society is used exclusively for that purpose; and
(iv) That the society is not used for private profit."

9.29 At paragraph 41 and 42 of his submissions, Mr Scanlon went on to state:

"The point in dispute in respect to this exemption in the present appeal is whether the society is exclusively for the advancement of literature. It is accepted by the Respondent that it is a society with a focus on the advancement of literature…but it is respectfully submitted that its Memorandum in its present form precludes the Appellant from being exempted pursuant to paragraph 17. While the Appellant appears presently to primarily operate in arena of literature, it clearly does not do so exclusively. The Respondent has already flagged many of the relevant regulations in this regard in paras. 6–12 above".

9.30 The regulations Mr Scanlon referred to included Clause 3 of the Appellant's Constitution wherein it stated that the main object for which the company was established was "to promote the study and improve the understanding of arts as defined in the Arts Acts 1951 to 1973". Mr Scanlon noted the definition of "the arts" in the Arts Act 1951 – which he had put to Ms Ryan in his cross-examination of her – and argued that this provision of the Appellant's Constitution meant that its main object was not limited exclusively to the advancement of literature.

9.31 Moreover, Mr Scanlon argued, the Appellant was empowered under Clause 3.1 to, *inter alia*, "develop the imaginations and enrich the minds of children through literature and the visual arts

…[and]…to promote the illustration of children's books and to involve children in the process. [emphasis added by Mr Scanlon in his written submissions]. Mr Scanlon noted Ms Ryan's evidence that illustration is intrinsic to children's books but Mr Scanlon argued that literature and illustration are distinct concepts.

9.32 Mr Scanlon went on to refer to other ancillary powers set out in Clause 4 of the Constitution, which, he said, emphasised the unrestricted main object, including Clause 4.4 which permitted the Appellant to "raise funds and to help raise funds for any charitable purpose." [emphasis added by Mr Scanlon].

9.33 Before he concluded, Mr Scanlon referred to another case which he had not included in his Booklet of Authorities or his legal submissions and did not open to the Tribunal, *Gurteen Agricultural College v Registrar of Friendly Societies [1999] 2 ILRM 535.* This case, predating the 2001 Act, also dealt with an exemption under Section 1 of the Scientific Societies Act 1843.

9.34 The Tribunal asked Mr Scanlon to compare Section 1 of the text of the Scientific Societies Act 1843 as it was presented in Battersea with the text of Schedule 4 paragraph 17, observing that in the former, repealed statute it was *the society* that had to be instituted exclusively for the purpose of science, literature or the fine arts whereas in the latter provision, the provision which now applied, the exclusivity requirement applied to *the use of the property*. Mr Scanlon was asked if there was not a distinction between these two provisions. He replied that in so far as there was an ambiguity in the relevant provision, then the Tribunal, applying Nangles Nurseries, had to interpret the ambiguity against the ratepayer.

9.35 Mr Scanlon was asked by the Tribunal if the Appellant was a society established for the advancement of literature. He replied that this was one of the purposes for which it was established.

9.36 In his closing statement, Mr Dunleavy said it was clear that the Respondent's submissions concerned the law as it used to be rather than as it was now.

9.37 Mr Dunleavy said that it was clear from the CIS decision that there was effectively a re-set in the 2001 Act but that the submissions of the Respondent had not taken account of that. He said that Mr Scanlon's submissions in regard to the Schedule 4 paragraph 16 provision all dealt with the proposition that the advancement of education had to be exclusively for the benefit of the poor in order for the ratepayer to avail of the exemption but, argued Mr Dunleavy, this was not the law now. Mr Dunleavy said he was not arguing that the Tribunal should have no regard at all to the case law that pre-dated the Act and, he said, it was clear from CIS that the Tribunal should have regard to the benefit that the underprivileged might obtain, but it had ceased to be necessary for the underprivileged to benefit exclusively. Referring to the evidence of Ms Ryan, he said that while the ambition of the Appellant was that every child should be a reader, the emphasis was on children in need. He said that need was the basis for how the Appellant selected beneficiaries and the beneficiaries were, by and large, underprivileged. He said it was clear from CIS that where there was an educational benefit to the poor then that was enough for the society to avail of the exemption.

9.38 Mr Dunleavy argued that a similar misapprehension informed the Respondent's views on the Schedule 4 paragraph 17 provision. He said Jenkins J. in Battersea had been dealing with legislation where the exclusivity provision concerned a society but that was not the legislation the Tribunal had to deal with. Now, he said, the exclusivity concerned the use of the property. Mr Dunleavy added that he rejected absolutely that there was any ambiguity in paragraph 17. He said if one simply looked at the plain wording of the provision, it was clear that the exclusivity referred to the thing that was used; and, he said, the only thing that could be used in paragraph 17 was the land or building or part of a building. So, argued Mr Dunleavy, the exclusivity could not relate to the society, it could only refer to the property. He said that the Tribunal had Ms Ryan's uncontroverted evidence that the use of the Property was exclusively for the advancement of literature and that if the Tribunal found that as a matter of fact it must find that the Appellant is entitled to the paragraph 17 relief.

10. FINDINGS AND CONCLUSIONS

10.1 The matter that needs to be determined is whether the Property is relevant property not rateable by virtue of the provisions of Section 15 (2) of the Valuation Act 2001 being relevant property referred to in Schedule 4 paragraph 16 (a) and/or Schedule 4 paragraph 17.

10.2 The Tribunal will deal, firstly, with the Schedule 4 paragraph 17 provision.

10.3 Mr Scanlon in his submissions on behalf of his client suggests that in order to come to a decision on whether the paragraph 17 exemption is available the Tribunal must answer the four questions set out in paragraph 9.28 of this judgment. The Tribunal takes the view that, for reasons hereinafter set out, the questions can be rather more simply (and accurately) formulated, as follows:

I. Is the Property occupied by a society established for the advancement of science, literature or the fine arts?
II. Is the Property used exclusively for that purpose?
III. Is the Property used otherwise than for private profit?

If the answer to all three questions is in the affirmative then the Appellant is entitled to the exemption.

10.4 The Tribunal's formulation of the questions requires some comment in the light of the Respondent's submissions.

10.5 Mr Scanlon's formulation of the questions that need to be answered is based on his view that the Tribunal must have regard to the legislative history of exemptions from rates for bodies involved in science, literature and the fine arts, as well as the judicial interpretation of that historical legislation in order for the Tribunal to properly interpret the current applicable provision.

10.6 The application of this theory has led the Respondent to the conclusion that rather than looking at the *use of the property* as paragraph 17 – on the face of it – demands, and whether that use is exclusively for the relevant purpose, one should instead look at the Constitution of the Appellant and, from that, ascertain the purposes for which it was established and then determine

whether those purposes are exclusively the ones contemplated by the terms of the provision. It is this that enables the Respondent to formulate one of the matters to be decided – at item (ii) paragraph 9.28 – as whether "the *society* is used [sic] exclusively for that purpose" [emphasis added]. Mr Scanlon possibly intended to use the word "established" in place of "used" (because otherwise the sentence does not make sense: as Mr Dunleavy persuasively argues (paragraph 9.36 herein) how could the *society* – as distinct from the *property* – be used in such a manner?) but Mr Scanlon employs the same formulation at item (iv). Either way, the Respondent's construction of the matter effectively involves a transposition of the words in the actual statute, resulting in a misinterpretation of its meaning.

10.7 Schedule 4 paragraph 17 is a noun phrase with "any building" acting as the subject. There are three relative clauses. The first relative clause – "occupied by a society" – defines the building, restricting its meaning. The second relative clause, subordinate to the first, is "established for the purpose of science, literature or the fine arts". This phrase modifies the subject of the first relative clause, namely "a society". The word "which" at the start of the third relative clause – "*which* is used exclusively for that purpose and otherwise than for private profit" – refers back to the main subject of the sentence, namely, the building. Thus, the exclusivity of use requirement applies to the building, not the society. This is the plain and obvious meaning of the provision. There is no ambiguity.

10.8 Mr Scanlon who, on behalf of his client, is able to see ambiguity, urges the Tribunal to have resort to the legislative and interpretative history of the exemption prior to the passing of the 2001 Act and to use what one finds in that history as an aid to interpret the provision. This might be a useful or necessary process in certain contexts – indeed, it has been frequently done in regard to the interpretation of the phrase "charitable purposes" in Schedule 4 paragraph 16 of the 2001 Act. To understand *that* phrase – ambiguous in the sense that is not immediately clear what activities are included within it – requires a review of the state of the law prior to the passing of the 2001 Act, a consideration of the Pemsel categories and the way in which Schedule 4 paragraph 16 relates to its legislative antecedents, including, for example, the Poor Relief (Ireland) Act 1838. The various cases offered in the legal submissions and the Booklet of Authorities – O'Neill, Barrington's Hospital, *St Vincent Healthcare Group Limited v Commissioner for Valuation [2009]*

IEHC 13 and Tearfund, as well as the most recent significant decision on the subject (delivered after the hearing of the present appeal) *NCBI Retail v Commissioner for Valuation [2024] IEHC 606* – are all concerned with the interpretation of "charitable purposes", a phrase which does not, without the lawyer's resort to its legislative history and certain principles of statutory interpretation, readily deliver up its meaning. But these tools of construction are only necessary or useful when a provision is, like paragraph 16, ambiguous on the face of it. There is no such ambiguity attaching to paragraph 17.

10.9 The authorities on this point are clear and numerous. They include, by way of a single example, the decision of the Supreme Court in *Lawlor v Flood [1999] 3 IR 107*. The Tribunal presents the following two passages from the judgment of Denham J. in that case:

"94. As the plain words make clear the meaning and intent of the section it is unnecessary to apply any further canons of construction. Also, as the section is not ambiguous, there is no necessity to have regard to external material. Further, as the section is not addressed to a particular body in a way in which it could be construed to have a distinct meaning the ordinary meaning may be applied: *Minister for Industry and Commerce v. Pim Brothers Ltd. [19661 IR 154*.

95. 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."

10.10 Having decided then on the questions to be asked, the Tribunal must answer them.

10.11 Question I is: Is the Property occupied by a society established for the advancement of science, literature or the fine arts?

10.12 The answer, plainly, is yes. The Property is occupied by Children's Books Ireland, a society – specifically, a company limited by guarantee and a registered charity – whose main objects include the promotion and enjoyment of children's books, the provision of information to people and institutions interested in children's books, the promotion of the study of and research into

children's literature, and the promotion of the writing and illustration of children's books. These objects obviously come within the meaning of the term "advancement of literature". The Appellant's Constitution – rather more widely drawn than is strictly necessary, as companies' constitutions often are – might allow it to do other things but that does not take away from the fact that it is a society established for the advancement of literature.

10.13 Question II is: Is the Property used exclusively for the advancement of science, literature or the fine arts?

10.14 Mr Scanlon in his submissions and in his cross-examination of Ms Ryan, placed some emphasis on the Appellant's involvement with the "visual arts". These, he submitted, were distinct from literature and to the extent that the Appellant was concerned with them at the Property, it meant (to paraphrase his argument) that the Appellant was precluded from asserting the Property was used exclusively for the advancement of literature.

10.15 The Tribunal notes the evidence given by Ms Ryan in regard to this issue (set out at paragraphs 7.11, 7.12, 7.23 and 7.24 herein) to the effect that visual art is an essential element of children's literature. Ms Ryan was articulate and convincing in this regard and the materials she presented were extremely impressive; far more colourful and interesting indeed than the usual run of documentation that comes before the Tribunal. It is true to say, however, that even in the absence of such evidence, the Tribunal could probably have taken judicial notice of the fact that visual arts and illustrations are intrinsic to children's literature. The Tribunal agrees with Ms Ryan that if it is one's ambition to advance children's literature, a concomitant involvement with and promotion of illustration and the visual arts is essential. It would be impossible to promote children's literature without also being involved, at the same time, in visual art and illustration. The existence of the 'Picture This' reading guide – with its 99 information-packed pages, its reviews of over 230 picture books, not to mention its polemical introduction (written by Ms Ryan) urging the necessity of illustrated books – is in itself a spectacular refutation of any argument to the contrary.

10.16 To close off this point, the Tribunal notes that Ms Ryan confirmed (paragraph 7.24) that any work the Appellant does relating to the "visual arts" is exclusively related to visual art and

illustration in the field of children's literature. This evidence was not contradicted by the Respondent. The Tribunal accordingly finds as a fact that visual arts are an essential element of children's literature and the Appellant's activities at the Property relate only to visual arts in the context of its promotion and advancement of children's literature.

10.17 Ms Ryan gave evidence (paragraphs 7.19 and 7.22 of this judgment) that the Appellant was not doing anything in the Property other than the promotion of literature and reading. Ms McPartland in her oral evidence did not contradict this. While Ms McPartland admitted to a concern that under the terms of the Appellant's Constitution it had the scope to engage in other activity (paragraph 8.8), she confirmed to the Tribunal that she was not aware of any activity taking place at the Property other than the advancement of literature (paragraph 8.9).

10.18 In the light of the foregoing, Question II is answered in the affirmative.

10.19 It is common case the answer to Question III is "Yes" so that does not require any further attention.

DETERMINATION:

Having regard to the fact that all three questions formulated by the Tribunal have been answered in the affirmative, the Tribunal holds that the Property is part of a building occupied by a society established for the advancement of science, literature or the fine arts and which is used exclusively for that purpose and otherwise than for private profit. Accordingly, under the provisions of Section 15(2) and Schedule 4 paragraph 17 of the 2001 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.

In the light of this determination, there is no necessity for the Tribunal to consider whether the Property is Relevant Property not Rateable under the provisions of Schedule 4 paragraph 16.

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.