

Appeal No: VA17/5/1003

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Elim Ministries Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2182504, Industrial Uses at Unit 11, Brookfield Enterprise Centre, Jobstown, Tallaght, Dublin 24.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF MAY 2026**

BEFORE

Eamonn Maguire – FRICS, FSCSI, DIP. ARB. LAW

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th day of October, 2017 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 €4,590.

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 19 (5) of the Act because: *“We act for the above named charity. One of their initiatives is the running and operation is a charity shop known as “Manna Charity Shop” which has been run out of the Unit 11, Brookfield Enterprise Centre for the last two years. It open [sic] twenty hours per week Monday-Friday and is closed for two months in the year (January and August.*

The charity shop has surplus of €3,000 for the financial year 2015 and suffered a deficit of €1,000 for the financial year 2016. Our clients paid €2,350.43 in rates earlier this year – this was a reduced figure on the rates demands for Unit 11 of €4,590. If our clients were to be subject to rates at even half the valuation they could not continue to offer this service to the community. In circumstances where this shop has a social and community dimension to its activities we would be obliged if you could see your way to granting an exemption to rates.

Our clients also operate from Partas at Unit 16 and this unit is used solely for prayer, Pastoral Counselling, bible classes, kids club and youth club and has a fundamental public benefit aspect to this work and obviously this unit should have no rates of any nature or kind imposed on it.”

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

2. RE-VALUATION HISTORY

2.1 On the 13th day of April, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €4,590.

2.2 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €4,590.

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

3. DOCUMENT BASED APPEAL

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

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

4. FACTS

4.1 The following facts submitted in evidence were not disputed.

4.2 The Property is located in the Brookfield Enterprise Centre in Jobstown, Tallaght, Dublin 24. The surrounding location is largely residential in nature and the Enterprise Centre accommodates in addition to the Property, Rossfield Stores, Rossfield Pharmacy, Tallaght Travellers together with a number of warehouse and office units.

4.3 The Property comprises a terraced unit with ground floor and mezzanine above with a floor area broken down as follows.

Level	Area Sq.m.
0	63.75
Mezzanine	9.18
Total	63.75

5. ISSUES

The matter in dispute is whether the Property should be deemed exempt under the Valuation Act 2001.

6. RELEVANT STATUTORY PROVISIONS:

6.1 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.”

6.2 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.”

6.3 Under paragraph 16 (a) Schedule 4 of the Act sets out the conditions where Relevant Property is not Rateable, including; “ 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.

6.4 Section 7, Schedule 4 of the Act sets out where Relevant Property is not Rateable where “Any land, building or part of a building used exclusively for the purposes of public religious worship”.

7. APPELLANT’S CASE

7.1 On behalf of the Appellant, Cormac O Ceallaigh & Company solicitors in lodging the Appeal, submitted that the charity shop known as ‘Manna Charity Shop’, for the past two years and it is open 20 hours per week over 5 days and is closed for two months of the year, being January and August. They stated that the charity shop had a surplus of €3,000 for the financial year 2015 and incurred a deficit of €1,000 for the financial year 2016.

7.2 They submitted that if the Property was to be subject to even half the proposed Valuation, that the Appellant would not be able to continue to offer this service to the community. Furthermore,

in the circumstances that the shop has a social and community dimension they would be obliged if an exemption to rates were granted.

7.3 In support of their appeal, they submitted turnover figures which are included in Appendix 1 (N/A to public).

7.4 They included with their Appeal lodgement, a report dated 20th September 2016, authored by Elaine Underwood, which stated that local football comes from the estates of Rossfield, Brookfield, Glenshane, McUilliam, Swiftbrook and St. Aidan's Estate (halting site), with people from all nationalities coming through the doors to get reasonable good quality clothing, bedding, shoes, baby clothing and furniture for nominal payment. Cross community links have been made connecting groups of people who would not usually come together, with a common goal of getting a bargain, to provide for their family. Volunteers report having found a place where they can get work experience, upskilling in handling money and customer service. There have been major crisis points for some families in this community and the shop was the main support and steer, because it was the place suggested to families, when they hit a crisis.

7.5 Mr. Walker on behalf of the Appellant, in his Precis of Evidence dated 27th February 2024, stated that the Manna shop had been a key part of their Tallaght ministry, that the shops income was marginal at best, and as such it was forced to close on 17th December 2020, as it was unable to sustain the deficits incurred because of the Covid Pandemic.

7.6 Mr. Walker submitted to the Tribunal, that the Property was used for charitable purposes and not for private profit and therefore should not be subject to rates on the basis that the occupier is eligible for an exemption from rates under the Valuation Act 2001 (as amended) Schedule 4 Paragraph 16, being that “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 profit”.

7.7 Mr. Walker also submitted that the Property should not be rated as churches have an exemption from rates under Schedule 4, Paragraph 7, meaning it was used for ‘...public religious worship...’.

7.8 They submitted their opinion of the NAV as €0.

8. RESPONDENT'S CASE

8.1 Mr. Kevin O'Doherty for the Respondents stated in his submission that the Property is a retail unit with ancillary storage. He submitted that shops operated by charities are rateable on the basis that conducting retail activity is not considered to be "exclusively for charitable purposes within the meaning of paragraph 16 of the Valuation Act 2001, as amended. As a result, there is a distinction to be made between properties used exclusively for charitable purposes and those that were occupied by charities which are not used exclusively for charitable purposes, even if the proceeds maybe used exclusively for charitable purposes. Mr. O'Doherty stated that this interpretation is in line with established case law.

8.2 Mr. O'Doherty submitted that it was unquestionable that the Appellants carry out important work, comparable to other fine charitable organisations, however the question was whether the Property, a retail outlet with ancillary stores, is used for exclusively charitable purposes and therefore qualifies for exemption from local authority rates. Any organisation that uses and benefits from local services should pay for same, just like anyone else as part of their running costs, unless exempt. This shop is no different from other charity shops in the local authority area selling items and is not entitled to be treated differently.

8.3 Mr. O'Doherty submitted the following two comparisons from the Valuation List in support of his valuation of the Property.

Comparison 1

Property No. 2182503

Address: Unit 9, Brookfield Enterprise Centre, Jobstown, Tallaght, Dublin 24

Level	Floor Use	Area – Sq.m.	NAV (€ PER Sq.m.)	NAV
0	Workshop	63.75	€70	€4,462.50
Mezzanine	Office(s)	34.55	€28	€967.40
Mezzanine	Store	11.22	€14	€157.08
Additional Items				None
			Total (€)	€5,586.98
			Valuation (€)	€5,580.00

Comparison 2

Property No. 2182505

Address: Unit 12, Brookfield Enterprise Centre Jobstown, Tallaght, Dublin 24

Level	Floor Use	Area – Sq.m.	NAV (€ PER Sq.m.)	NAV
0	Workshop	63.75	€70	€4,462.50
Mezzanine	Office(s)	22.95	€28	€642.60
Additional Items				None
			Total (€)	€5,105.10
			Valuation (€)	€5,100.00

8.4 Mr. O’Doherty submitted his analysis of the Valuation as follows;

Level	Floor Use	Area – Sq.m.	NAV (€ PER Sq.m.)	NAV (€)
0	Workshop	63.75	€70	€4,462.50
Mezzanine	Store	9.18	€14	€642.60
Additional Items				None
			Total (€)	€5,105.10
			Valuation (€)	€5,100.00

9. LEGAL SUBMISSIONS

9.1 The Respondents in a separate legal submission concerning the Appellants use of the Property and whether it qualified as being exclusively used for charitable purposes, and therefore exempt from rates under schedule 4 paragraph 16, of the Valuation Act 2001, submitted that the law and its application to this issue was supported by the case of Rehab Lotteries (VA89/0/229), where it was found that the Tribunal is cited as accepting “the validity of the respondents policy in general to value as rateable retail shops run by charities for fund raising purposes”. The burden of proof is on the appellant to establish that the use of the Property was exclusively charitable and ‘exemptions or relieving provisions are to be interpreted strictly against the rate payer’.

9.2 In the case of Limerick Animal Welfare Limited v the Commissioner of Valuation, it was held that in order to avail of the exemption, a property must be occupied by a charitable organisation, used for charitable purposes and it must be exclusively so used. A case cited by Lord Cross of Chelsea in deciding the aforementioned case against that Appellant, was that of Belfast Association for Employment of Industrious Blind v Commissioner of Valuation for Northern Ireland, in which it was determined that in rating law, it is the character of the occupation of the premises which is decisive, and to say that because moneys raised by a use of charitable premises are to be applied to charity, the premises must be distinguished as exempt, would destroy the distinction between a non-charitable use and a charitable use. On this view it would be the

destination of the moneys rather than the use of the hereditament which would require examination.

9.3 The Respondent submitted that in circumstances where the Appellant has stated that its objective is to advance the Christian faith, through preaching the Gospel and teaching of scriptures, can its operations lawfully be considered undertaken for “charitable purposes”.

9.4 The Respondents submitted that in applying *Oxfam v Birmingham City DC*, the following can be observed, firstly the stated ‘charitable purpose’ of the Appellant, is to “advance the Christian faith through the preaching of the Gospel and teaching of the scriptures”, but that the advancement of religion is not considered ‘charitable’ within jurisprudence on rating law, and secondly, the sale of clothing and other items through a retail store is ‘user for the purpose of getting in, raising or earning money for the charity, as opposed to user for purposes directly related to the achievement of the objects of the charity”.

9.5 The Respondents submitted that the law and its application to this issue was supported by the decision of *Tearfund Ireland Ltd., v Commissioner of Valuation (2021) IEHC 534*. *Tearfund Ireland* in a manner identical to the Appellant, in its memorandum and articles of association stated that its objective was “the relief of poverty and advancement of religious beliefs”. The case appealed to the High Court, whereupon Mr. Justice Barr in considering whether the Tribunal was correct in surmising that the phrase ‘charitable purposes’ in the context of paragraph 16, Schedule 4 of the 2001 Act, included the advancement of religion, in his judgement stated that “it can be said that from 1914 onwards, the courts in Ireland have consistently interpreted ‘charitable purposes’ in rating law, as not including the advancement of religion”.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of South Dublin County Council.

10.2 The grounds of the Appeal lodged on behalf of the Appellant by Cormac O Ceallaigh & Co. are that this shop makes marginal profits, could not afford to pay rates based on half the Valuation proposed and as the shop has a social and community dimension to its activities, they submitted should be grounds for an exemption to rates.

10.3 In his Precis of Evidence, Mr. Walker for the Appellant's, submitted that it was never intended to operate in the Property for a profit and when they did make a profit, the funds were shared with another charitable organisation, and therefore the Property should be exempt.

10.4 The Tribunal finds that one is to be concerned with the use of the Property rather than the destination of the profits, nominal as they may be, in deciding whether the Property is deemed to be exempt under the Act.

The Tribunal stresses that the commercial viability of a property for an Appellant is not a factor it can consider in this or any other appeal. Under the Valuation Act 2001 (as amended), the Tribunal's role is solely to ensure that the Final Certificate of Valuation accurately reflects the correct value of the property and its value relative to comparable properties in the local rating area. This assessment is not influenced by whether the Appellant can afford the resulting rates.

A rates bill consists of two elements: the valuation (Net Annual Value) and the Annual Rate on Valuation (ARV), which is set each year by the rating authority. The Tribunal's jurisdiction extends only to determining the Net Annual Value; it has no power to change the rates bill itself.

10.5 Although the question of “public religious worship”, and “exclusive charitable purposes” as per Schedule 4, paragraphs 7 and 16 (a) of the Valuation Act 2001 respectively, were not grounds cited in the Appeal lodged, both parties subsequently have made submissions to the Tribunal on these latter grounds.

10.6 The Tribunal finds that the operation of the shop, was not an activity that can be deemed as being exclusively for charitable purposes, under the meaning of the Valuation Act, 2001, paragraph 16 (a) of Schedule 4.

10.7 The Tribunal finds that the sale of second-hand clothing and household items from the Property renders the use, not exclusive for ‘public religious worship’.

10.8 The Respondent submitted two NAV comparisons from the List, each of a similar size as the Property and located in the same scheme, to support their valuation approach. Both have an applied an NAV psm of €70 for the retail areas, and in the case of comparison 1, which has a mezzanine store, a valuation of €14 psm was applied. The valuation derived for the Property, has the same values per sq.m applied in the case of the retail area and mezzanine store.

10.9 The Tribunal whilst acknowledging from the evidence the clearly very laudable work of the Appellants in the community, nevertheless finds from the evidence that the use of the Property is not exempt from rates, as interpreted under the Valuation Act, 2001.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

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.