

Appeal No. VA07/3/013

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Cork County Council

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office(s) at Lot No. 6A, Carrigrohane Road, Bishopstown A, Bishopstown, County Borough of Cork

B E F O R E

John O'Donnell - Senior Counsel

Chairperson

Joseph Murray - B.L.

Member

Brian Larkin - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17TH DAY OF DECEMBER, 2007

By Notice of Appeal dated on the 12th day of July, 2007 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €5,200.00 on the above described relevant property.

The grounds of Appeal are set out in the Notice of appeal, a copy of which is contained in Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 1st day of October, 2007. At the hearing the appellant was represented by Mr. Brian Murray, SC, and Mr. Stephen Dodd, JC, instructed by Ms. Hilary Beausang, Senior Executive Solicitor Cork County Council. Ms. Elizabeth Barry, CPA and Mr. Maurice Manning, both of Cork County Council and Mr. John Elliott, Consultant Valuer also attended. The Respondent was represented by Mr. Brendan Conway, BL, instructed by the Chief State Solicitor. Mr. Frank Twomey, a District Valuer in the Valuation Office was also present.

The Property Concerned

The property concerned is County Hall, Carrigrohane Road, Cork, the administration headquarters of Cork County Council. Rateable Valuation was assessed on Revision on the 22nd November, 2006 at €5,525. This was reduced on appeal to an agreed valuation of €2,200 without prejudice to legal issues.

The Issue

Rateability

Paragraph 6(c)(i) of the Notice of Appeal lodged on the 13th July, 2007 states, *“The property should be included in the Valuation List and deemed not rateable as per section 15(3) of Valuation Act, 2001.”* Paragraph 6(c)(iii) of the said Notice of Appeal states *“Without prejudice to 6(c)(i) above, it is submitted that the property in its entirety (or parts thereof) ought to have been exempted from rate in accordance with terms of Schedule 4 Valuation Act, 2001, inter alia, or on other such grounds.”*

The parties agreed that the matter of quantum was not in issue before the Tribunal and that the hearing would proceed towards a determination of the legal issues. Written legal submissions had been delivered in advance to the Tribunal and it was agreed between Counsel that no evidence would be led in support thereof.

Appellant's Submissions

Submissions on behalf of Cork County Council

Mr. Brian Murray, on behalf of Cork County Council, stated the main ground of appeal was that the subject premises i.e. County Hall, Carrigrohane Road, Cork was exempt from being

rateable under Section 15(3) of the Valuation Act, 2001 by reason of being a building occupied by the State or alternatively an “*office of State*”.

Section 15(3) of the Valuation Act, 2001 provides: “ *Subject to section 16, relevant property, being a building or part of a building, land or a waterway or a harbour directly occupied by the State (including any land or building occupied by any Department or office of State, the Defence Forces or the Garda Síochána or used as a prison or place of detention), shall not be rateable*”.

The core issue therefore, Mr. Murray said, was whether the County Hall is a building “*occupied by the State*” (including an office of State). As the County Hall is occupied by Cork County Council, the Local Authority for the County of Cork, this amounts to determining whether a local authority constitutes “the State” within the meaning of Section 15(3). What was being sought was an acknowledgement that certain categories of public bodies were so close to the “State” as to equate with the State for exemption purposes. The exemption included in Section 15(3) viz the Defence Forces or the Garda Síochána did not refer specifically to statutory bodies, Mr. Murray added, but the reference to the word “*including*” implied that the categories were not intended to be exhaustive. He submitted that there were highly significant bases for the belief that even if local authorities did not constitute an “*office of the State*” they possessed the characteristics of the State.

In seeking to address what was an “*office of the State*” Mr. Murray submitted that the answer boiled down to one legal issue – what was the function of the agency in question? Were its functions so governmental in nature, as was deemed by the Valuation Tribunal to be the case in the **VA04/2/038 - Legal Aid Board** and **VA05/3/003 - FETAC** appeals, as to justify being considered an agency of the State? In each of those Tribunal decisions, as well as the **VA06/4/001 - HSE** decision (now the subject of a case stated) exemption from rates was granted on findings that the said agencies discharged functions of Central Government. So the real question of law here, Mr. Murray submitted, was the distinction between State Agencies exercising powers of Central Government and those discharging functions at local level which the Respondent argues is not “the State”. Does, therefore, Section 15(3) differentiate between Local Government and Central Government and simply capture Central Government within its remit and exclude Local Government? Mr. Murray submitted that, in his opinion, the contrary had to be the intent of the legislation. On any normal use of the

English language, he put it, that local authorities are in fact “the State”. Local authorities, Mr. Murray forcefully asserted, were more than simply public bodies. They were the face of Government and local organisation of the community, replete with powerful citizen interface and interaction. The role of the Local Government in the 20th Century is much wider than it was in the 19th Century, Mr. Murray added, before embarking on an examination of the nature and functions of local authorities as represented in the Local Government Act, 2001 and the Irish Constitution. They now govern, Mr. Murray asserted cogently, and proceeded to forensically elucidate on the functions, powers and funding of local authorities as widely described in the 2001 Act in the first instance.

Mr. Murray asked, “What do local authorities do that brings them within the description of “State”?” He analysed the response over 5 headings:

1. Establishment and Constitution

It followed from Section 10 and 11 of the 2001 Act that:

- a) The State is divided into local government areas known as counties or cities.
- b) Each local government area has a local authority.
- c) The local authority is the body for local government, more particularly described as the “primary units of local government”.
- d) Each local authority has jurisdiction throughout its administrative area.

This, Mr. Murray submitted, was recognition in the 2001 Act that local authorities were “the State”.

2. Functions and Services

Section 63 of the Local Government Act, 2001 sets out the functions of local authorities; declaring them to be a forum for democratic representation of the local community. Local authorities had exclusive jurisdiction and acted in specific capacities as follows:

Local authorities were the Sanitary Authority, the Fire Authority, the Housing Authority, the Planning Authority, the Roads Authority, the Rating Authority, and Building Control Authority. Local authorities also had duties in relation to Waste Management, Litter Collection, Libraries, Control of Animals, Derelict Sites, Slaughter Houses, Architectural Heritage and Education.

Mr. Murray went further by asserting that local authorities have been delegated a range of other significant functions which brought them very close to what could be considered 'Central Government'. Referring to the Tribunal decision in the **HSE** case (albeit subject to appeal) he asked "Is what the local authorities do therefore 'Governmental'?" In support of this proposition, Mr. Murray spoke of the law-making powers conferred on local authorities by virtue of Section 199 of the Local Government Act, 2001. Local authorities had the power to make bye-laws, the breach of which would constitute a criminal offence. Mr. Murray also touched on Section 200 of the said Act which empowered the local authorities to make bye-laws which did not require Ministerial consent, and to Section 201 which did require such consent.

In tandem with those powers, Mr. Murray referred to the enforcement/prosecutorial powers invested by the legislation in local authorities in the event of non-compliance not only with bye-laws, but also in respect of breaches of planning and building regulations. Mr. Murray submitted that the functions, powers and duties outlined were in essence duties of the State being performed by local authorities and which in a different system of government, would have been carried out by the Central Authority. Local authorities were a forum for government and representation where powers nowadays tended to expand. Mr. Murray supported his contention as follows:

1. Local authorities worked down from elected forums. Thus they were similar to the State and distinguishable from the agencies.
2. A local authority was accountable to its own Minister e.g. section 22 of the Local Government Act, 2001 re membership.
3. The Planning and Development Act, 2000 and regulations made thereunder were a good example of local authorities having regard to Ministerial policies and were in effect discharging Ministerial functions. In the implementation of laws, in effect the local representatives acting through the local authorities were required to follow the mandate of Central Government.
4. The précis of Ms. Elizabeth Barry, on behalf of Cork County Council included a forensic analysis of Revenue Income sourced both from the authority's own resources and Government grants and subsidies. In it, it was demonstrated that Cork County Council only derived 57.1% of its Revenue Income (i.e. commercial rates, charges for services and miscellaneous) from its own resources while 42.9% of its Revenue

Income was achieved through Government grants and subsidies. This provided financial evidence that Local authorities are increasingly funded by Central Government and was a significant departure from the 'old days'.

Mr. Murray proceeded then to illustrate the gradual response of the legislation towards recognition of this fact and the rejection of any notion that local authorities were not now providing services to the community as a whole. He contrasted the **Commissioner of Valuation for Northern Ireland v Londonderry Borough Council 1967** with the Supreme Court decision in **County Council of Kerry v Commissioner of Valuation S.C. 1934**. The latter held "*A building used as the offices and boardroom of a County Council is not a hereditament 'of a public nature' and 'occupied for the public service' and therefore cannot be distinguished as such by the Commissioner of Valuation in his Valuation list, so as to be deemed to be exempted from assessment for poor rate under s.2 of the Valuation (IR) Amendment Act, 1854.*" This majority decision followed the determination in the 19th Century case of **Guardians of Londonderry Union v Londonderry Bridge Commissioners 1868**. However, Mr. Murray submitted, that crucially at P.534 of said **Kerry** decision Kennedy C.J. indicated that he would be prepared to reconsider the ruling in **Cork Corporation v Commissioner of Valuation** which the majority of the Court relied upon in light of future developments. This, Mr. Murray stated, captured the change in perception of the role of local authorities by the Judiciary. Thus, in the circumstances, Mr. Murray submitted, it was no surprise that in the 1967 Northern Ireland case it was held that a swimming pool should be distinguished as exempt, not only because it was used exclusively for the purposes of a recreational charity, but also because the hereditament was altogether of a public nature and occupied for the public service. The comment by Curran L.J viz "*I can find no justification for thus restricting the meaning of the word public in the 1846 Act*", Mr. Murray added, was hitting out at some of the distinctions differentiating public purposes from non-public purposes.

Reverting to the situation on the ground Mr. Murray asked rhetorically who the ordinary man in the street would blame if his bins were not collected or there was no water in the taps. Would he look to the local authority or the Central Authority? Mr. Murray submitted that in the eyes of the ordinary man, bin collection and water services were the State's problem, discharged through the local authorities. They were Government functions essentially, but delegated to the local authorities. The local authorities' role was analogous to that of the

HSE, Mr. Murray submitted, and referred to the rationale of this Tribunal's determination in that Appeal at Page 19 which he suggested was a correct test, viz *"the Health Act, 2004 does not create a new government function. Rather it imposes the obligation of fulfilling what remains a central government function on the new "service" (as it is described in Note 3 of the Book of Estimates). The function of providing a health service to the public remains a government function; the engine which now powers that function is the HSE."*

Mr. Murray suggested that it would be wrong of the Commissioner or the Tribunal to conclude that anything not aligned to the organs of State, as enshrined in the Constitution was not the "State". It was wider than that. Article 28A of the Constitution reads as follows *"The State recognises the role of local government in providing a forum for the democratic representation of local communities, in exercising and performing at local level powers and functions conferred by law and in promoting by its initiatives the interests of such communities."*

The insertion of an amending Article in the constitution reflects the status of local authorities. Article 5 of the Constitution provides also that *"Ireland is a sovereign, independent, democratic state."*

Article 6.1 declares that *"All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good."*

Those constitutional provisions, Mr. Murray argued, are reflected in the Local Government Act, 2001 and in the light of that it was difficult to see that local authorities were not the "State" for rates purposes.

Local authorities were indeed also recognised at European level, Mr. Murray submitted, with Ireland being signatory to the European Charter of Local Self-Government of the Council of Europe. The preamble refers to local authorities as being *"one of the main foundations of any democratic regime"*. Article 2 provides that *"The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution."* Article 3

refers to the concept of local self-government; Article 4 declares that “*the basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute*”.

Mr. Murray stated furthermore that the European Court of Justice decided that the remission of rates was a State aid for Treaty of Rome purposes. He also referred to passages from “Local Government in Ireland” by Desmond Roche which include such as the following “*There is no inherent reason why local government should be carried on by locally elected bodies, and in fact many local services are administered by agents of the central government*”, and “*local authorities, despite varying degrees of independence, function in most countries as agencies of central government*”.

The sum total therefore of Mr. Murray’s submissions was that, based on indigenous and European evidence, local authorities are part of the “State”. In stark contrast to **VA05/3/061 – Personal Injures Assessment Board**, the **Legal Aid Board** and **FETAC**, which qualified for rates exemption as “office of State”, local authorities had a much more significant function and status within the structure of the State. Local authorities, Mr. Murray concluded, while not part of Central Government, formed a distinct, although linked, arm of government, namely local government. In this respect both central and local government could be collectively described as the government of the State and so therefore formed part of “the State”

Respondent’s Submissions

Submissions on behalf of the Commissioner of Valuation

Mr. Brendan Conway, on behalf of the Respondent, submitted that the fundamental difference between the Appellant’s case and the Respondent’s case was whether Local Government could be identified as the “State” for the purposes of the Valuation Act, 2001. The Respondent’s case, he said, was that the concept was not in line with Section 15(3) of the Act. The question, Mr. Conway posed was whether Section 15(3) was distinguishable qua State and agencies which operated at local level. The Respondent would say “yes” he added. A pertinent canon of interpretation in this instance was that words bear their ordinary literal meaning (referring to **Inspector of Taxes v Kiernan [1981 IR 117]**) and that on a strict construction of Section 15(3) one was looking at a finite set of bodies which could be identified as the “State” e.g. the Defence Forces. Mr. Conway submitted that the Tribunal had

no latitude to go beyond such a literal interpretation of Section 15(3) and clearly that Section did not include “Local Government”.

Mr. Conway, pointing to the Local Government Act, 2001, agreed that while Local Government was a manifestation of the State, as being an instrument or agent of the State that did not bring it within the “State”. There was no dispute as to what local authorities did but they were nevertheless simply instruments of the “State”. Local authorities derived their powers from statutes enacted by Parliament. The “State” had all-embracing sovereign power under the Constitution. Mr. Conway submitted that Departments of “State” directly exercised the power of the “State”. Delegated power by contrast was not direct and therefore did not bring the delegate within the Section 15(3) exemption. Such elasticity could not be read into the Section. The exemption came qua the State or a Government Department or “office of State”. It was a matter of fact, Mr. Conway said, that exemption was extended to the “State” and the “State” *simpliciter*. If, for example, the State carried out central bin collection, which it does not, then that function would be regarded as being carried out at “State” level. It was the delegation, Mr. Conway asserted, that took the matter out of the State’s remit. Delegated governmental functions were not within the ambit of the Act.

Mr. Conway then proceeded to deal with the Constitutional aspect, and referring to Article 4 submitted that there was nothing in “the various articles” which identified or supported the contention that any local authority is equatable with the concept of “the State”. Article 6.2, he pointed out, provided that the powers of Government “*are exercisable only by or on the authority of the organs of State established by this Constitution.*” The Constitution then goes on to establish and identify various organs of the State including the President, the Oireachtas, the Government, the Courts and the Attorney General but Local Government is not identified as an organ of State.

Article 28A, Mr. Conway indicated, basically recognises the existing infrastructure of Local Government; it does not recognise the functionality of Local Government to Central Government. It was erroneous, he added, to suggest that, because the Constitution recognises Local Government, Local Government falls to be identified as an organ established by the Constitution. Mr. Conway submitted that local authorities were creatures of statute and their powers and functions were determined and performed in accordance with statute. This placed Local Government as a concept and local authorities as the implementing agents at a

considerable remove from the ethos of an organ of State as an office or institution established by the Constitution. Local Government existed to carry out statutorily prescribed functions in contradistinction to the organs of State created by the Constitution which carry out functions prescribed by the Constitution.

On the subject of delegation and by reference to a letter from the Appellant to the Commissioner dated 28th November, 2005, Mr. Conway noted that it was stated therein “Local Government is the secondary level of Government in the State”. In a further letter dated 29th November, 2005 between the same parties there was reference to “Local Government as “the second tier” of Government in this State”. Mr. Conway agreed with the Appellant that the letters were evidence that even in the Appellant’s eyes Local Government could not be equated with the primary organs of State which had a constitutional function under Article 6.2 of exercising all the powers of government. The State does not encompass Local Government. The reality, Mr. Conway added, was that a dichotomy existed – two tiers, Central Government and Local Government.

Referring to the European Charter of Local Self-Government, Mr. Conway submitted that the material in the Preamble thereto did no more than did Article 28A of the Constitution in that it simply recognised the role of Local Government as providing “*a forum for the democratic representatives of local communities*” and could not be said to elevate local authorities to the status of organ or office of State. The same could be said for the remit of local authorities as identified in the Local Government Act, 2001, Mr. Conway added.

The Tribunal decisions on “office of State” viz the **Legal Aid Board**, **PIAB**, **FETAC** and **HSE** were not helpful to the Appellant either, Mr. Conway submitted. In its **Legal Aid Board** judgment the Tribunal stated that “*If the Legal Aid Board is to qualify as an “office of State” there must be a certain level of integration with and control by the State*”. This will also overlap with the “direct occupation concept”. In considering what criteria identified certain public bodies as “office of State” the Tribunal stated that:

- a. Much depends on the degree of Government control, and
- b. An office of State is close to the epicentre of Government policy.

The **HSE** decision of the Tribunal also fitted with the **Legal Aid Board** case, Mr. Conway submitted. The **HSE** was deemed to be an “office of State” on the basis that it was set up

under the Health Act, 2004, was fulfilling a Central Government function and was responsible to the Minister for Health. It was the centrality of the function that was the key to falling within the umbrella of “office of State”, Mr. Conway stressed, and the parameters did not extend the function to a second tier.

There was no reasonable basis for contending that Cork County Council, any local authority or any agency of Local Government was close to the epicentre of Government policy, subject to any significant degree of Government control or was to any meaningful extent integrated with and controlled by the State. Those defining criteria, Mr. Conway submitted, as identified in the **Legal Aid Board** case for establishing what public bodies may be considered to be offices of State within the meaning of Section 15(3) of the Valuation Act, 2001 were simply not present in the case of Cork County Council. It would strain the language used by the Tribunal in the **Legal Aid Board** case to assert otherwise.

Mr. Conway closed by submitting that on the basis of his arguments local authorities of which Cork County Council is one are not core to or co-terminus with the State; nor do they fall within the concept of “office of State”. In these circumstances Mr. Conway stated that Cork County Council did not fall within the rubric of Section 15(3) of the Valuation Act, 2001 and the Appeal for exemption from rates should therefore be dismissed.

The Appellant’s Reply

Mr. Murray took issue with Mr. Conway’s submission that it was “the delegation” which took the Appellant outside the exemptions provided by Section 15(3) of the Valuation Act, 2001. Mr. Murray referred to all of the Tribunal decisions *canvassed* in this area and submitted that each of the decisions involved bodies to which functions were delegated. Yet, he said, each of the said appeals was successful in achieving exemption from rates under Section 15(3). The fact, Mr. Murray added, was that the section acknowledged delegation. He posed the question as to whether the exemption was intended to be limited to the agencies recognised in the Constitution or the State in the totality of its functions suggesting that if the local authorities performed the function, it was the State in reality which performed it. Mr. Murray concluded his reply by referring again to the **HSE** judgment. In that he said the agency – the **HSE** - was exercising a function qua the State. Similarly, he submitted, much of what the local authorities do involves the performance of functions qua the State, in particular their legislative function in making bye-laws.

The Law

The Subject of Local Government

The statutory basis for local authorities in the Republic of Ireland is the Local Government Act, 2001 and the Irish Constitution. Section 2 of the Act defines a local authority as:

- a. a County Council
- b. a City Council
- c. a Town Council

Section 10 of the Act sets out the “Local Government Areas” in the country.

Section 11 of the Act sets out the “Establishment, titles and administrative areas of local authorities”.

Part 1 of Schedule 5 of the Act, in the case of a county sets out the name of such county followed by the words “County Council”.

Cork County Council is included in this Schedule and is described as a “*primary unit of Local Government*”.

Constitutional recognition has been extended to Local Government by virtue of Article 28A which provides “*The State recognises the role of local government in providing a forum for the democratic representation of local communities, in exercising and performing at local level powers and functions conferred by law in promoting by its initiatives the interests of such communities*”. Article 28A goes on then to deal with the system of election to such local authorities.

European recognition has also been extended to our local authorities with Ireland being a signatory to the European Charter on Local Government of the Council of Europe. Article 2 of the said Charter finds that the principle of local self-government shall be recognised in domestic legislation and where possible in the Constitution. Article 4 of the said Charter declares that “*the basic powers and responsibilities of Local Authorities shall be prescribed by the Constitution or by statute.*”

The functions of Local Government are set out in the Local Government Act, 2001 at Section 63. The nature of the activities has a distinct local community flavour viz sanitary services, fire service, air pollution, planning, environment, roads, etc. Local authorities under Section 199 of the Act have power to make bye-laws some requiring Ministerial consent and others

which do not. Local authorities also have a role in the enforcement of laws where they have functions and in particular in the area of environmental legislation.

Purported Basis for Seeking Exemption from Rates

Section 15(3) of the Valuation Act, 2001 provides “*Subject to section 16, relevant property, being a building or part of a building, land or a waterway or a harbour directly occupied by the State (including any land or building occupied by any Department or office of State, the Defence Forces or the Garda Síochána or used as a prison or place of detention), shall not be rateable.*”

Tribunal Decisions Relied on by the Appellant

VA04/2/038 - Legal Aid Board, VA05/3/003 - FETAC, VA05/3/061 – Personal Injuries Assessment Board VA06/2/089 - The National Breast Screening Board and VA06/4/001 - HSE.

The Tribunal has reviewed in depth those decisions and the basis upon which they were made.

Findings

1. At the hearing the parties were represented by Counsel and the Tribunal is indebted to them for the depth and quality of their submissions, both oral and written which referred the Tribunal to a wide range of authorities and legal precedents. Copies of Counsel’s written submissions are to be found in Appendix 2 to this judgment.
2. The Local Government Act, 2001 as a matter of law imposes a responsibility on local authorities to provide local community based services.
3. The nature of the functions of local authorities is of considerable relevance when considering whether property occupied by the local authority, in this case Cork County Council, can be said to be occupied by the “State” or any Department or office of State.
4. The nomenclatures “Local Government”, “local authority” send out signals as to the localised or regionalised nature of the activities undertaken in the various local authority areas. They signify devolution of the role of Central Government to local authorities.
5. It is true that Central Government is more acutely sensitive of environmental and heritage issues today than in the past and this is reflected in the change of name of the Central Government Department with responsibility for local authorities from “the Department of

Local Government” to the “Department of the Environment, Heritage and Local Government.”

6. This change in title reflects the expansion of activities undertaken at community level by the local authorities. It goes towards recognition of the increased range of functions undertaken by local authorities but no more than that.
7. The additional responsibilities taken on by the local authorities cannot however, in the Tribunal’s view, be deemed to be primary functions of Government but an enlargement of existing functions which are of a secondary nature. In this respect this case is distinguishable from the **HSE**.
8. The distinction between National bodies such as the **HSE** and local bodies such as local authorities can be described as a function of implementation. National bodies implement Central Government policy on a national basis and are centrally funded to a greater extent than local authorities, if not completely centrally funded.
9. In this case, Cork County Council derives almost 60% of its funding from its own resources.
10. The composition of National bodies is within the control of Central Government. Little or no discretion is left to the bodies themselves as to the policies they pursue.
11. While local authorities have a degree of responsibility to discharge certain statutory functions the manner in which they discharge them can vary from area to area e.g. County Development Plans.
12. Cork County Council is not a Department nor is it analogous to a Department of Government. It does not exercise a Central Government function. On the other hand, Cork County Council is clothed with such a degree of autonomy as to distance itself from the character of “State” or “office of State”.
13. Central Government comes into being as a result of national elections but Local Government comes into being through local elections. Council members are elected and appointed locally and not centrally.
14. A literal interpretation of Section 15(3) of the Valuation Act, 2001 does not suggest that Local Government is the “State” or emanations thereof.
15. Local Government exists to carry out statutorily prescribed functions in contradistinction to the organs of State created by the Constitution which carry out functions prescribed by the Constitution.

16. Local Government as the second tier of Government is not to be equated with the first tier of Government provided by the State or an organ or office of State. Its role falls to be identified at a secondary level rather than a primary level of Government.
17. The Section 15(3) exemption comes qua State or Government Department or office of State. Delegated functions eg. to local authorities take them outside the ambit of the Act.
18. The criteria for office of State identified in the **Legal Aid Board** case and applied in the **HSE** decision viz:
 - (i) closeness to the epicentre of Government business, and
 - (ii) subject to a certain level of integration and control by the Stateare not present in the case of Cork County Council.
19. Local authorities, of which Cork County Council is one, are not core to or co-terminus with the “State” or emanations therefrom.

Determination

Cork County Council does not fall within the ambit of Section 15(3) of the Valuation Act, 2001 as the “State” or an “office of State”. In these circumstances the appeal for exemption from rates sought in respect of the offices directly occupied by Cork County Council at the County Hall, Carrigrohane Road, Cork is dismissed.

And the Tribunal so determines.