

Appeal No. VA95/6/008

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Scoraíocht Lann Léire

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Cultural centre and grounds at Map Ref: 1A, Townland: Skibbolmore, ED: Dunleer, RD: Ardee No. 1, Co. Louth

Exemption - Scientific Societies Act 1843, promotion of culture

B E F O R E

Liam McKechnie

S.C. Chairman

Con Guiney

Barrister

Barry Smyth

FRICS.FSCS

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF MAY, 1996

This is an appeal by the ratepayer against a valuation of £15 placed on the subject property at revision in 1994 and upheld on First Appeal with the decision of the Commissioner of Valuation being given on the 9th day of October, 1995. The essential ground of appeal to the Commissioner was based on a contention that the ratepayer is entitled to exemption and that ground equally constituted the essence of the ratepayer's appeal to this Tribunal.

At the hearing of the appeal held on the 24th day of May 1996, Mr. Sean O'Flanagan appeared on behalf of the appellant with Mr. Seamus O'Tuathail, B.L, instructed by the Chief State Solicitor, appearing on behalf of the Commissioner of Valuation. The Appeal Valuer was Mr. Malachy Oakes.

The Background:

The Constitution of the ratepayer was adopted at the general meeting held on the 19th May 1979 and it sets out in eleven paragraphs what that Constitution is. Paragraph 2 deals with the objective of the Society which is so declared to be the development of Irish culture in the ordinary lives of people. Paragraph 3 indicates the composition of the executive committee. Paragraph 4 deals with the membership of that committee. Paragraphs 5 and 6 deal with procedural matters. Paragraph 7 states that an extraordinary general meeting may be called by ten members and paragraphs 8 and 9 deal with minuting meetings and the nomination of committee members. Paragraph 10 deals with changing the Constitution by a two thirds majority. Finally, paragraph 11 requires that notice of the general meeting must be given to the public at least one week in advance of the date of it being held.

The activities of the organisation were cited in evidence by Mr. O'Flanagan and the Tribunal accepts, in its entirety his evidence, and indeed the Commissioner of Valuation does not in any way take issue with that evidence, save and except for a question as to the multiple use of the subject property. The organisation is to be encouraged in its objectives and in its activities and should be given every support, help and assistance that can possibly be given to it.

The Issues:

From the Tribunal's point of view the issue before it is one with regard to exemption. In order to consider that application properly it is necessary to bear in mind the relevant provisions of the Valuation Code. No contrary evidence was given to us with regard to quantum and accordingly if the stated ground of appeal is not allowed then a valuation of £15 will be placed on the subject premises.

The valuation history is as briefly given previously and the exemption claim now falls to be dealt with. Apart from individual statutes, granting specific exceptions, the general exemption clause from rating is contained in *Section 63 of the Poor Relief (Ireland) Act 1838*. It is not contained in *Section 2 of the Valuation (Ireland) Act 1854* and this was made clear by not only the decision of the Supreme Court in *Barrington's Hospital v. Commissioner of Valuation [1957] IR 229* but also in the first case to establish this principle which was a decision of Chief Barron Pallas in *O'Neill v. Commissioner of Valuation [1914] 2IR 447*. That case has been followed in several cases since including the Barrington's Hospital case. The situation in England is slightly different in that the House of Lords have held in a 1964 case that the grounds of exemption in England are based on Section 2 of the 1854 Act and not exclusively on Section 63 of 1838 Act (see *Governors of Campbell College, Belfast v. Commissioner of Valuation for Northern Ireland [1964] 2AER 705*). In any event, in this Country Section 63 is the general section dealing with exemptions unless they are specific exemptions given in other particular statutes.

Determination:

In this case, and on the evidence given, it appears to the Tribunal, that for this organisation to be exempted it must at least comply with the *Scientific Societies Act 1843*. That Act in Sections 1 to 6 set out a number of grounds which must be satisfied before exception can be claimed. Those grounds are:-

- (1) that there is a society in existence
- (2) that it is established exclusively for the purposes of science, literature and fine arts
- (3) that it acquires its support wholly or mainly from voluntary contributions
- (4) that under its Constitution there must be an express prohibition against any payment of monies to its members whether by way of bonus, divided gift or otherwise and
- (5) finally, that it has obtained a Certificate from the Registrar of Friendly Societies under that Act.

Before exemption can be considered the requisites under the 1843 Act and which just have been identified have to be complied with. It is not necessary for the purpose of this case to go

into any further detail with regard to those statutory requirements. Suffice it to say that the obtaining of a certificate is a condition precedent to any application for such an exemption; see Halsbury 1st Edition, Vol. 24, p. 22. The Commissioner of Valuation in this instance requested a Certificate from the organisation in question and that has not been forthcoming. It is hoped that the organisation can satisfy the Registrar of Friendly Societies that a Certificate should issue, that the Commissioner would then consider, if possible favourably, its application for exemption and as a result, under *Section 2 of the 1854 Act* would show this hereditament as being distinguished in the Valuation List.

It is this Tribunal's view that every encouragement should be given to this and similar organisations who do invaluable work to preserve, encourage and further the culture of this country. Accordingly, if any indulgence can properly be given to such an organisation in its finances and in freeing of finances which would be returned to that organisation to further its aims and objectives then that should be encouraged.

However this Tribunal must apply the law as it sees fit and it has no general or specific discretion in this area. We can see no way on the evidence before use that this property is exempt and should be so shown as being distinguished under the 1854 Act.

Finally, Mr. O'Tuathail during exchanges with the Tribunal raised the possibility that in principle, but not on the evidence in this case, exemption might also be available under *Section 63 of the 1838 Act* and specifically under the Charitable Use part of that section. The Tribunal makes no finding and offers no comment on this possibility. If it was available it would be a matter to be raised, debated and discussed between the appellant and the Commissioner of Valuation and if necessary on appeal before this Tribunal.

Consequently, for the reasons stated the Tribunal will disallow the appeal and so determines.

