

Appeal No. VA96/5/015

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

First Church of Christ, Scientist

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop and Rooms at Lot No. 15, South Great George's Street, Ward: Royal Exchange A2,
County Borough of Dublin
Exemption - Place of worship

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Rita Tynan - Solicitor

Member

Finian Brannigan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF FEBRUARY, 1998

By Notice of Appeal dated the 9th day of October 1996, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £80 on the above described hereditament.

The Grounds of appeal as set out in the above Notice of Appeal are that

- "(a) The valuation should be distinguished in the Valuation Lists as exempt in the Valuation Acts, and
(b) The assessment is excessive and inequitable, having regard to the provision of the Valuation Acts."

The relevant valuation history is that a revised valuation of £80 for the subject premises was published on 10th May 1995. The appellant appealed this determination. The result of this appeal was published on 9th September 1996 leaving rateable valuation of the subject premises unchanged at £80.

A written submission prepared by Mr. Philip Colgan on behalf of the Respondent was received by the Tribunal on 27th May 1997. Mr. Colgan is a District Valuer with 29 years experience in the Valuation Office.

The written submission described the premises as operating as a shop and trading in writings, newspapers, and other religious artefacts of a particular religion.

The rateable valuation of the subject premises was computed as follows in the written submission

Zone A	400 sq.ft. @ £19.00 p.s.f.	=	£ 7,600
Bal,grd flr			
(Zone B)	451 sq.ft. @ £ 9.50 p.s.f.	=	£ 4,284
Basement	135 sq.ft. @ £ 6.00 p.s.f.	=	<u>£ 810</u>
			£12,694
N.A.V.	say £12,700 x 0.63%	=	£ 80.01

SAY RV £80

Mr. Colgan's written submission contained a schedule of three comparisons.

A written submission on behalf of the appellant was received by the Tribunal on 30th May 1997. The written submission did not address the physical dimensions of the property or contain any estimate of N.A.V. or rateable valuation.

The essence of the written submission was that the property should be distinguished as being exempt on the basis that it was used for the purposes of religious worship.

The oral hearing of the Appeal took place on 4th June 1997 at the Tribunal's premises in Dublin.

Mr. Andrias O'Caomh S.C. instructed by Mr. Paul MacNally, Solicitor, appeared on behalf of the appellant. Mr. Eamonn Marry B.L. instructed by the Chief State Solicitor appeared on behalf of the Respondent.

Mr. Derek Latham gave evidence on behalf of the Appellant. He said he was elected as a reader in First Church of Christ, Scientist, Dublin. Mr. Latham stated that there was a premises for worship located in Herbert Park, Dublin which was open for a couple of hours on Sunday mornings and a couple of hours on Wednesday evenings. Mr. Latham read the sermon on Sundays and Wednesdays. The same sermon was read world-wide in the Church. The text for this sermon was provided on a three monthly basis from the Church's headquarters in Boston.

Mr. Latham stated that members of the Church are expected to read sermons in the preceding week. The reading room provided this facility for members. He stated that the reading room is an integral part of the Church and the Church could not function without it.

Mr Latham described what happened on the Sunday and Wednesday at Herbert Park. He described notices being read at the services. In particular he described notice being given about the subject premises in as much as it provides a quiet place for study and prayer.

Mr. Latham gave evidence as to the material on sale at the subject premises. This comprised various publications published by the Church authorities. He estimated that the proceeds of these sales amounted to approximately £15 per week.

Mr Latham stated that the Church had been established in Ireland in 1903 and always had a reading room. He stated that the Church cannot function without a reading room. Mr Latham said that former reading rooms at Rathgar Road and 18 Grafton Arcade had been distinguished as exempt by the Commissioner of Valuation.

Under cross examination by Mr Marray, Mr Latham admitted that the books displayed in the window of the premises could be sold. He further admitted that there was an attendant present in the property who could sell materials if necessary. Again Mr Latham stated under cross-examination that the premises were open from 10 am to 4 pm, Tuesday to Friday.

Under further cross examination Mr Latham stated that the reading room is an extension of the Church, member are expected to go there during the week to study the lesson - sermon. Mr Latham stated that any sales of literature in the reading room were merely of an incidental nature.

Mrs Latham gave evidence on behalf of the appellant. She stated that she was the Librarian of the Church in Ireland. She stated that she attended at the subject premises. Her job was to answer queries and make any sales of literature. Most of the sales were conducted at the Herbert Park premises after the Wednesday testimony meeting. She stated that the total sales of literature, including sales at the reading room, amounted to £2,000 annually.

Mr. Philip Colgan gave evidence on behalf of the Respondent. He adopted his written submission as his evidence to the Tribunal. He stated that the subject premises had planning permission for a shop and it was located within a trading area.

Under cross examination by Mr. O'Caoimh, Mr. Colgan stated that he did not accept the reading room was for worship. He stated that the facts of the situation were that these premises were in the nature of a shop selling books. He admitted however under cross examination that he was not an expert on worship.

Mr. O'Caoimh put it to Mr. Colgan that the sales of literature at the reading room were analogous to the type of sales of literature that took place in Catholic Churches. Mr. Colgan replied that he had never seen sales of literature taking place in Churches. Under further cross-examination Mr. Colgan stated that he saw the premises as promoting worship. In his submissions Mr. O'Caoimh stated that the premises were exempt under Section 63 of the Poor Relief (Ireland) Act, 1838 in as much as it was a church dedicated to religious worship or alternatively it was a building exclusively dedicated to religious worship. Mr. O'Caoimh submitted that the premises here were dedicated to religious worship and the Constitution of the Church made specific reference to the reading room. He further submitted that any sales of literature were negligible and were incidental to the purposes of the reading room. He likened the situation to Catholic Churches (which were exempt) and where there were similar incidental sales of literature.

Mr. Marry in his submissions contended that the reading room cannot be used for worship because people are coming and going. He contended that the Herbert Park premises was the

place of worship for the Church. He argued that for exemption to be granted a specific area needs to be set aside for worship.

Mr. Marry stated that what the premises was concerned with was the advancement of religion. He cited *Brendan -v- Commissioner of Valuation 1969 I.R. page 202* for the proposition that premises employed in the advancement of religion could not be distinguished as exempt.

Determination

The Tribunal has considered the evidence and submissions made to it.

The Tribunal considers that the key evidence at the hearing was the statement by Mr. Latham that the reading room is an integral part of the Church in that it provided a place for prayer. Mr. Colgan, the sole witness for the Respondent did not contradict this evidence.

The Tribunal further accepts the evidence of the appellant that the sales of literature at the subject premises were incidental to the worship carried on at the premises.

Accordingly the Tribunal determines that the subject premises is a church within the meaning of Section 63 of the Poor Relief (Ireland) Act 1838 and should therefore be distinguished as being exempt from rates.