

Appeal No: VA21/4/0040

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

GRACE LIFE MINISTRIES IRELAND CLG

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1545960, Property Type: Industrial Uses, Address of Property: Unit D1 Station Road Business Park, Crag Avenue, Clondalkin, Dublin 22, County Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28th DAY OF JUNE 2024**

BEFORE

DAIRINE MAC FADDEN - Solicitor

Deputy Chairperson

1. VALUATION HISTORY

- 1.1 The Property has been entered on the valuation list with an NAV of €12,160.
- 1.2 On the 24th day of June, 2019 an application was made by the Appellant to the Respondent for the appointment of a revision manager to exercise powers under section 28(4) of the Valuation Act, 2001, as amended (“the Act”), on the grounds that a material change of circumstances (“MCC”) within the meaning of section 3 of the Act had occurred since a valuation under section 19 was last carried out in relation to the Property.
- 1.3 On the 20th September 2021 a decision was issued by the Respondent that no MCC had occurred in relation to the Property

2. THE APPEAL

- 2.1 By Notice of Appeal received on the 17th day of October, 2021 the Appellant appealed against the decision of the Respondent issued on the 20th September 2021 that no MCC had occurred in relation to the Property.
- 2.2 The sole grounds of appeal are as set out in the Notice of Appeal and are briefly summarised as follows:
The Revision decision did not reflect the change of ownership, occupation and use. The Property is owned by a registered charity, entered in the register of charitable organisations pursuant to Part 3 of the Charities Act 2009. The Property is not used as an industrial warehouse but as administrative offices and social club by a registered charity. The Property falls under schedule 4 paragraph 16(a) of the Valuation Act 2001 and ought to be excluded from the valuation list.
- 2.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

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. ISSUE(S)

The issue to be determined is whether there had been a MCC since the last revaluation of the Property.

The Appellant's position is that there has been a MCC on the grounds set out in the Notice of Appeal and as summarised at 2.2 above and in particular that the Property now comes within Schedule 4, paragraph 16(a) of the Act and is relevant property not rateable.

The Respondent's position is that the Appellant has as its stated aim the advancement of religion and that the term 'charitable purposes' does not include the advancement of religion. Accordingly, the Respondent maintains that the Property does not come within Schedule 4, paragraph 16(a) of the Act and that, therefore, no MCC warranting a revision has occurred.

5. RELEVANT STATUTORY PROVISIONS:

5.1 All references to a particular section of the Act refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act, 2015.

5.2 Section 3(1) of the Act, so far as material to this appeal, defines “material change of circumstances” as meaning a change of circumstances that consists of:

“material change of circumstances” means a change of circumstances that consists of—

(d) the happening of any event whereby any relevant property begins, or ceases, to be treated as property falling within Schedule 4.

5.3 If a revision manager is satisfied that a MCC as defined by section 3 of the Act has occurred since a valuation under section 19 of the Act was last carried out in the rating authority area in which the Property is situated, the revision manager has power under section 28(4) of the Act to:

(a)(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,

5.4 Schedule 4 of the Act is headed “Relevant Property Not Rateable”. It includes at paragraph 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 ”

6. APPELLANT’S CASE

6.1 Dr. Ovo Oghuvbu for the Appellant, in support of the grounds of appeal as set out in the Notice of Appeal, submitted an extensive set of précis documents totalling 20 PDF attachments as follows:

1. AB Architects – Unit D1- Ref- Budget + Fee Proposal
2. Archi 2 Original Plan of Unit
3. Cert 409454 GLM Payment Cert .5
4. Archi 2a Original Plan of Unit
5. ABA_1659-A21_Revised Drawings May 2019
6. CRA Approval Letter GLMIc 210617
7. GLC- Architect Floor Plan – updated Feb 2017

8. GLMI Charity Regulator – Annual Report 2023
9. GLMI on CRA website- December 2023
10. GLMI- Utilities – Eir 2023
11. GLMI- SSC – Unit D1 Section 32 Notice for SDCC-260418
12. GLMI_Val Office – Property Listing with Material Change Request _200619
13. GLMI_Valuation Tribunal Appeal Submission Oct 2021
14. GLMI Utilities – FloGas Oct 2023
15. GLMI – CHY22048_221217
16. Grace Life Ministries CLG Constitution
17. Revenue_Charitable Bodies Exemption _GLMI – CHY22048_Pgs 1 and 252
18. SDCC_GLMI- Abv Final PP Grant Notice-6121834_Sept 2018
19. Val Office_GLMI-Revision Application Decision 200921
20. Valuation Office Ireland_Unit D1 List details September 2017.

6.2 Dr. Oghuvbu stated that the Property is owned by a registered charity, entered in the register of charitable organisations pursuant to Part 3 of the Charities Act 2009. He stated that the Property is not used as an industrial warehouse but as administrative offices and as a social club by a registered charity. He submitted that the Property falls under Schedule 4 paragraph 16(a) of the Act and ought to be excluded from the valuation list.

6.3 In response to the Respondent’s précis, Dr. Oghuvbu submitted as follows:

1. That it should be made clear in any documentation and communication that the property now belongs to, and is occupied by Grace Life Ministries Ireland CLG, a duly registered charity as defined by the Charities Act.
2. That the property is no longer an industrial or enterprise unit but serves solely as offices and facility for the registered charity in line with the planning permission granted by South Dublin County Council.
3. That the property is used solely for the conduct and hosting of non-commercial charitable purposes and activities in line with the registered charity's objectives documented in its published constitution.

7. RESPONDENT’S CASE

7.1 Ms. Farrelly, B.Sc (hons) Real Estate Management, valuer for the Respondent, stated that the Appellant had received planning permission for change of use from an enterprise unit to administrative offices and social club providing services, including after school homework club, breakfast club and life mentoring. She stated that under that planning permission, use as a place of worship was not permitted, and any community or education use was stated to be ancillary to the main social club/administrative office use.

7.2 She referred to the Appellant’s Constitution and to the main object for which the Company was established “*to promote, protect and assist in the advancement of the Christian faith primarily in the nation of Ireland through preaching, teaching, Bible studies/lectures, holding Christian congregational activities or meetings open to the public at no cost and with no compulsion, and to relieve persons either within or outside the nation of Ireland in conditions of need or hardship through practical demonstrations of God’s love in the Christian faith and any other related activities thereon*”.

7.3 She stated that on inspection of the Property, she was accompanied by Dr. Oghuvbu and shown the ground floor where a coffee morning, open to the public, was just finishing up. The rear area was set up with several small tables and chairs around them. There were several individuals having refreshments which had been served from a hatch area from the kitchen. This area doubled as a prayer service room for religious activity. The first floor had a mezz area, two homework rooms, an office and a room which was used to store food for their food bank which was held every Saturday. The food bank is open to the public who are in need.

7.4 She did not consider that a MCC had occurred. Her opinion was that the correct NAV for the Property was €12,160, as entered on the valuation list and arrived at on the following basis.

	Floor	M2	NAV {€}
Office	0	57.20	€2288.00
Office	1	57.20	€2288.00
Mezz	0	147.77	€1182.16
Store	0	160.16	€6406.40
Total		422.33	€12,164.56

8.0 LEGAL SUBMISSIONS – APPELLANT

There were no legal submissions by the Appellant.

9.0 LEGAL SUBMISSIONS – RESPONDENT

9.1 Mr. Ó Ciaráin BL on behalf of the Respondent submitted that the single net issue to be determined was whether the Appellant with the stated object in its Constitution of engaging in the advancement of religion, could be lawfully considered to be engaging in a “*charitable purposes*” within the meaning of paragraph 16(a) of Schedule 4 of the Act.

9.2 He referred to the decision of Mr. Justice Barr of the High Court in the case of *Tearfund Ireland Ltd v Commissioner of Valuation* [2021] IEHC 534 and in which it was 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”, (para. 49 of the decision).

the *“court [was] satisfied that applying the ordinary and natural meaning of the words ‘charitable purposes’, as understood in rating law for over a century prior to their enactment in the 2001 Act, that phrase does not include the advancement of religion”*, (para. 61 of the decision).

9.3 Mr. Ó Ciaráin submitted that by reason of the fact that the Appellant was undertaking its charitable activities with a view to advancing the Christian faith, it could not avail of the exemption provided for in paragraph 16(a) of Schedule 4 of the Act.

9.4 He acknowledged that the decision which the Appellant sought to appeal contained two administrative or typographical errors on its face, (i.e. naming the occupier as ‘Crumlin Blinds Company Ltd’ as opposed to the Appellant and citing the Category of Use as ‘Industrial’ as opposed to ‘administrative and social’). However, he submitted that the outcome would be identical irrespective of whether two errors were included in the issued decision or not: the Property remained a ‘Relevant Property’ within the meaning of Schedule 3 and section 15 of the Act and the obligation to pay rates continued to apply. Accordingly, he submitted that the typographical errors on the face of the issued decision were of no materiality to the proposed valuation of the Property.

10. FACTS

10.1 From the evidence adduced by the parties, the Tribunal finds the following facts:

10.2 The Property is situated in Station Road Business Park on the junction of Station Road and Crag Avenue.

10.3 The Property is an end of terrace industrial unit with 1st floor offices to the front and mezzanine area to the right-hand side of the building.

10.4 The floor areas were agreed between the parties as follows:

	Floor	M2
Office	0	57.20
Office	1	57.20

Mezz	0	147.77
Store	0	160.16
Total		422.33

- 10.5 The Appellant was incorporated on the 14th April 2016. In its Constitution, it has as its main object: *“to promote, protect and assist in the advancement of the Christian faith primarily in the nation of Ireland through preaching, teaching, Bible studies/lectures, holding Christian congregational activities or meetings open to the public at no cost and with no compulsion, and to relieve persons either within or outside the nation of Ireland in conditions of need or hardship through practical demonstrations of God’s love in the Christian faith and any other related activities thereon”*.
- 10.6 The main object of the Appellant is the advancement of religion.
- 10.7 On the 21st June 2017, the Appellant was registered as a charity with the Charities Regulator under Registered Charity Number ‘20142919’.
- 10.8 The property is held freehold. The Property was acquired by the Appellant in 2018 after the last valuation on the 30th October 2015, under which the Property was entered in the valuation list with a value of €12,160.
- 10.9 On the 25th September 2018, a Final Grant of Planning Permission for a change of use of the Property from *“enterprise unit”* to *“administrative offices and social club providing services including after school homework club, breakfast club and life skills mentoring*. The works include minor alterations” (the **“Planning Permission”**), was issued by South Dublin County Council.
- 10.10 The Planning Permission included the following restriction at condition 2 thereof: *“Use as a place of worship is not permitted, and any community or education use shall be ancillary to the main social club/administrative offices use only.”*

11. FINDINGS AND CONCLUSIONS

- 11.1 On this appeal the Tribunal has to determine whether or not the decision issued by the Respondent on the 20th September 2021 that no MCC had occurred in relation to the Property, was correct.
- 11.2 The Appellant contends that a MCC has occurred because the Property now falls under schedule 4 paragraph 16(a) of the Act and ought to be excluded from the valuation list. The Respondent’s position is that the Appellant has as its stated aim the advancement of religion and that the term ‘charitable purposes’ does not include the advancement of religion and that therefore the Property is not exempt and no MCC has occurred.

- 11.3 An issue was also raised in relation to the administrative errors on the face of the decision of the Respondent. However, such errors are of no materiality to the issue before the Tribunal as to whether or not the Respondent's decision that no MCC occurred was correct. The issue in relation to whether a MCC has occurred has to be considered solely in the context of whether or not the Property now comes within Schedule 4, paragraph 16(a) of the Act.
- 11.4 Paragraph 16(a) of Schedule 4 of the Act, exempts from rating any land, building or part of a building which is occupied by a body, being a charitable organisation that uses the land, building or part exclusively for charitable purposes and otherwise than for private profit.
- 11.5 It is clear from the documentation furnished by the Appellant that the Appellant is a charitable organisation. However, the Respondent's position is that the Appellant cannot avail of the exemption being sought as its stated objects are for the advancement of religion and that the courts in Ireland have consistently held when interpreting rating law, that charitable purposes does not include the advancement of religion.
- 11.6 The Appellant's main object is the advancement of religion.
- 11.7 The Tribunal is bound by the decision of Mr. Justice Barr of the High Court in the case of *Tearfund Ireland Ltd v Commissioner of Valuation* [2021] IEHC 534 and as referred to by the Respondent's legal counsel in his submissions. The Tribunal therefore finds that the Appellant is not entitled to the exemption sought under Schedule 4, paragraph 16(a), of the Act and consequently that no MCC in relation to the Property has occurred.

12. 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.