

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL & COMPENSATION ACT (NORTHERN IRELAND) 1964

IN THE MATTER OF AN APPEAL
VR/51/1998

BETWEEN

THE QUEEN'S UNIVERSITY OF BELFAST - APPELLANT
AND
THE COMMISSIONER OF VALUATION - RESPONDENT

Re: 82 Stranmillis Gardens, Belfast

Lands Tribunal - Mr Michael R Curry FRICS IRRV MCI.Arb Hon.FIAMI

Belfast – 4th October 2002

PART 3

1. Since 1971 the Queen's University of Belfast has provided recreation facilities for its members at the "Physical Education Centre". The Commissioner of Valuation refused to treat the hereditament as used for the purposes of recreation, which would have entitled the appellant to a reduction in rates by virtue of Article 31 of the Rates (Northern Ireland) Order 1977.
2. The parties submitted an agreed question for the opinion of the Tribunal which was restricted to a consideration of Article 31(2)(b). The Tribunal heard the appeal on 7th September 2000 and judgment (the Part 1 Decision) was delivered on 8th November 2000. However, the Tribunal expressed strong reservations as to whether Article 31(2)(b) was the only test of character and invited further submissions from the parties in relation to whether the hereditament complied with the requirements of Article 31(2)(a) of the 1977 Order as being:

" A hereditament ... which or any part of which, is used solely for the purposes of a prescribed recreation."
3. On 14th June 2002 the matter was re-listed before the Tribunal for further argument. At the resumed hearing Mr Hanna QC on behalf of the respondent sought the leave

4. At a further hearing on 4th October 2002 Mr Hanna QC adopted the preliminary approach as expressed in the Tribunal's reservations as to whether the hereditament complied with the requirements of Article 31(2)(a) of the 1977 Order.
5. Mr Weir QC did not concede the issue but raised no argument.
6. For the reasons set out in the preliminary approach at pages 4 and 5 of the Part 1 Decision, the Tribunal concludes that the hereditament does not comply with the requirements of Article 31(2) of the 1977 Order and is not entitled to recreation relief.

Costs

7. The ultimate outcome of the appeal is that the Commissioner has won. However, so far as issue actually raised at the Part 1 hearing was concerned, the Appellant substantially won that event. So far as the Part 2 or interlocutory application was concerned, the Respondent won that event.
8. The Tribunal considers it is appropriate to dissect costs and therefore awards the Appellant its costs for Part 1 and the Respondent its costs for Part 2 and makes no order as to costs for Part 3.

ORDERS ACCORDINGLY

29th October 2002

**Mr M R Curry FRICS IRRV MCI.Arb Hon.FIAVI
LANDS TRIBUNAL FOR NORTHERN IRELAND**

Appearances:-

Appellant – Mr Reginald Weir QC with Mr Stephen Shaw QC instructed by L'Estrange & Brett.

Respondent – Mr Nicholas Hanna QC instructed by the Departmental Solicitor's Office.