

Charitable building relief
Hanbury Charity (VTD 20126)

Hanbury, a charity set up to promote education in the five villages of the 'Langtons' in Leicestershire, appealed against HMRC's refusal to allow zero-rating on a supply of services for constructing a community hall under item 2, Group 5, Schedule 8 VATA 1994. HMRC disputed that the hall was a 'village hall' for the purposes of the act. HMRC made five arguments against the zero-rating being allowed:

1. That the functions of a village hall must be relevant to the purposes of the charity concerned in the construction. As Hanbury is an educational charity, the actual uses of the hall cannot be for a relevant charitable purpose;
2. The relief is specific to charitable bodies such as village hall communities, community groups etc. As Hanbury is not a village hall charity it therefore does not qualify for the zero-rating;
3. The law demands a narrow reading of the zero-rating provisions so that the village hall relief must be applicable to either the local community or to a body which is sufficiently close to the community to be of use to it;
4. The charitable body has to use the 'village hall' itself in that capacity, which under the terms of its charitable scheme, Hanbury is not entitled to do;
5. Finally, as Hanbury retain ownership of the hall, it could in theory terminate its use by the local community at any time.

The Tribunal chairman rejected every one of HMRC's arguments, ruling that 'relevant charitable purpose' refers to the actual use to which a building is put, rather than the charitable objects of the organisation undertaking the construction work; that there is no limit in law on who can own and organise a village hall; that Hanbury was an intrinsic part of the community of the Langtons and consequently that the hall was for the benefit of the local community; that case law in the High Court ruling in *Yarborough Children's Trust* established that the use provision must look at all the uses made of the building; and finally, that it would be sufficient for HMRC to recover the VAT relief under the terms of the Capital Goods Scheme at such time as the use changed. Consequently the appeal was allowed with costs.