An Rialálaí Carthanas
Charities Regulator

Investigation critical of how trustees managed charity and disposed of charitable assets

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The decision of the trustees of a Galway charity behind the development of an arthouse cinema in the city, did not demonstrate adequate levels of care and skill prior to disposing of charitable assets to a private third party operator, according to an inspectors' report published today by the Charities Regulator.

The investigation report into Solas – Galway Picture Palace CLG (Registered Charity Number 20068493) concluded that the charity transferred charitable assets without any independent valuation and/or a competitive disposal process. This meant the charity trustees did not have full visibility of the potential market value of the assets of the charity and there was no opportunity for the assets to remain within the charity sector.

The inspectors found that Solas received over €7 million from public sector bodies, together with the site for the cinema which Galway City Council, purchased for €1.9 million in 2007 (the freehold interest in the site is still owned by the Council). In July 2017 the charity went into voluntary liquidation.

In December 2016 an agreement was reached for the charity to transfer a substantial portion of its assets and liabilities to a private third party operator.

As part of the agreement the third party operator, through a newly incorporated company, was assigned a 30-year lease with Galway City Council for the site on which the partially constructed cinema stood, and a rent of €1 per annum for the first 25 years, with agreement to pay market rent for the final five years. The third party agreed to pay €881,000 to complete the project.

"The trustees' decision to enter into negotiations with one preferred operator effectively removed any potential opportunity for the asset to remain within the charitable sector, which may have been a motivation of public donation," the inspectors said.

The inspectors' other conclusions included:

- No income was recorded after 2007 by the charity, when income was in fact generated in the form of donations. Specifically, in relation to donations received from the public, it was incorrect to include these as liabilities as there was never an indication these amounts would be due back to those who donated them. In the financial statements, while the costs of putting the asset in its present location and condition were recorded, no consideration was given to an assessment of the net realisable or fair value of the assets at each balance sheet date.
- From initiation and over the subsequent years, the charity did not ensure it had the appropriate corporate governance structure in place to govern and oversee the activity and decisions made by the charity. The necessity for suitable skills, experience and a defined governance structure was essential considering the level of public funding involved and the size of the capital project that was being by managed by the charity.
  The absence of formal documentation of decisions meant the trustees were unable to provide evidence of a robust scrutiny of key decisions which impacted upon the charity's strategic direction and financial position. This was exacerbated by the absence of board renewal and the resulting absence of the necessary skills to oversee a project of this nature.

"It is important that the disposal of charitable assets is done in a way that is transparent, fair and in the best interests of the charity," Charities Regulator Chief Executive John Farrelly said. "While there is now an arthouse cinema in Galway, the lack of oversight and sufficient competence to manage a capital project of this size evidenced in this case serves to undermine public trust and confidence in the management and administration of charities," he said.

Mr Farrelly noted that most of the funds for the project had been provided by statutory bodies, and that there were lessons to be learnt from the inspectors' report. Those considering setting up a charity to deliver a significant capital project need to have strong competencies, a clear strategy and detailed business plan, he said.

The inspectors recommended that the Charities Regulator review the need for guidance in relation to trustee legal duties in the management and control of their charities. Mr Farrelly said work had commenced to produce a code of governance for all Irish registered charities. This will be published later this year.

The inspectors' report can be downloaded from the Charities Regulator's website www.charitiesregulator.ie

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