

NON-DOMESTIC VALUATION APPEALS

NOTES FOR GUIDANCE ON PROCEDURE

1. **YOU AND THE ASSESSOR**

You are free to reach an agreement with the Assessor at any time before the committee actually decide your appeal. Either you or he may suggest a meeting. Agreement settles the matter, and a hearing becomes unnecessary.

2. **THE VALUATION APPEAL COMMITTEE**

The committee which will hear and decide on your appeal will have a chairman and usually between three and six other members. They will be chosen from a panel of local people appointed by the Sheriff Principal. They are unpaid and are entirely independent of the Assessor and the local authority. The Committee will be assisted by a Secretary who is legally qualified and who will act as clerk to the Committee.

3. **THE LANDS TRIBUNAL FOR SCOTLAND**

Most appeals are heard by the local Valuation Appeal Committee and the notes in Sections 4-11 relate to procedure before that body. However, if you consider your appeal is complex, highly technical or raises major questions of principle or law you may apply to the committee asking it to refer your appeal to the Lands Tribunal for Scotland. Your application must explain why you think your appeal falls into one of these categories and you must send a copy to the Assessor. He will be able to make his own comments to the committee and he will send you a copy of these. You may apply for your appeal to be heard by the Lands Tribunal at any time up to 14 days before the date set for your hearing before the committee but you would be well advised to make as early an application as you can. The Assessor may also ask for your appeal to be referred to the Lands Tribunal and the same rules apply. The committee will advise you whether or not they have referred your appeal to the Lands Tribunal. If they decline to refer the appeal, you can appeal their decision direct to the Lands Tribunal. The committee must refer the appeal to the Lands Tribunal when the appellant and the Assessor make a joint application for the appeal to be referred.

4. **POSTPONEMENT OF HEARING**

If the date for which your case has been set down is a date which is unsuitable for you, you should write to the Secretary immediately you receive the citation, explaining why the date is inconvenient. Where an appellant has a good reason for wishing to change the date, the Committee will endeavour to be of assistance. However, the scheduling of Valuation Appeal Committee business is a matter which must be within the discretion of the Committee and the Committee can postpone or adjourn a hearing at any time, but if it requires to do so, you will be given as much notice as possible.

5/...

5. **EXCHANGE OF INFORMATION PRIOR TO A HEARING**

Two kinds of information may be exchanged before a hearing:-

- 1) Grounds of Appeal (Mandatory - see (a) below).
- 2) Comparisons (Discretionary - see (b) below).

(a) **Grounds of Appeal**

At least 35 days before the hearing you must send the Assessor a written statement of the grounds of your appeal; that is, you must tell him clearly all your reasons for thinking that the Valuation Roll entry is wrong. The receipt by the Assessor of a copy of your original appeal letter if that letter contained all your reasons for thinking that the Valuation Roll entry is wrong would satisfy this requirement. You must also specify an alternative valuation which you believe to be correct. Within 14 days of receiving your statement, the Assessor must send you in return a statement of the grounds on which the entry in the Valuation Roll is arrived at.

(b) **Comparisons with other Properties**

If you propose to tell the committee that the Assessor's valuation of your property does not compare fairly with the values of other properties you should send a list of such other properties to the Assessor at least 21 days before the hearing, and at the same time you can require him to send to you a list of any properties which he proposes to use in support of his valuation at the hearing. If you ask for such a list he must send it to you no later than 14 days prior to the date fixed for the hearing. Similarly, if the Assessor sends you his list of properties first (again at least 21 days before the hearing) and requests you to provide him with a list of comparisons which you propose to refer to at the hearing, you must do so no later than 14 days before the date fixed for the hearing. You should be careful to list all the properties which you wish to tell the committee about because a property added later may be used as evidence only if the parties (usually you and the Assessor) agree, or if the committee permits.

- (c) When the Assessor replies to your grounds of appeal he may ask you to confirm, in writing, by way of a return notice that you intend to proceed with your appeal before the committee. This notice must be returned by the date stated thereon and failure to reply by this date may mean that the Assessor shall ask the committee to dismiss the appeal.
- (d) At any time up to 56 days before the date set for the appeal you may ask for a list of all plant and machinery included in your valuation. The Assessor must provide such a list by the 35th day before the hearing date, or a statement that no plant and machinery is included in the valuation.
- (e) If you and the Assessor both agree that your appeal can be dealt with by written representations then a joint request must be made in writing to the Secretary of the Valuation Appeal Committee 14 days before the date of hearing.

6/...

6. **REPRESENTATION AT THE HEARING**

You may appear before the committee in person or may be represented by another person.

7. **LEGAL ADVICE AND ASSISTANCE SCHEME**

Depending on your financial circumstances, you may be eligible for assistance under the Legal Advice and Assistance Scheme. This scheme does not provide legal representation to enable a solicitor to speak for you at the Committee Meeting, but may pay for a solicitor to help you to prepare your case. Legal Advice and Assistance may be granted without cost to you or on payment by you of a contribution assessed according to your means, depending upon your financial circumstances. Full details of the scheme are available from solicitors' offices or Citizens' Advice Bureaux or from the Scottish Legal Aid Board, 44 Drumsheugh Gardens, Edinburgh, EH3 7SW (Telephone 0131 226 7061).

8. **RECORD OF EVIDENCE**

You may find that the committee or the Assessor propose to make arrangements for a formal record of the hearing to be made. If you consider it important that this be done, you may care to enquire of the secretary of the committee beforehand whether a record is to be made. If no record is to be made, you may yourself arrange to have the evidence given at the hearing taken in shorthand or recorded by some other means. If you do so you must inform the committee before the hearing starts and you will have to bear any cost of the recording. If you or the Assessor subsequently ask for your appeal to be referred for the opinion of the Lands Valuation Appeal Court (see Section 13 of these notes) the committee may require you to provide it with a certified transcript of the record you have had taken. (The committee will pay for any transcript which it may require).

9. **FAILURE TO APPEAR**

Where an appellant fails to appear or to be represented, the invariable consequence is that the appeal is simply dismissed by the Committee. However, if an appellant whose appeal has been dismissed in absence has a good reason for the failure to attend, the Committee can be asked to re-instate the appeal. In such circumstances, it is essential that the appellant write to the Secretary within 14 days of notification of the dismissal in absence, to request an alternative date for the hearing of the appeal and to provide a full explanation for the failure to attend or to be represented.

10/...

10. **AT THE HEARING**

The hearing will normally be in public. If however, one of the parties gives a good reason then the committee may decide that it should be held in private.

The Chairman of the Committee is in charge of the hearing and you should not be afraid to ask him for guidance about matters of procedure. The Chairman will indicate to both sides when it is their turn to speak and when it is their turn to question the other party.

At a hearing you will normally be heard first, before the Assessor, and these notes assume that you will be, although the committee may alter the order if that is shown to be appropriate. The chairman will ask if you wish to give evidence yourself; if you do, you may be put on oath or affirmation. (If you do give evidence yourself you should confine yourself to the facts which you wish to bring out. Your arguments based on these facts should be given when you summarise your case after all the evidence has been heard). After you have given your evidence you may be questioned by the Assessor or his legal representative and any member of the committee may question you.

If you wish to call witnesses, you may call them in turn to give evidence. You examine a witness by questioning him so that his answers will bring out the facts relating to your appeal which you wish to establish. The Assessor may question your witness and so may members of the committee.

After you and your witnesses have been heard, the Assessor will be called upon to respond. If he gives evidence himself and if he calls witnesses, you may then, if you wish, question him or his witnesses about your case. Members of the committee may also question him.

Finally, if you wish to do so you may summarise your case to the committee and the Assessor will sum up his case. The committee then considers the matter and may announce its decision there and then, or announce it at a later date. If the committee does not give an immediate decision, it will (a) tell you when it will do so, or (b) notify you of its decision in writing, or (c) give you at least 7 days notice of the date of the sitting of the committee at which the decision will be announced.

The committee must also inform you of the reason for its decision in writing either at the time of issuing its decision or when sending notice of it.

11. **EVIDENCE PRESENTED AT THE HEARING**

Section 10 of these notes explains the procedure which you may expect at the hearing. Each appellant must decide for himself what type of evidence will best support his case. The facts and arguments you put to the committee should be confined to matters that affect value and irrelevancies should be avoided.

12/...

12. **APPEALS AGAINST THE COMMITTEE'S DECISION**

The Lands Valuation Appeal Court, which may consist of either one or three judges of the Court of Session, is responsible for hearing appeals from ratepayers and Assessors who are dissatisfied with decisions of valuation appeal committees or the Lands Tribunal for Scotland. There is no further right of appeal.

13. **APPEALING TO THE LANDS VALUATION APPEAL COURT**

Within 14 days of the Committee's decision on your appeal you may apply, in writing, to the Secretary of the Committee to state a case to the Lands Valuation Appeal Court. At the same time, you must lodge your grounds of appeal with the Committee Secretary and send a copy to the Assessor so that he may have the opportunity to give answers. A copy of the Assessor's answers will be sent to you. If you ask for a Stated Case, you are entitled to ask the Secretary to provide you with a transcript of any recording of the evidence which may have been made at the hearing of your appeal. There will be no charge for a transcript. The Committee is not obliged to record evidence but either you or the Assessor may have arranged to do so - see Section 8.

Thereafter, the Secretary will send to you and the Assessor, a draft Stated Case on which each has the right to make written representations to the Secretary for alterations he wishes to be made before it goes to the court; these must be intimated to the other party. You have the right also to lodge with the Secretary, observations about any representations which the Assessor may make and he has a corresponding right.

The Committee may revise the draft Stated Case in the light of any representations received or otherwise as they think proper. The Stated Case signed by the Chairman will then be issued. You will then require to lodge the Stated Case with the General Department of the Court of Session. In due course, the case will be listed for hearing by the Lands Valuation Appeal Court. You should note, however, that once the Committee has issued the signed Stated Case, neither the Valuation Appeal Committee nor the Secretary of the Committee has any further involvement.

14. **LEGAL REPRESENTATION**

If you were considering an appeal to the Lands Valuation Appeal Court you would be well advised to seek legal advice. For proceedings before the Court, full legal aid, including representation at the hearing, is available for those who qualify. If a ratepayer is legally represented in an appeal to the Court, the procedures following upon application for a stated case described in Section 13 would normally be carried out on his behalf by his legal representative.

You/...

You do, however, have the right to appear before the Court yourself, in which case you will have to ensure that the preliminary procedures prescribed by the Court are satisfied.

This leaflet is a guide to the appeal procedure in ordinary language following notification of hearing of appeal. It does not cover every detail and should not be regarded as a comprehensive statement of the law. The secretary to the Valuation Appeal Committee may be able to give you further general guidance. You may also wish to consider taking the professional advice of a Solicitor or Chartered Surveyor. Details of Solicitors in your area may be obtained from the Law Society of Scotland, 26 Drumsheugh Gardens, Edinburgh EH3 7YR (telephone number 0131-226 7411). Details of Chartered Surveyors in your area may be obtained from the RICS Contact Centre, Surveyor Court, Westwood Way, Coventry, CV4 8JE (telephone number 0870 333 1600 or E-mail :- contactrics@rics.org).