

APPEALS AGAINST RATEABLE VALUE

Guidance on Procedure

1 INTRODUCTION

- The purpose of these notes is to help you to prepare your appeal for presentation before the Valuation Appeal Committee on the date set for its hearing and to explain the hearing procedures. The notes have been prepared by the Assessor and have been approved by the Secretary to the Valuation Appeal Committee.
- These notes are not a statement of the actual law and are meant simply to be a guide to the appeal system in plain language. If, after reading them, you still have any questions, please telephone the Assessor's office (01835 825100 or email assessor.appeals@scotborders.gov.uk) and refer to the date of the hearing shown on the citation and the reference number of your case. You will be transferred to the valuation surveyor responsible for your appeal who will advise you.
- The full text of the law relating to the conduct of appeals before the Committee is contained in the *Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) Regulations 1995 as amended*.
- It is common for appellants to be represented professionally at a hearing and you may wish to consider taking the advice of a surveyor or solicitor.
- Useful advice can be found online at the Scottish Assessors' Association website (www.saa.gov.uk) about procedure before Valuation Appeal Committees and methods used by Assessors in valuing property for rating.

2 ARRANGING A MEETING BEFORE THE HEARING

- You may already have been in contact with staff in the Assessor's office. If you have not and you are intending to carry on with the appeal you should arrange a meeting as soon as possible using the procedure already described.
- It is important to note that the majority of appeals are resolved by informal discussions. A pre-hearing meeting is useful to both parties to avoid misunderstandings about information.
- If you are able to reach agreement, the value or entry in the Valuation Roll will either be changed or maintained at the original figure and no further action by you will be necessary. If you cannot agree, the appeal will be heard, as already arranged, by the Committee.

3 THE VALUATION APPEAL COMMITTEE

- The Committee which will hear and decide on your appeal will have a Chairman and a maximum of six other members.
- They have been chosen from a panel of local people appointed by the Sheriff Principal. They are unpaid and entirely independent of the Assessor and the local authority. The Committee is assisted by a paid Secretary who is usually a practicing solicitor.

4 THE LANDS TRIBUNAL FOR SCOTLAND

- Most appeals are heard by the local Valuation Appeal Committee and the notes in Section 14 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. The full text of the law relating to the procedure for taking appeals to the Lands Tribunal for Scotland is contained in the *Valuation Appeal Committee Regulations* noted above.

5 NOTICE OF HEARING

- The citation which accompanies this leaflet sets out the date and place of the hearing. If you have strong reasons for wanting to change the date you should write to the Secretary as soon as possible giving your reasons for requesting the postponement. A postponement will be granted only if the Committee considers that you have a good reason for asking for one. The Committee can postpone or adjourn a hearing at any time, but if it does so it will give you as much notice as possible.

6 EXCHANGE OF INFORMATION PRIOR TO A HEARING

- Two kinds of information may be exchanged with the Assessor prior to a hearing - grounds of appeal against valuation and a list of comparisons with other properties.

1. Grounds of appeal against valuation

At least 35 days before the hearing you must send to the Assessor a **written statement of the grounds of your appeal**; that is, you must state clearly all your reasons why the entry in the Valuation Roll is wrong. You must also **specify an alternative valuation** which you believe to be correct. Within 28 days of receiving your statement, the Assessor must send to you, in return, a statement of the grounds on which the entry in the Valuation Roll is arrived at.

2. List of 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 properties** to the Assessor at least 21 days before the hearing and, at the same time, you can require the Assessor to send 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, the Assessor must send it to you at least 14 days before the hearing date. You or the Assessor may not be permitted by the Committee to lead evidence about other properties of which fair notice has not been given so as to be able to do preparatory work checking on their details.

Similarly, if the Assessor sends you a list of properties first (again at least 21 days before the hearing) and asks you for a list of your comparison properties, you must send it to him at least 14 days before the hearing date. You should be careful to list all the properties which you wish to tell the Committee about because a property added later may only be used as evidence if the Assessor agrees or if the Committee permits.

- Please make sure that by the appropriate date, you send the Assessor a statement of all your grounds of appeal and a list of all the properties with which you may wish to compare your property. If you do not do this the Committee shall not allow a party to found on any grounds which have not been specified.

7 NOTICE OF INTENTION TO PROCEED WITH APPEAL

- At the same time that 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 and failure to reply by this date may mean that the Assessor will ask the Committee to dismiss the appeal.

8 DISPOSAL BY WRITTEN REPRESENTATIONS

- In exceptional cases if both you and the Assessor agree that your appeal can be dealt with by written representations then a joint request must be made in writing to the Secretary no later than 14 days before the date of the hearing.

9 INFORMATION TO BE SUPPLIED BY THE ASSESSOR

- At any time up to 56 days before the date set for the appeal you may ask the Assessor for a list of all plant and machinery included in the valuation.
- The Assessor must provide such a list 35 days before the hearing date or a statement that no plant and machinery is included in the valuation.

10 PRESENTATION AT THE HEARING

- You may appear before the Committee in person or you may be represented by an advocate or solicitor or, with the Committee's permission, by a surveyor, valuer, accountant or any other person.
- It is not possible in this short note to explain all issues of law affecting valuation for rating purposes. However, in appeals where the amount of value is the issue, the aim is to determine what the Rateable Value of the subject should be in terms of Section 6(8) of the Valuation and Rating (Scotland) Act 1956.
- The value to be determined is the annual rental value of the subject of appeal and the 1956 Act and its various amendments lay down the principles by which this is achieved.
- A common concern is the level of profitability of the business carried out in the property. This is generally not a relevant consideration although turnover may be relevant in the case of licensed premises and some other specialised properties.
- The main text book on the law and practice of valuation for rating in Scotland is Armour on Valuation for Rating.

11 LEGAL ADVICE AND ASSISTANCE SCHEME

- You may be eligible for help under the Legal Advice and Assistance Scheme.
- Full details of the Scheme are available from any Citizens Advice Bureau or from local legal aid offices.

12 RECORD OF EVIDENCE

- All rating appeal hearings in the Scottish Borders Valuation Area before the Valuation Appeal Committee are recorded and if any case is to be referred for the opinion of the Lands Valuation Appeal Court (see *Section 16 of these notes*) the Committee will require a transcript of the record and the parties will each be provided with a copy.

13 FAILURE TO APPEAR

- If you fail to appear or to be represented at the hearing your appeal may be dismissed. However, if you have a good reason for your absence you may, within 14 days of the Committee's notifying you of the dismissal of your appeal, write to the Secretary asking the Committee to re-instate your appeal and hear the case at a later date.

14 AT THE HEARING

- A list of cases cited for the hearing will be reported on at the beginning by the Assessor's representative. The number of parties who will attend and be ready to present their case varies. The Committee will hear representations at the beginning about the order in which cases should be taken but if others are to be heard before your case, it may be necessary to wait for some time.
- The hearing will normally be public. If one party gives good reason why not, the Committee may decide that it should be held in private.
- The Chairman of the Committee is in charge of the hearing. He will tell you when to speak and when you may question the Assessor or any witnesses if you wish. Do not be reluctant to ask the Chairman for guidance.
- When your case is called you will normally be asked to present your appeal first and these notes assume that you will be. The Committee may however alter the order if that is shown to be appropriate.
- The Chairman will ask if you wish to give evidence yourself.
- The Committee has no prior knowledge of your appeal or of any meetings or correspondence that may have passed between you and the Assessor. You must therefore present all the facts to the Committee members on the day and you must decide for yourself what type of evidence will best support your case. This evidence should be confined to matters that, in your opinion, affect value or the entry in the Valuation Roll.
- If you wish to refer to photographs, plans, leases, rental information or other documentation (generally called *productions*) then these should be presented at the start of your evidence, with at least **four additional copies** available, so that the members of the Committee and the Assessor can refer to this material as your evidence is being given.
- 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 them so that their answers bring out the facts which you wish to establish relating to your appeal.

- The Assessor may question your witness and so may members of the Committee.
- After you and/or your witnesses have been heard, the Assessor will be called upon to respond and is likely to introduce a member of his staff as a witness. The Assessor may provide his own set of productions and you will be allowed time to consider these. You may then, if you wish, question the Assessor's witness about your case. Members of the Committee may also question the Assessor's witness.
- Finally you may summarise your case to the Committee and the Assessor will summarise his case.
- The Committee will then retire to consider the matter and may announce its decision there and then, or at a later date. If the Committee does not give an immediate decision, it will either tell you when it will do so, or notify you of its decision in writing. The Committee must also inform you of its decision in writing within 3 days of announcing it.
- If you are dissatisfied with the Committee's decision on your appeal you may, within 14 days from the date of the decision, apply in writing to the Committee for a statement of the reasons for its decision.

15 APPEALS AGAINST THE COMMITTEE'S DECISION

- The Lands Valuation Appeal Court, which consists of 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 against its decision.

16 APPEALING TO THE LANDS VALUATION APPEAL COURT

- If you are dissatisfied with the decision of the Valuation Appeal Committee (or the Lands Tribunal for Scotland) then you may in certain circumstances be able to appeal to the Lands Valuation Appeal Court. This is a complex process and strict timescales apply to the preliminary procedures. If you are considering an appeal to the Lands Valuation Appeal Court you would be well advised to seek legal advice.
- Grounds of appeal setting out concise issues for the Court in paragraph order should be lodged with the Secretary of the Valuation Appeal Committee within fourteen days of receipt of her letter giving reasons for the decision if there is to be an appeal. Answers will then be invited from the other party, a draft Stated Case written and issued for proposed adjustments by each party with comments on the other's adjustments before the Stated Case is finalised and issued. It then requires to be lodged with the Court within two weeks after the date on which it was issued to the Appellant. The Lands Valuation Appeal Court is part of the Court of Session in Parliament Square, Edinburgh.
- Full legal aid, including representation at the hearing, may be available for those who qualify. You do have the right to appear before the Lands Valuation Appeal Court yourself but you will personally have to ensure that the preliminary procedures prescribed by the Court are satisfied.
- The full text of the law relating to the procedure for taking appeals to the Lands Valuation Appeal Court is contained in *The Act of Sederunt 1982*.

17 CONTACTING THE VALUATION APPEAL COMMITTEE

- All communications to the Valuation Appeal Committee should be addressed to:-
The Secretary, Scottish Borders Valuation Appeal Panel
PO Box 13367, Jedburgh, TD8 9AA
Tel: 07880337000
Email: sheena.west77@gmail.com

18 CONTACTING THE ASSESSOR

- All written communications to the Assessor should be addressed to:-
Assessor, Old School Building, Council Headquarters,
Newtown St Boswells, Melrose, TD6 0SA
Tel: 01835 825100
E-mail: assessor.appeals@scotborders.gov.uk

19 FURTHER INFORMATION

- For more information please view the following websites;
www.saa.gov.uk; www.mygov.scot/business-rates-guidance;

20 TRANSLATION

- This document can be made available in a different format or language.