

THE TAX ON REAL PROPERTY APPEALS PANEL

NOTES FOR APPELLANTS

Issued by the TRP APPEALS PANEL

Updated March 2016

These Notes aim to inform and guide people who wish to appeal to the Tax on Real Property Appeals Panel, and to answer the main questions you may have about the Tribunal and how it works.

Note particularly the sections on the setting of hearing dates. If you or your representative fails to attend the hearing, your case may be heard in your absence.

DEFINITIONS

To make these notes easier to read, the following definitions are used throughout. The reader is assumed to be the Appellant.

Key word	Definitions
Ordinance	The Taxation of Real Property (Guernsey and Alderney) Ordinance 2007 (as amended)
Committee	The States Policy and Resources Committee, which is responsible for the Cadastre office
Appeal	An appeal under the Ordinance
Appeals Panel	The Tax on Real Property Appeals Panel drawn up and maintained by the States under the Ordinance
Tribunal	The Tax on Real Property Appeals Tribunal appointed from the Appeals Panel to hear an appeal under the Ordinance
Clerk	The Clerk to the Tribunal
Hearing	A meeting of the Tribunal at which an Appeal is heard
Hearing Date	A date scheduled for a hearing
Representative	A person who may speak for you at a hearing
Appellant	A person appealing to the Tribunal or, where appropriate, that person's representative; if a company is involved, this includes a director of that company or an authorised employee
Decision	The decision of the Tribunal after hearing an appeal
Relevant Decision	Decision of the Committee as defined in section 28 of the Ordinance

BACKGROUND

1. What is the Appeals Panel?

The Appeals Panel is a panel of individuals from whom 3 members are selected to form the Tribunal which will hear an appeal.

2. Who are the members of the Appeals Panel?

The members of the Tax on Real Property Appeals Panel are appointed by the States who are typically professional persons with appropriate qualifications. A list of the Panel's current members is available on the States of Guernsey website at www.gov.gg

3. Is the Appeals Panel independent of the Committee?

Yes. Its members are completely independent of the Committee and chosen for their impartiality. None of them either work for, or are members of, the Committee or the States of Guernsey. Members do not receive any remuneration for their appointment, but are paid a small expense allowance.

4. What is the Tribunal?

The Tribunal is the body which hears Appeals against Relevant Decisions of the Committee.

5. What sort of Appeals does it hear?

The Tribunal hears Appeals against Relevant Decisions including the property categorisation into which any real property falls, the plan area or assessable units of any real property and the ownership of any real property (see section 28 of the Ordinance). It is important to note that the Tribunal cannot hear an Appeal against the tariff set for the property reference into which real property falls; such tariffs are set by the States and cannot be challenged before the Tribunal.

6. How is the Tribunal run?

The Tribunal is administered by a Clerk, who convenes meetings, keeps records and generally makes the arrangements for the Tribunal to hold Hearings. The Clerk handles most communications on behalf of the Tribunal.

7. How are the Tribunal's procedures decided?

The procedure and powers of the Tribunal are laid down under Schedule 4 of the Ordinance and covers such areas as voting and the procedure to be adopted at a Hearing. The Tribunal may, subject to the provisions of Schedule 4, determine its own procedure and give such directions as it thinks fit for the purposes of the hearing and determination of the Appeal.

Guidance notes such as these are issued and updated from time to time and are intended to make sure that Appellants are fully aware of how the Tribunal works and in order to achieve a fair and efficient operation for all concerned.

8. Is there a charge relating to an Appeal?

Normally each party is responsible for their own Hearing costs but the Tribunal may order a party to pay the States' or the other party's costs of the Hearing (excluding the fees of legal representatives); the Committee may by regulation prescribe maximum scales of costs, fees and expenses.

APPEALS

9. How do I go about making an Appeal?

If you disagree with the Relevant Decision issued by the Committee, you must write within 28 days of the date of that Decision asking for it to be reconsidered and you may make written or oral representations stating the reasons why you disagree with it. The Committee is then required to review its decision and confirm, vary or rescind it. It is important to note that if you do not ask the Committee to review the Relevant Decision within 28 days, that decision is final and cannot be appealed to the Tribunal.

If you are dissatisfied with the response from the Committee, you have 28 days from the date of issue of this response to appeal to the Tribunal. Schedule 5 of the Ordinance sets out a standard form for making an Appeal, which is available from the Clerk and reproduced in Appendix 1 of this document. Alternatively, it can be downloaded from the States of Guernsey website at www.gov.gg.

If you do not receive a response from the Committee, you should contact the Service Delivery and Compliance Officer at the States Cadastre Office.

Completed Appeal forms must be submitted to the Clerk in Guernsey either by post or by email. All contact details are listed below.

In addition, Alderney property owners may submit their Appeal forms via the Deputy Clerk at the States Treasurer's Office in Alderney (please see below for address). Any forms submitted in this way should be clearly marked for the attention of the Clerk to the Tax on Real Property Appeals Panel c/o the States Treasurer/Assistant States Treasurer.

If you are a Guernsey or Alderney property owner living outside of the Bailiwick, Appeal forms may be submitted to the Clerk via any of the aforementioned options.

Please note that a separate form should be completed for each Relevant Decision against which you wish to make an Appeal.

10. What happens if an Appeal is late?

If you do not appeal within the 28 day period, you may ask the Tribunal for more time to present your Appeal. Schedule 5 of the Ordinance sets out a standard form for asking for more time, which is available from the Clerk and reproduced in Appendix 2 of this document. Alternatively, it can be downloaded from the States of Guernsey website at www.gov.gg.

A request for more time to present an Appeal is considered by a single member of the Tribunal, rather than 3 members, and you will only be given more time where you can demonstrate that it was not reasonably practicable for you to present the form for making an Appeal to the Tribunal within that period.

Requests for further time must be submitted in the same way as standard Appeal forms, as outlined in section 9 above.

11. What happens once an Appeal has been lodged?

The usual pattern is as follows:

- a. An Appeal is registered with the Clerk who will write to you to confirm the receipt of the Appeal.
- b. The Chairman, or Deputy Chairman, of the Panel will appoint the members of the Tribunal, arrange the Hearing, giving you and the Committee a minimum of 28 days notice of the date that the Appeal is to be heard. Where the Appellant's property is in Alderney, the Panel will generally agree to arrange for the Tribunal proceedings to take place in Alderney;
- c. The Clerk may convene a Case Management Meeting in advance of the hearing date which will be attended by both parties together with the Chair of the Tribunal Panel. The purpose of the Case Management meeting will be to discuss witnesses and witness statements, documentation and the procedures and protocols which will be employed during the hearing. As part of this process you will be requested to provide the documents which you would wish the Tribunal to consider in hearing your Appeal. All of the documents provided by both you and the Committee will then be given to the members of the Tribunal. A date for the exchange of documents will be agreed during the Case Management Meeting. It is important that all parties have access to the same reference documents in advance of the Hearing.

Case Management Meetings will normally be held in Guernsey and arrangements can be made for you to participate via telephone.

- d. You are permitted under the Ordinance to be represented rather than presenting your case personally;
- e. It is highly likely that the Tribunal Panel will decide to visit the property as part of the Tribunal proceedings. The Tribunal may also ask you to take some photographs to assist them at the Hearing.
- f. If you or your representative fails to attend the Hearing, your case may be heard in your absence.

PROCEDURE AT HEARINGS

12. Can someone else represent me at a hearing?

Yes. You may prefer to nominate a person to represent you at a hearing and, if so, there is a section on the form for making an Appeal where you can give the name of your Representative.

13. Do I need to attend the hearing?

Yes. It is vital that you or your representative attends. Failure to do so may result in your case being heard in your absence, it may also damage your own case and you will be unable to

respond to any items that are raised. Even if you are being represented by another person, it is advisable to attend, as you may often be the only person fully aware of background facts or details.

Where the Appellant is a company, the Tribunal would expect the company to be represented by a duly authorised employee of the company or a representative.

14. What happens at a hearing?

Proceedings are held in public unless the Tribunal directs otherwise. The Chairman of the Tribunal will open the proceedings and will explain the procedures to be followed at the hearing. It is usual for the Committee or its representative to have the opportunity to speak first, calling witnesses if appropriate. You or your representative will then be asked to present your case, again calling witnesses if appropriate. Members of the Tribunal may wish to question either of the parties or any witnesses, and both parties will be given an appropriate opportunity to respond to whatever the other says. Both parties will have the opportunity to give a summary at the end of the hearing.

A full set of Tribunal procedural notes are available on the States of Guernsey website at www.gov.gg

15. Can hearings be postponed?

In certain circumstances a hearing may be postponed where the Tribunal determines it to be appropriate and in the interest of both parties. If either party fails to attend, the Tribunal may begin the hearing without their representatives being present.

16. Powers of the Tribunal on Appeal

In respect of an appeal under Section 31 of the Ordinance, the Tribunal may dismiss the appeal or quash the Relevant Decision to which the appeal relates. Where a Tribunal quashes the Relevant Decision, it may send the matter to the Committee with a direction to reconsider it and reach a decision in accordance with the findings of the Tribunal.

DECISIONS & APPEALS

17. How does the Tribunal give its decision?

After hearing the representations from both sides and after the Tribunal's members have asked such questions as they think fit, the Tribunal will consider its decision. This may take some time, but ordinarily, the Tribunal will write to you and the Committee enclosing the Tribunal decision within 28 days of the date of the hearing or as directed by the Chairman.

The Ordinance allows any party to an appeal under section 31 of the Ordinance, within a period of 28 days immediately following the Tribunal's decision, to apply to the Tribunal for a determination of any question as to the interpretation of the decision. The Tribunal will hear any representations and determine accordingly and notify the owner in writing of its decision.

18. What happens if I am dissatisfied with the Tribunal's decision?

A decision of the Tribunal on matters of fact is final. However, under the provisions of section 36 of the Ordinance and the Royal Court (Taxation of Real Property) (Appeals) Order, 2013, a person aggrieved by the a decision of the Tribunal on a question of law may appeal therefrom to the Royal Court within 28 days immediately following the date of the Tribunal's decision.

19. Are the decisions of the Tribunal published?

Yes. Summary judgments of the Tribunal are displayed on the notice board at the Court buildings in Guernsey and Alderney as appropriate and published on the States of Guernsey website at www.gov.gg

20. How do I contact the Tribunal?

Postal communications should be addressed to:

The Clerk to the Tax on Real Property Appeals Tribunal
P O Box 43
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

Or

The Clerk to the Tax on Real Property Appeals Panel c/o the States Treasurer (or Assistant States Treasurer)
States Treasurer's Office
States of Alderney
PO Box 1001
Island Hall
Alderney
GY9 3AA

Alternatively, you may contact the Panel by email at TRPAppealsPanel@gov.gg

APPENDIX 1

 **TAX ON REAL PROPERTY APPEALS PANEL**

Form of Notice of Appeal to Tribunal

Owners reference:.....

Cadastre Number:.....

The Clerk to the Tax on Real Property Appeals Panel
PO Box 43
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

I (full name) _____

Of (address) _____

Being aggrieved by a decision of the Policy and Resources Committee given on _____ [insert date of decision], hereby appeal against the decision in accordance with section 31 of the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007.

The grounds on which my appeal is made are set out in the statement at the foot of this form.

In support of this appeal the following documents are attached:-

[List all documents sent with this notice of appeal – and if possible please attach a copy of the decision letter from the Committee]

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I understand that if I am aggrieved by the decision of the Tribunal on a question of law I may appeal to the Royal Court in accordance with the provisions of section 36.

Signature _____

Date _____

NB: - if you wish to be represented by some other person when your appeal is heard by the Tribunal please complete the details of your representative in the space provided:-

Name of representative _____

His or Her full address _____

Statement

[Set out here your grounds of appeal]

APPENDIX 2



TAX ON REAL PROPERTY APPEALS PANEL

FORM OF APPLICATION TO TRIBUNAL FOR FURTHER TIME

Owners reference:.....

Cadastre Number:.....

The Clerk to the Tax on Real Property Appeals Panel
P O Box 43
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

I (full name)
of (address)
.....
.....

being aggrieved by a decision of the Policy and Resources Committee given on
[insert date of decision], and wishing to appeal against it, hereby apply for further time to
present my appeal against the decision on the grounds that –

*[Please state why it was not reasonably practicable for you to present a notice of appeal
against the decision within the 28 day period set out in section 32 of the Taxation of Real
Property (Guernsey and Alderney) Ordinance, 2007. If possible please attach a copy of the
decision letter from the Committee]*

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I believe that for the reasons set out above I require a further days in which to
present my appeal.

I understand that this application for further time will be determined by the Tax on Real
Property Appeals Tribunal constituted by a single member.

I further understand that if I am aggrieved by the decision of the Tribunal on a question of law
I may appeal to the Royal Court in accordance with the provisions of section 36.

Signature
Date

NB:- if you wish to be represented by some other person when your application for further
time is heard by the Tribunal please complete the details of your representative in the space
provided –

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Name of representative

His or her full address
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