

Annual
Report

2013

Annual Report of the Tax on Real Property Appeals Panel

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1. Chairman's Introduction

I am pleased to present the Tax on Real Property Appeals Panel's second Annual Report.

Numerically, the Panel's caseload has settled in recent years. However, 2013 represented a busy year with an increase in the complexity of the issues being placed before the Tribunal. The Panel has also noted an increase in professional representation at Appeal hearings. A combination of these issues resulted in the Panel undertaking a comprehensive review of its guidance to Appellants and procedural practices during 2013.

2013 has also seen changes to the Panel's membership. In September, the Panel welcomed five new members and said goodbye to two of its original number following the resignations of Mrs. Sheelagh Evans and Mr. Michael Vaudin. Additionally, the Panel welcomed Mr. Eric Legg back onto the Panel following a period of ineligibility and the appointment of two Deputy Clerks, based in Alderney, to assist with its administrative requirements.

2013 also saw the re-launch of the Panel's presence on the States of Guernsey's website and with this the ability for appellants to download and submit their appeal forms electronically via the Panel's new email facility.

Overall, it has been a very busy year for the Panel and in this report I have sought to provide an overview of the work which has been undertaken and to look ahead at the work streams which will be pursued during 2014.

Stuart Le Maitre
Chairman
May 2014

2. Background

The Tax on Real Property Appeals Panel was established in June 2008, under the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007.

The Panel is an independent appeal body and its members are appointed by the States of Deliberation. To ensure the independence of the Panel, the following groups of people cannot serve as members:

- (a) Members of the States of Deliberation and the States of Election;
- (b) Members of the States of Alderney;
- (c) Any Constable or Douzenier;
- (d) Any procureur or overseer of the poor or member of a parochial outdoor assistance board; and,
- (e) Any member of the Judiciary of the Islands.

3. Tax on Real Property Appeals Panel Membership

2013 has seen a number of changes to the Panel's membership.

The founding Panel members were appointed by the States of Deliberation upon the recommendation of the Treasury and Resources Department in June 2008. However, since their appointment, two members, Advocate Mark Dunster and Mr. Eric Legg had become ineligible to serve as active members of the Panel. Therefore, by the beginning of 2013 the Panel consisted of only six active members.

Given the limited number of active members, the Panel was concerned that it may find it difficult to hear all appeals in a timely manner and that there would be increasing difficulty in managing those appeals where Panel members were conflicted from taking part. As such, in January, the Treasury and Resources Department agreed to a request from the Panel for additional members.

An open recruitment process followed, which resulted in the Treasury and Resources Department recommending the appointment of five additional Panel members: Sir de Vic Carey, Mr. Harry Gold, Mr. Boyd Kelly, Mrs. Shelagh Mason and Advocate Julia White. The appointment of the new Panel members was approved by the States of Deliberation in September.

Additionally, the States reconfirmed the appointment of Mr. Legg as a member of the Panel following the dissolution of the Juvenile Panel. Mr. Legg's membership on the Juvenile Panel had previously prevented him from sitting as an active member of the Tax on Real Property Appeals Panel.

The Panel was delighted to welcome the new members and Mr. Legg. Their contribution has further strengthened the Panel's skills base and they have also brought significant experience to the appeals process.

The Panel is confident that these appointments will enable it to provide an improved service to the public, for example, the increase in membership will enable the Panel to hear Appeals in a more timely and efficient manner.

2013 also saw the resignation of two of the Panel's original members, Mrs. Sheelagh Evans and Mr. Michael Vaudin. Mrs. Evans and Mr. Vaudin both provided a huge contribution to the Panel over the years of its inception and development which has been greatly appreciated by their colleagues.

The Panel's membership is now as follows:

Mr Stuart Le Maitre (Chairman)
Mrs Caroline Latham FRICS (Deputy Chairman)
Sir de Vic Carey
Mr Harry Gold LL.B. (LOND)
Mr Martin Johnson
Mr Boyd Kelly
Mr Eric Legg
Mrs Shelagh Mason
Mr John Weir FRICS
Advocate Julia White

4. Administrative Arrangements

The Panel is assisted administratively through the Treasury and Resources Department. Mrs. Natalie Allison, who also holds the position of Administrative Officer at the Department, is the current Clerk to the Tax on Real Property Appeals Panel. When discharging her duties for the Panel, Mrs. Allison acts independently of the Treasury and Resources Department or any other States Department.

At its meeting in August, the Panel considered the matter of administration and agreed that the current arrangements did not make adequate provision for the submission of Appeal documents by Alderney residents. It was considered that, the requirement for documents to be served on the Panel's Clerk in Guernsey placed Alderney residents at a disadvantage. As such, in October, the Treasury and Resources Department agreed to the appointment of two Deputy Clerks based in Alderney. Mrs. Kerry Hatcher-Gaudion, Alderney's States

Treasurer, and Mrs. Liz Maurice, Alderney's Assistant States Treasurer are the current Deputy Clerks to the Panel¹.

Following these appointments, Alderney residents are able to submit Appeal documents to the Clerk via the Deputy Clerks who are based at the States Treasurer's Office in Alderney.

5. Operating Costs

In comparison to recent years, 2013 was a busy year for the Panel in terms of casework. Additionally, the recruitment and training provided to new members contributed to an increase in expenditure compared to previous years (see table 1).

Table 1 – Panel's Budget and Expenditure 2013

	Budget (£)	Actual Costs* (£)	Actual Costs 2012 (£)
Training Courses	0	600	0
Expenses & Subsistence ²	2,200	3,742	455
Advertising	0	336	0
Mobile Phone Costs	300	0	0
Travel & Meeting Expenses	500	1238	90
Total	3,000	5,916	545

*Figures have been rounded to the nearest £1.

The Treasury and Resources Department is aware that the Panel's expenditure will fluctuate both above and below the agreed budget from year to year due to the unpredictability of its caseload and the consequential difficulties it faces in forecasting its budgetary requirements. As such, the Department has given an undertaking that resources will be made available from elsewhere within its budget to meet any overspend arising from increased caseload or other one-off expenditure required to support the development of the Panel, such as training and recruitment.

6 Appeals and Casework

6.1 Appeals Process

The process for making an Appeal is set out in Part 2 of the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007 (as amended). The process is summarised below in Table 2.

¹ The Department's ability to appoint a Clerk and Deputy Clerks is provided for in Section 27(1) of the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007 (as amended) which provides as follows:- 27(1) *The Department shall (a) appoint a Clerk to the Tribunal, and such number of deputy Clerks, on such terms and conditions, and (b) provide such other officers and facilities, as the Department sees fit.*

² Panel members receive an allowance of £67.00 per half day when preparing and sitting to determine an appeal, drafting Judgements and attending meetings. Where the Panel member is not resident in Guernsey, travel costs, including travel to the nearest airport and flights to Guernsey, overnight accommodation, if required, and out-of-pocket expenses are also paid.

Table 2 – Outline of Appeals Process

Stage	Action	Period
1	Treasury and Resources Department issues property notice advising the liability for payment of Tax on Real Property. The tax due is determined by the plan area of the properties and the category of the property for TRP purposes.	
2	Property owner either accepts the notice or asks the Treasury and Resources Department to review the decision	Property owners have 28 days beginning on the date of the notice to register their request for the Treasury and Resources Department to review its decision
3	The Treasury and Resources Department is required to review the original decision and either confirm, vary or rescind the decision.	The Treasury and Resources Department has 3 months in which to review the decision. Should it fail to do so within the 3 month period, then it shall be deemed to have reviewed and confirmed its decision.
4	Property owners who are aggrieved by the confirmed decision (termed the 'relevant decision') may, subject to the conditions of the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007, formally appeal against the decision.	Notice of appeal must be served on the Clerk to the TRP Appeals Panel before the end of a period of 28 days beginning on the date of the notice confirming the relevant decision.

6.2 Development of the Appeals Process

The Panel previously identified some issues with the appeals process which it initially communicated to the Treasury & Resources Department during 2012. These surrounded the period of time which an appellant has to appeal to the Royal Court following a judgement of the Tribunal Panel and the period of time in which questions of Law arising during proceedings can be referred to the Royal Court. Under the terms of the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007 (as amended) both of these periods of time can be determined by Order of the Royal Court.

Following further communication with the Department during 2013, the Panel submitted a request to the Bailiff for an Order to be made which clarified these issues. This Order, entitled 'The Royal Court (Taxation of Real Property) (Appeals) Order, 2013' was approved by the Royal Court on 13 January 2014.

The Order will provide a period of 28 days for an appellant to appeal to the Royal Court following a judgement by the Tribunal and 28 days for the referral to the Royal Court of questions of Law arising in connection with Tribunal proceedings.

The Panel will continue to liaise with the Department to progress any issues arising in relation to the appeals process.

During 2013, the Panel also carried out a review of the information provided to members of the public and the Tax on Real Property Appeals process in general.

Following increases in the complexity of the cases appearing before the Panel and in the use of professional representation at Tribunal Hearings, members decided that it was necessary to reconsider the guidance notes and the procedural practices currently employed. As a result, the appeals process has been developed to introduce Case Management Meetings with the parties in advance of Tribunal Hearings and property inspections by the Tribunal Panel as a standard part of proceedings. The guidance notes issued by the Panel have been developed to reflect these changes and these can now be downloaded from the Panel's web pages at www.gov.gg.

6.3 Casework

During 2013, the Panel received a total of 3 new appeals. The Panel's caseload also included 7 appeals and 1 Application for Further Time which remained outstanding from previous years.

The status of these cases as at 31 December 2013 is summarised in Table 3.

Table 3 – Schedule of Appeals

Date Received	Reference Number	Primary Reason for Appeal	Status
06.06.2011	0042	Incorrect categorisation	Pending
06.06.2011	0043	Incorrect categorisation	Pending
06.06.2011	0044	Incorrect categorisation	Pending
13.11.2012	0051	Incorrect categorisation	Pending
28.12.2012	0051A	Application to the Tribunal for Further Time	Tribunal held 8 March 2013. Application granted (see 0051 above).
31.12.2012	0052	Incorrect categorisation	Referred to Treasury & Resources Department under Section 30 (2) of the TRP Ordinance ³ . Appeal not pursued following review.
28.12.2012	0053	Incorrect categorisation	Tribunal held 22 April 2013. Appeal dismissed.
31.12.2012	0054	Incorrect categorisation	Tribunal held 22 May 2013. Appeal dismissed.
09.01.2013	0055	Incorrect categorisation	Referred to Treasury & Resources Department under Section 30 (2) of the TRP Ordinance. Appeal not pursued following review.
14.03.2013	0056	Incorrect categorisation	Withdrawn
15.03.2013	0057	Incorrect categorisation	Tribunal held 19 July 2013. Appeal accepted.

7. Other Work

Other work undertaken by the Panel during 2013 included the re-launch of its presence on the www.gov.gg site. The information available includes: details of how to make an appeal; information regarding what happens at a Tribunal Hearing; legislation and guidance notes; downloadable Appeal Forms; and, copies of previous Judgements of the Tribunal.

³ Section 30 (2) of the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007 (as amended) provides as follows: (2) *If the person concerned, within the 28 day period mentioned in section 29(b), does not ask the Department in writing to review the relevant decision – (a) the decision is final, and (b) the person concerned may not appeal against the decision under section 31.*

8. Developments for 2014

In addition to the Tribunal hearings planned for 2014, the Panel also plans to undertake further consideration of its procedural practices in order to develop a process which is as customer focused as possible. The Panel also plans to undertake a programme of 'in house' training during the course of the year in order to further develop its skills base.