

An Binse Luachála

**VALUATION
TRIBUNAL**

VALUATION ACT, 2001
(APPEALS) RULES, 2008
and
GUIDELINES FOR THE HEARING
OF APPEALS

Valuation Tribunal - Rules and Guidelines Index

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VALUATION ACT, 2001 (APPEALS) RULES, 2008

1. The Valuation Tribunal in exercise of the powers conferred on it by paragraph 11 of the Second Schedule to the Valuation Act, 2001 with the consent of the Minister for Finance do hereby make the following rules: -
2. These rules may be cited as the Valuation Act, 2001 (Appeals) Rules, 2008
3. These rules will come into operation on the 1st day of June 2008
4. In these Rules-
 - "The Act" means the Valuation Act, 2001 No. 13 of 2001.
 - "The Tribunal" means the Valuation Tribunal continued in being by section 12 of the Act.
 - "The Registrar" means the Registrar to the Tribunal.
 - "relevant property" means rateable property as set out in the Third Schedule to the Act.
 - "the property concerned" has the meaning ascribed to it in section 35(a)(i) of the Act meaning the property the subject of an appeal to the Tribunal.
5. An appeal may be made to the Tribunal:
 - (1) under section 34 of the Act by a person referred to in paragraph (a), (b), (c) or (d) of subsection (1) of section 30 of the Act, i.e.
 - (i) an occupier of property, in respect of that property,
 - (ii) an occupier of relevant property, in respect of any other property situate in the same rating authority area as that relevant property is situate,
 - (iii) a rating authority, in respect of any property situate in its area,
 - (iv) a person, in respect of any property in relation to which he or she is an interest holder.
 - (2) under section 40(5) of the Act by the occupier of a property in respect of which the Commissioner makes an amendment of a valuation list under section 40(1) of the Act.
6. The notice of appeal to the Tribunal shall be made on the form approved by the Tribunal for the purpose. The notice of appeal form is issued by the Valuation Office with the valuation certificate or notification under section 33(2) or section 40(3) or (4) of the Act. The form can also be obtained directly from the Valuation Tribunal and can be downloaded from the Tribunal website – www.valuation-trib.ie.

7. The appeal shall be lodged within 28 days from the date on which the Commissioner of Valuation issued the valuation certificate concerned or made the notification concerned. If this requirement is not complied with the appeal will not be valid and will not be considered by the Tribunal. The appeal may be lodged by post or by hand. Proof of postage or of delivery will be required in cases where the date of the lodging of an appeal is in issue.
8. The Notice of Appeal to the Tribunal must be accompanied by the appropriate prescribed fee and the appeal shall not be valid until such fee has been paid. The fee shall not be refundable save in the most exceptional circumstances. Cheques/drafts should be made payable to The Valuation Tribunal.
9. The Grounds of Appeal as stated in the notice of appeal shall, as appropriate and as required by section 35 of the Act,
 - (a) specify—
 - (i) the grounds on which the appellant considers that the value of the property, the subject of the appeal (in this section referred to as “the property concerned”), being the value as determined or confirmed by the Commissioner under section 33, is incorrect, and
 - (ii) the value the appellant considers the Commissioner ought to have determined under section 33 as being the value of the property concerned,
 - (b) specify the grounds on which the appellant considers any detail in relation to the property concerned (other than the property's value) as stated in the valuation certificate concerned issued under section 33(2) or in the notification concerned made under that section is incorrect,
 - (c) specify the grounds on which the appellant considers that the property concerned ought to have been included in, or, as the case may be, ought to have been excluded from, the relevant valuation list by the Commissioner under section 33(2), and, in case the appellant considers the property concerned ought to have been so included, what he or she considers ought to be determined as the property's value.
10. The Notice of Appeal shall set out exhaustively the Grounds of Appeal upon which the appellant intends to rely. These Grounds of Appeal may not be changed or extended (and liberty to amend will not be granted) save in

exceptional circumstances. The Tribunal shall not entertain any amendments to the grounds of appeal at hearing and in particular the adducing of new grounds of appeal other than in exceptional circumstances. The Tribunal will adjudicate on such matters having regard to the Rules of the Superior Courts.

11. The Tribunal may waive compliance with a rule, or excuse non-compliance with a rule, if the Tribunal considers that to do otherwise would be likely to cause injustice or unreasonable expense or inconvenience.

12. An appellant shall submit to the Valuation Tribunal:

- (i) the original notice of appeal and
- (ii) sufficient copies of the notice of appeal for service by the Tribunal of one copy on each of the following (unless the person is the appellant or an appellant in the matter) namely,
 - the occupier,
 - the Commissioner of Valuation,
 - the rating authority or authorities concerned.

If so requested by the Registrar, the appellant shall also provide sufficient additional copies of the notice of appeal for service by the Tribunal on any other person appearing to the Tribunal to be directly affected by its decision on the appeal.

13. On receiving a notice of appeal the Registrar shall enter the particulars of the appeal in the Register of Valuation Appeals and assign a number to the appeal, which shall from then on constitute the title of the appeal.

Parties to an appeal

14. The Tribunal shall serve a copy of the notice of appeal on the occupier (where the appellant is not the occupier), on the rating authority and on the Commissioner of Valuation.

15. The Tribunal shall serve a copy of all other documentation and information in writing submitted in connection with the appeal on each of the following persons (other than in a case where the person has submitted the particular documentation or information); namely-

- (a) the Commissioner (who shall be the respondent in, and be entitled to be heard, and adduce evidence at, the hearing of the appeal), and
- (b) the occupier of the property, the subject of the appeal, and any other person who appears to the Tribunal will be directly affected by its decision on the appeal (and the said occupier and each such person shall be entitled to be heard, and adduce evidence at, the hearing of the appeal).

16. The Commissioner of Valuation and any other party entitled to be heard and to give evidence at the hearing of the appeal shall within a reasonable period, to be determined by the Tribunal, after receipt of notice of hearing, inform the Tribunal:

- (1) whether he or she intends to appear at the hearing of the appeal and
- (2) the grounds on which he or she intends to rely.

17. (1) At least fourteen days before the date set for hearing an appeal (the "hearing date"), the appellant shall exchange with the respondent and file with the Tribunal (4 copies) a summary of their evidence and submissions stating in a precise but comprehensive way:

- (a) Each ground of appeal intended to be relied on by the appellant; and
- (b) The argument intended to be relied on in support of each ground; and
- (c) Any authorities intended to be relied on in support of each ground; and
- (d) The facts intended to be relied on in support of each ground;

In addition the appellant shall include with their submission:

a copy of the notice of appeal to the Commissioner;

a copy of the Commissioner's decision;

a copy of the Notice of Appeal to the Tribunal;

details of comparative evidence being relied upon together with maps and photographs, where relevant and available/procurable, of the property concerned and all such comparisons. Maps must be to scale, with reference indicators or road names and the property concerned and comparison properties clearly marked. Photographs must be dated and titled.

(2) The respondent shall also exchange with the appellant and file with the Tribunal (4 copies) their summary of evidence and submissions at least fourteen days before the hearing date and shall state in a precise but comprehensive way:

- (a) The arguments intended to be relied on by the respondent; and
- (b) Any authorities intended to be relied on in support of each argument; and
- (c) The facts intended to be relied on in support of each argument.

In addition the respondent shall include with their submission details of comparative evidence being relied upon together with maps and photographs, where relevant and available/procurable, of the property concerned and all such comparisons. Maps must be to scale, with reference indicators or road names and the property concerned and comparison properties clearly marked. Photographs must be dated and titled.

(3) (a) Where an appeal is on legal grounds or includes legal grounds the parties shall exchange with each other and file with the Tribunal (4 copies) written legal submissions at least fourteen days before the hearing date.

(b) Written legal submissions must be accompanied by a list of cases to which the party intends to refer in argument at the hearing.

(c) Each party must provide to the Tribunal at least four (4) copies of each such authority.

18. Any party to the appeal seeking discovery of information or documents shall make written application to the Chairperson as soon as possible after the appeal is lodged and notified, and on notice to the other concerned party or parties. The application shall set out the reason(s) for seeking discovery and the relevance to the appeal of the information or documents sought. On receipt of such written application the chairperson shall give such directions as appear to him or her reasonable and just.

19. A party to an appeal shall give to the Tribunal any document or information in his or her possession or procurement which the Tribunal may direct pursuant to the provisions of the Act or these rules for the purpose of determining the appeal. Where a person neglects or refuses to give to the Tribunal any such document or information within such period as may at any time be specified by the Tribunal, the Tribunal may determine the appeal without the document or information and may make such other directions as appear to the Tribunal to be reasonable and just.

Sittings of the Tribunal

20. The Tribunal shall sit at such times and places as the Chairperson may from time to time decide.

21. The Registrar shall give the parties written notice of the date, time and place of the hearing of the appeal. This notice shall be served not less than four weeks before the hearing date unless by prior agreement of all the parties to the appeal.

22. The Tribunal may, at any time at or before the opening of an appeal hearing, alter the date, time or place of the hearing and, in the event of such alteration, the Tribunal shall give each party not less than seven days written notice of the new date, time, or place or such shorter notice as may be accepted by all the parties to the appeal.

23. The Tribunal may postpone or adjourn the hearing of an appeal from time to time where exceptional situations arise. Applications from parties for adjournment of an appeal hearing will be considered only in the most exceptional circumstances consistent with the obligations imposed on the Tribunal by the provisions of the Act.

24. Where either party fails to appear at a hearing of the Tribunal having been informed in writing of the date of hearing, in accordance with Rule 21, the appeal will be struck out and the valuation as set down in the valuation list, in accordance with section 63 of the Act, shall be affirmed. The party failing to appear will have six days from the date of hearing to apply to the Registrar, in writing, to have the appeal re-instated setting out the reasons for his or her non-appearance. The Tribunal shall make a decision on such an application on such terms (including costs) as it thinks fit.

Procedure at hearing

25. The Tribunal shall have discretion as to the conduct of the hearing in each case and in particular shall:

- (i) decide the order of appearance of the parties;
- (ii) decide whether to permit any party to appear in person or to be represented by another person;
- (iii) decide whether to hear any person who is not a party to the appeal; and
- (iv) determine whether evidence shall be given orally or by affidavit and whether it shall be on oath or otherwise.

26. The Tribunal may examine (on oath or otherwise as the Tribunal may decide) witnesses before the Tribunal. Where evidence is to be given on oath, the Registrar or acting Registrar of the Tribunal may, at the request of the Chairperson, administer the oath to witnesses at an oral hearing.

27. Any party to an appeal heard by the Tribunal may:

- (i) make an opening statement;
- (ii) call witnesses;
- (iii) examine and cross-examine (on oath or otherwise as the Tribunal may determine) witnesses before the Tribunal;
- (iv) give evidence on his or her own behalf;
- (v) address the Tribunal at the close of evidence.

28. The Tribunal shall, in compliance with Section 37(2) of the Act, make a decision on an appeal within 6 months from the date of having received the appeal.
29. The Tribunal shall decide in relation to every appeal whether the determination will be announced at a sitting of the Tribunal or otherwise.
30. The Tribunal shall notify parties to an appeal in writing of the determination of the appeal, with reasons for that determination, as provided for in paragraph 4(3) of the Second Schedule to the Act and will provide parties with a copy of the written judgment.
31. The Tribunal shall cause to be entered in the Register of Valuation Appeals every determination of the Tribunal.
32. The Chairperson of the Tribunal may, by certificate under his or her hand, correct any mistake (including an omission of a verbal or formal nature) in a determination of the Tribunal.
33. The Tribunal shall, in relation to each appeal, determine what will constitute a sufficient record of the proceedings of the Tribunal and shall cause such a record to be made.
34. The proceedings of the Tribunal shall be held in private and all recordings, tapes or records of the proceedings made pursuant to Rule 33 shall be made for the sole use of the Chairperson and members of the relevant division of the Tribunal and may not be copied, reproduced or in any other way used by parties to an appeal. A party requiring a transcript of a hearing shall apply in writing to the Tribunal, in advance of the hearing and on notice to the other parties to the appeal, to have a stenographer present.
35. A party may withdraw an appeal to the Tribunal, or response thereto, by sending a signed and dated notice of withdrawal to the Registrar. Late withdrawal of appeals or responses prior to hearing may result in adverse orders as to costs.

Miscellaneous

36. A party may apply for its costs and expenses to the Tribunal. The Tribunal, having heard the other party, may make such order as to costs as to it seems reasonable and just. In default of agreement as to the quantum of any such

costs order, the party in whose favour the said costs order is made shall be entitled to re-enter the matter before the Tribunal and shall submit details of any costs and witnesses' expenses to the Tribunal. The Tribunal having heard the other party may determine the amount of such costs and expenses (if any) and measure same.

37. The Tribunal will have an official seal that will be judicially noticed.

38. When attached to any document the official seal of the Tribunal shall be authenticated by the signature of the Chairperson or Deputy-Chairperson of the Tribunal or by the Registrar or such officer of the Tribunal as is authorised for that purpose by the Chairperson. Every document issued by the Tribunal and sealed with the official seal of the Tribunal will be received in evidence without further proof.

Application of these Rules to Appeals to the Tribunal under Section 54(1) of the Act

39. These Rules and Guidelines, appropriately modified, apply to appeals to the Tribunal under Section 54(1) of the Act with the following Rules 1 to 7 substituted for Rules 5, 6, 7, 9, 14, 15, and 28 respectively:

1. An appeal may be made to the Tribunal under section 54 of the Act by:

- (i) a public utility undertaking
- (ii) a rating authority
- (iii) the Minister for the Environment, Heritage and Local Government

against:

- (a) a global valuation in relation to the undertaking made pursuant to Section 53 of the Act and specified in a global valuation certificate issued under that section;
- (b) any other detail stated in the said certificate;
- (c) any decision by the Commissioner to include or not to include any property in that global valuation.

2. The notice of appeal to the Tribunal shall be made on the form approved by the Tribunal for the purpose. The notice of appeal form is issued by the Valuation Office with the valuation certificate or notification under section 54(1) of the Act. The form can also be obtained directly from the Valuation Tribunal.

3. The appeal shall be lodged within 3 months from the date of the Commissioner's having issued the valuation certificate concerned. If this requirement is not complied with the appeal will not be valid and will not be considered by the Tribunal. The appeal may be lodged by post or by hand. Proof of postage or of delivery will be required in cases where the date of the lodging of an appeal is in issue.
4. The Grounds of Appeal as stated in the notice of appeal shall, as appropriate, and as required by section 54(2) of the Act -
 - (a) specify
 - (i) the grounds on which the appellant considers that the global valuation specified in the valuation certificate concerned is incorrect,
 - (ii) by reference to such matters as the appellant considers appropriate, what the appellant considers the global valuation in relation to the undertaking concerned ought to be,
 - (b) specify the grounds on which the appellant considers that any other detail (other than in respect of the global valuation) stated in the said certificate is incorrect,
 - (c) specify the grounds on which the appellant considers that a property ought to have been included in, or, as the case may be, excluded from, the said global valuation and what adjustment he or she considers ought to be made to that valuation were that property to be so included or excluded, as the case may be.
5. The Tribunal shall serve a copy of the appeal on the Commissioner and whoever of the following is not the appellant, namely, the undertaking concerned or the Minister for the Environment, Heritage and Local Government.
6. All other documentation and information in writing submitted in connection with the appeal shall be served by the Tribunal on each of the following persons (other than in a case where the person has submitted the particular documentation or information) namely—
 - (a) the Commissioner (who shall be the respondent in, and be entitled to be heard, and adduce evidence at, the hearing of the appeal), and
 - (b) the undertaking concerned, the Minister for the Environment,

Heritage and Local Government and, if it is the appellant or an appellant, the rating authority concerned, (and the undertaking, that Minister of the Government and such a rating authority shall be entitled to be heard, and adduce evidence at, the hearing of the appeal).

7. The Tribunal shall make a decision on an appeal within 6 months from the date of its having received the appeal, or as soon as possible thereafter.

Application of these Rules to Appeals to the Valuation Tribunal under Section 22 of the Derelict Sites Act 1990

40. These Rules and Guidelines, appropriately modified, apply to Derelict Site appeals with the following Rules 1 to 6 substituted for Rules 5, 6, 7, 9, 14 and 28 respectively:

1. An owner of urban land may appeal to the Tribunal under Section 22 of the Derelict Sites Act 1990 against a determination made by a local authority of the market value of that land under subsection (1) of that section.
2. The notice of appeal to the Tribunal shall be made on the form approved by the Tribunal for the purpose. The form is issued by the local authority with the notice of determination of market value. The form can also be obtained directly from the Valuation Tribunal and can be downloaded from the Tribunal website – www.valuation-trib.ie.
3. The appeal shall be lodged within 28 days from the date on which the notice of determination of market value is received by the owner of the urban land. If this requirement is not complied with the appeal will not be valid and will not be considered by the Tribunal. The appeal may be lodged by post or by hand. Proof of postage or of delivery will be required in cases where the date of the lodging of an appeal is in issue.
4. The notice of appeal shall contain a statement of the specific grounds of appeal.
5. The Tribunal shall transmit a copy of every derelict site appeal received by it to the local authority by whom the market value of the urban land was determined (who shall be the respondent in, and be entitled to be heard and adduce evidence at the hearing of, the appeal concerned) and to any other

person appearing to the Tribunal to be affected directly by the determination and any such person shall be entitled to be heard and to adduce evidence at the hearing of the appeal.

6. The Tribunal shall make a decision on an appeal as soon as possible after the hearing date.

These rules apply to appeals to the Tribunal under the provisions of the Valuation Act 2001 and the Derelict Sites Act 1990.

Given this 7th day of May 2008

John L O'Donnell, SC

Chairperson, for and on behalf of the Valuation Tribunal

GUIDELINES FOR THE HEARING OF APPEALS

1. Hearings will be as informal as possible.
2. The Tribunal asks each party to indicate to the Registrar, in advance of the hearing,
 - (i) whether it is intended to have legal representation and
 - (ii) how long their presentation of evidence and submissions is expected take. This is to facilitate the arranging of lists and the fixing of a timetable of hearings.
3. **Submission and exchange of summaries of evidence**
 - (i) The Tribunal will endeavour to dispose of cases expeditiously, consistent with the right of the parties to a full hearing. Therefore, the Rules provide for an exchange of summaries of evidence.
 - (ii) In general the appellant should make his summary available first, although there will be no objection to a simultaneous exchange.
 - (iii) A deadline for the submission and exchange of summaries is notified to parties with the date of hearing. That deadline cannot be extended save in the most exceptional circumstances. The Tribunal takes a serious view of failure to adhere to the dates set down and has refused to hear appeals where submissions are not lodged with the Tribunal or exchanged with the other party or parties within the prescribed time.
4. Hearings will, in general, proceed as enquiries rather than by an adversarial system but this will not inhibit the right of a party to present their case to the full and cross-examine witnesses.
5. Parties are encouraged to agree facts as far as possible before hearing. If, arising from the exchange of summaries of evidence, issues arise between the parties in relation to the evidence, every effort should be made to resolve these matters in order that the Tribunal can concentrate on net issues on the day.
6. Settlements should be notified in writing to the Registrar, by both parties, at the earliest possible date.
7. As confirmed by Rule 23, adjournment applications from parties will be considered only in the most exceptional circumstances, consistent with the requirement under the Act for a decision on an appeal to the Tribunal within six months of receipt of the appeal.

A party seeking an adjournment should make a written application to the Tribunal, on notice to the other parties to the appeal, as soon as possible following receipt of the notice of hearing date. The application must set out the reasons for seeking the adjournment.

8. Any application for inspection should be made to the Chairperson as soon as possible after the appeal is lodged and notified, on notice to the other party or parties.
9. Any party seeking a Case Stated under the provisions of the Act, shall, as soon as practicable after the Tribunal has made its determination, submit a draft Case Stated to the other side for agreement. A copy of this Case Stated should be submitted simultaneously to the Tribunal. In default of agreement between the parties, the parties shall exchange and submit to the Tribunal drafts of the said Case Stated as soon as practicable after the date of the submission of the original draft Case Stated, and in any event in sufficient time to enable the Tribunal to approve (and where necessary amend) the appropriate draft Case Stated within the time limit provided for in the Act.

THE HIGH COURT

IN THE MATTER OF Section 39 of the Valuation Act, 2001
AND IN THE MATTER OF (Description of property concerned)

APPELLANT

and

THE COMMISSIONER OF VALUATION

RESPONDENT

CASE STATED

This is a Case Stated by the Valuation Tribunal pursuant to the provisions of Section 39 of the Valuation Act, 2001, upon the request in writing dated the ____ day of ____ 20--, addressed to the Chairperson of the Tribunal pursuant to Section 39(2) of the Act of 2001, the Appellant/Respondent having declared dissatisfaction with the determination of the Tribunal made the ____ day of ____ 20--, and having paid the Tribunal the prescribed fees for and in respect of the case.

i. The Tribunal issued a written judgment herein dated the ____ day of ____ 20-- , setting forth its determination in respect of Appeal No. and entitled

ii. Evidence was given at the hearing of the said appeal on the ____ day of ____ 20-- , by to the following effect;

The Tribunal found the following facts;

The Tribunal made the following findings based on the facts as found;

After considering the evidence adduced, written materials submitted and oral submissions made, the Tribunal determined

.....

The Tribunal having heard submissions by (on behalf of the respective parties) determined the matter of costs as follows:-

The valuation attributed to the property concerned in issue was/was not in dispute.

The question(s) of law arising in the Case Stated is/are whether the Tribunal was correct in law in its determination in relation to

DATED day of , 20--

Chairperson

I Registrar, certify that the Case Stated was signed by the Chairperson on this date.

DATED day of , 20--

Registrar