

COUNCIL TAX APPEALS

Notes for Guidance on Procedure

1 INTRODUCTION

- The purpose of this information sheet 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.
- This information sheet is not a full statement of the law on Council Tax, and is meant simply to be a guide to the appeal system in plain language. If, after reading it, you still have any questions, please telephone the Assessor's office and ask for the assistant dealing with your appeal and he or she will be able to give you further information.
- A full summary of the law relating to Council Tax can be found in Butterworth's Guide to the Council Tax in Scotland which may be available through the public borrowing system at the National Library of Scotland or a law library.

- It may however assist you to know that there is a statutory definition of the value which the Assessor must fix for your house. This is contained in The Council Tax (Valuation of Dwellings) (Scotland) Regulations 1992 which may be summarised as follows:-

"the value of any dwelling shall be taken to be the amount which the dwelling might reasonably have been expected to realise if it had been sold in the open market by a willing seller on 1 April 1991 having applied the following assumptions:-

- a) that the sale was with vacant possession;
- b) that the dwelling was sold free from any heritable security;
- c) that the size and layout of the dwelling and the physical state of its locality were the same as at the time when the valuation of the dwelling was made;
- d) that the dwelling was in a state of reasonable repair;
- e) that common parts were in a state of reasonable repair;
- f) that fittings designed to make the dwelling suitable for use by a person who is physically disabled were not included so as to add to value;
- g) that the use of the dwelling would be permanently restricted to use as a private dwelling; and
- h) that the dwelling had no development value other than value attributable to permitted development.

- If your case involves difficult issues of law or valuation, you may wish to consider taking the advice of a solicitor or surveyor.

2 MEETING BEFORE THE HEARING

- It is desirable that you should meet with a member of the Assessor's staff to discuss matters informally before the hearing. You may already have been in contact but if not and you are intending to carry on with the appeal you should arrange a meeting to discuss it as soon as possible. Normally the Assessor's assistant will try to contact you.
- To help you make contact with the assistant dealing with your appeal please telephone the number shown on the citation and be ready to give the date of the hearing. You will be referred to the assistant dealing with your case.
- The Assistant should explain to you the information used to arrive at your banding which he/she will be putting before the Valuation Appeal Committee.
- You may be able to agree with the Assessor that the band of your house should change or stay as it is in which case no appearance before the Committee is 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 usually between three and six other members.
- They are 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. Committees are assisted by a secretary who is a lawyer.

4 NOTICE OF HEARING

- The citation which accompanies this information sheet sets out the date and place of the hearing. As soon as you receive the citation, if you have strong reasons for wanting to change the date, you should first of all contact the Assessor's office to see if the case can be continued. If she does not agree, you should write to the Secretary explaining your reasons and he will put your request for a continuation to the Committee.
- A continuation will normally be granted only if the Committee considers that you have a good reason for asking for one. A continuation will mean waiting until your case can be re-listed for the next suitable hearing.

5 COMPARISONS WITH OTHER PROPERTIES

- If you propose to inform the Committee that the valuation band of your property does not compare fairly with the bands placed on other properties then it will be advisable to tell the Assessor the properties to which you will be referring. During discussions the Assessor will inform you of the information she will use to support her case. Such an exchange of information can save much time at the hearing and may prevent the case being continued or postponed.

6 NOTICE OF INTENTION TO PROCEED WITH APPEAL

- The Assessor's staff will be dealing with a great many appeals similar to your own at the one time and it is therefore essential that they know which cases have to be prepared for hearing. You will therefore be asked 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 will ask the Committee to dismiss the appeal.

7 DISPOSAL BY WRITTEN REPRESENTATIONS

- If you think that your appeal can be dealt with by written representation then you should write immediately to the Secretary of the Valuation Appeal Committee. All parties including the Assessor must agree to this procedure. Once you have been told that your appeal will be dealt with by written submission you have four weeks in which to send the Secretary your case in writing. This is your opportunity to set out your case fully and clearly.
- You will receive a copy of any submission which the Assessor lodges and will have four weeks to submit your comments on it. The Assessor has a similar opportunity to comment on your submission. At the end of this latter four week period the Secretary will give the available information to the Valuation Appeal Committee. They will either (i) reach a decision on your appeal on the basis of the written submissions or (ii) decide that there is insufficient written information and ask for more detail or (iii) decide that the appeal should be dealt with at a hearing. Their decision will be notified to you.
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- At any time before a decision is reached either you or the Assessor can withdraw from the agreement to the appeal being disposed of by written

representation and insist on a hearing. You can of course withdraw your appeal if you so wish following consideration of the Assessor's comments, or at any time before the appeal is determined.

8 PRESENTATION AT THE HEARING

- You may appear before the Committee in person or you may be represented by any other person. It is important however that any representative you choose should have a good knowledge of the facts and circumstances of the case you wish to present.

9 FAILURE TO APPEAR

- If you fail to appear or to be represented at the hearing your appeal may be dismissed.
- However, if you think you have a good reason for your absence you may, within 14 days of the Committee notifying you of the dismissal of your appeal, ask the Committee in writing to hear your case at a later date. A decision to reinstate your appeal is at the discretion of the Committee.
- The Committee must be satisfied that you had a reasonable excuse for not attending.

10 WHAT YOU SHOULD EXPECT AT THE HEARING

- The hearing will normally be public. If, however, one of the parties gives a good reason why not, then the Committee may decide that it should be held in private.
- The Chairman of the Committee is in charge of the hearing. He will let you know when to speak, and when you may question the Assessor's witness should you so wish. Do not be afraid to ask the Chairman for guidance.
- The Chairman will ask if you wish to give evidence yourself. If you do give evidence yourself you should confine yourself to the facts which you wish to bring out.
- It is important that you bring to the hearing details of any evidence which you wish to submit to support your case. Copies of any relevant documentation should also be produced. It will usually help the Committee if you have four copies of photographs, plans and documents to enable members to look at the paperwork while you are giving explanations.
- It may help your presentation if you prepare some notes on what you want to say. You may find some writing materials useful for taking notes during the proceedings.
- After you have given your evidence you may be questioned by the Assessor and members of the Committee may wish to ask you some questions.
- The Assessor will then present her case usually by introducing a member of staff to give evidence after which you may question the Assessor's witness. The Committee members may also question the Assessor's witness.
- You will then have the opportunity to summarise your case and the Assessor will sum up her case.
- The Committee will consider 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 give its decision in writing.
- The Committee will also provide you with reasons for its decision.

11 EVIDENCE PRESENTED AT THE HEARING

- Section 10 of these notes explains the procedure which you may expect at the hearing but you must decide for yourself what type of evidence will best support your case.

- You should perhaps think about the information given to you by the Assessor's Assistant. You should also think about any additional information or paperwork you may yourself wish to put forward. Photographs may be of assistance in providing or illustrating your case at the hearing.

- Remember that the Committee have no prior knowledge of your appeal or of any meeting or letters that may have passed between you and the Assessor and it is therefore important that you should present all the facts of your case to the Committee at the hearing. It is usually better if you try to confine the facts and arguments you put to the Committee to matters that, in your opinion, affect the value of your house.

12 APPEALS AGAINST THE COMMITTEE'S DECISION

- If you are dissatisfied with the Committee's decision there are further procedures for taking your case to the Court of Session. The Court of Session will only however consider points in law. Any application to the Court of Session must be made within 42 days of receiving the Committee's decision. Such further procedures can be complicated and you would be advised to take independent legal advice if considering this step.

TEN KEYS THINGS TO REMEMBER ON THE DAY

- 1 Ensure that you know exactly where and when the hearing will take place (from the Citation Notice) and arrive in good time. Having come this far you don't want your case dismissed for non-attendance.
- 2 Bring some writing materials with you to take note of what is said during the proceedings.
- 3 The Committee will appreciate that you may not have experience in formal appearances of this nature. Due allowance will be made and the Committee will give guidance on your presentation if required. Do not be reluctant to ask the Committee for information on points of procedure.
- 4 The Valuation Appeal Committee has no connection whatsoever with the Assessor's Office. They have therefore no previous knowledge of the details of your case. You must present to the Committee all the facts again even if you have already discussed these with the Assessor's staff.
- 5 Try to think beforehand of what you want to say. It might help to write down some notes to remind yourself of the various points which you wish to raise.
- 6 Bring with you details of any properties or sales evidence which you wish to introduce. Material such as letters, plans and calculations which you wish to show to the Committee are called productions. If this information is complicated then it will be helpful to have some copies which everyone can look at. Productions can either be handed to the Secretary at the start of the proceedings or during the course of your evidence.
- 7 It often helps to begin by describing your house followed by any disadvantages which you feel it has. Try to compare your house with other houses for which sales prices are known or houses which have bandings you believe are inconsistent with your own.
- 8 Do not be put off by any questions asked by the members of the Committee or by the Assessor when you have finished your evidence. Generally such questions are only asked to make clear the facts of your case.
- 9 Following your statement the Assessor or his/her witness will give evidence. You will then have the opportunity to ask the Assessor or his/her witness questions. Perhaps you should note down during the Assessor's evidence any points which you wish to question.
- 10 After the Assessor has given evidence and been questioned, you will have the chance to sum up your case. The Committee will appreciate if you try to do this concisely and you must not introduce new information at this stage.