

Annual  
Report

2012

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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 Appeal Panel's first Annual Report. By way of background, the Panel was first established in June 2008 to hear and determine appeals against a relevant decision of the Treasury and Resources Department, made by property owners in accordance with the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007. Since its inauguration, the Panel has established an administrative process for managing appeal cases and has received approximately 50 appeals.

Although not required to do so by Ordinance, the Panel, at its meeting of 23 July 2012, gave consideration to the matter of reporting its activities to the Policy Council and subsequently agreed to compile an annual report from 2012 onwards. The following report represents the first Annual Report from the Panel.

In this first Annual Report I have sought to provide an overview of the Panel's work during 2012 and the Panel's current membership, and to look ahead at the work streams which will be pursued by the Panel in 2013.

Stuart Le Maitre  
Chairman  
April 2013

## **2. Tax on Real Property Appeals Panel Membership**

There are currently 8 members of the Panel as follows:

Mr Stuart Le Maitre (Chairman)  
Mrs Caroline Latham FRICS (Deputy Chairman)  
Advocate Mark Dunster  
Mrs Sheelagh Evans MRICS  
Mr Martin Johnson  
Mr Eric Legg  
Mr John Weir FRICS  
Mr Michael Vaudin

The Panel members were appointed by the States of Deliberation upon the recommendation of the Treasury and Resources Department in June 2008.

The Panel is completely independent of the Treasury and Resources Department and its members are chosen for their impartiality. As such, the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007 precludes certain individuals from being appointed as members of the Panel. These are: Members of the States of Deliberation and the States of Election; Members of the States of Alderney; any Constable or Douzenier; any procureur or overseer of the poor or member of a parochial outdoor assistance board; and, any Member of the Judiciary of the Islands. Since their appointment, both Advocate Dunster and Mr. Legg have become ineligible to serve as active members of the Panel. Advocate Dunster was elected as a Parish Constable shortly after his appointment to the Panel and Mr. Legg was a member of the Juvenile Panel at the Royal Court. Therefore, the Panel currently consists of only six active members.

The Treasury and Resources Department is planning to undertake a recruitment process for additional Panel members during 2013. As part of this process, the Department will also ask the States of Deliberation to reaffirm the appointment of Mr. Legg as a member of the Panel, following the disbandment of the Juvenile Panel after the introduction of the Island's new Children's Laws.

## **3. Staff Changes**

In August 2012, Mr. Martin Streeting, the Clerk to the Panel, retired from the States of Guernsey. Mr. Streeting had been appointed as the Clerk to the Panel by the Treasury and Resources Department Board shortly after the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007 came into force in January 2008.

Mr. Streeting was replaced by Mrs. Natalie Allison. Mrs. Allison also holds the position of Administrative Officer at the Treasury and Resources Department and has previous

experience of Appeals Panels having worked for the Valuation Office Agency in the UK for a number of years. Although employed by the States of Guernsey, when discharging her duties for the Panel, Mrs. Allison acts independently of the Treasury and Resources Department or any States Department.

#### **4. Operating Costs**

The Panel's budget and expenditure during 2012 is set out in Table 1

**Table 1 – Panel's Expenditure**

	<b>Budget</b>	<b>Actual Costs</b>
Administration - General	£750	-
Administration – Meetings	£750	£90
Communications – Mobile Phone Charges	£300	-
Other- including Panel members' fees and travel costs	£3,200	£455
<b>Total</b>	<b>£5,000</b>	<b>£545</b>

Panel members receive an allowance of £65.00 per half day when sitting to determine an appeal, drafting Judgements and attending Panel 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.

#### **5 Appeals and Casework**

##### **5.1 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.

**Table 2 – Outline of Appeals Process**

<b>Stage</b>	<b>Action</b>	<b>Period</b>
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.

## **5.2 Difficulties with the Appeals Process**

The Panel has identified some issues with the appeals process which it has communicated to the Treasury & Resources Department during 2012. These surround 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 that is being taken between the receipt of an appeal and the arrangement for a Tribunal to be held.

In respect of the latter, the requirement for a property owner to ask the Department in writing to review its decision and confirm, vary or rescind it accordingly prior to an appeal being made to the Panel has resulted in some delays to the process. The Panel has expressed its concerns to the Department over the amount of time currently being taken to carry out its review process, particularly where the owner has already completed the appropriate Appeal Form. The Department has confirmed that a reasonable timescale

within which such reviews should be completed would be three months. This timescale is consistent with Section 30(6) of the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007 (as amended), which provides that, if the Department has failed to complete the review within a three month period, it shall be deemed under the Ordinance to have done so and confirmed its decision.

The Panel will continue to liaise with the Department to progress any unresolved difficulties with the appeals process during 2013. Additionally, the Panel will seek to conclude other issues which have been identified during previous years pertaining to a possible review of the legislation in respect of property categorisation and tariffs.

### **5.3 Casework**

During 2012, the Panel received a total of 9 appeals. The Clerk to the Panel referred 6 of these appeals to the Treasury and Resources Cadastre Department for review in accordance with Section 30 (2) of the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007 (as amended) which provides that an appellant must first request the Treasury and Resources Department to review its relevant decision before a formal appeal to the Panel can be made<sup>1</sup>.

Of these 6 referrals, only 1 resulted in a second appeal being submitted to the Panel for the full appeal process. This appeal was received in late December and remained outstanding as at 31 December 2012. The Panel has planned to hear and determine this appeal during the second quarter of 2013.

Of the remaining appeals submitted during 2012, 1 remained outstanding as at 31 December and the other was submitted outside the statutory time limits and therefore was judged by the Panel to be invalid. An Application to the Tribunal for Further Time was subsequently submitted in respect of this appeal. The Panel has planned to hear this application during the first quarter of 2013 and the outstanding appeal during the second quarter of the year.

Additionally, the Panel has planned to hear a further 3 appeals which were submitted in 2011 during the second quarter of 2013.

Further information about the appeals received by the Panel during 2011 and 2012 can be found in Appendix 1 – Schedule of Appeals 2011/2012.

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<sup>1</sup> 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.*

## **6. Other Work**

During 2012, the Panel carried out a review of the information provided to members of the public in respect of the Tax on Real Property Appeals process and, in consultation with the Law Officers Chambers, has compiled a revised 'Notes for Appellants' document which has been available since September 2012.

## **7. Developments for 2013**

In addition to the Tribunal hearings planned for the first and second quarters of the year, the Panel also plans to launch a new Tax on Real Property Appeals Panel website during 2013. This will include information regarding the process for making an appeal and will incorporate downloadable appeal forms and guidance notes.



## Appendix 1

### Schedule of Appeals 2011/2012

Date of Receipt	Appeal Reference Number	Date of Relevant decision	Reason for Appeal	Status
11.05.2011	0041	Not stated	Assessment based on incorrect floor area	Referred to Treasury & Resources Department for review under Section 30 (2) of the Tax on Real Property (Guernsey and Alderney) Ordinance, 2007 (as amended). Appeal not pursued.
06.06.2011	0042	12.05.2011	Assessment based on incorrect property categorisation	Outstanding as at 31.12.2012
06.06.2011	0043	12.05.2011	Assessment based on incorrect property categorisation	Outstanding as at 31.12.2012
06.06.2011	0044	12.05.2011	Assessment based on incorrect property categorisation	Outstanding as at 31.12.2012
06.06.2011	0045	Not stated	Assessment based on incorrect floor areas/categorisation – request for partial exemption under Schedule 1 Part 2 of Ordinance	Referred to Treasury & Resources Department for review under S.30(2) of Ordinance. Appeal not pursued.
12.01.2012	0046	Not stated	Property should be exempt under Schedule 1 Part 2 of Ordinance	Referred to Treasury & Resources Department for review under S.30(2) of Ordinance. Appeal not pursued.
26.01.2012	0047	Not stated	Assessment based on incorrect property categorisation	Referred to Treasury & Resources Department for review under S.30(2) of Ordinance. Appeal not pursued.

27.01.2012	0048	Not stated	Assessment based on incorrect property categorisation	Referred to Treasury & Resources Department for review under S.30(2) of Ordinance. Appeal not pursued.
27.01.2012	0049	Not stated	Assessment based on incorrect property categorisation	Referred to Treasury & Resources Department for review under S.30(2) of Ordinance. Appeal not pursued.
18.04.2012	0050	20.03.2012	Assessment based on incorrect property categorisation	Referred to Treasury & Resources Department for review under S.30(2) of Ordinance. Further appeal submitted following outcome of review (see TRP Appeal Reference 0053)
13.11.2012	0051	12.10.2012	Assessment based on incorrect property categorisation	Appeal outstanding as at 31.12.2012 pending Tribunal to determine Application to the Tribunal for Further Time (see 0051A)
17.12.2012	0051A	Not required	Application to the Tribunal for Further Time	Application outstanding as at 31.12.2012
31.12.2012	0052	10.12.2012	Assessment based on incorrect property categorisation	Referred to Treasury & Resources Department for review under S.30(2) of Ordinance. Outstanding as at 31.12.2012
28.12.2012	0053	3.12.2012	Assessment based on incorrect property categorisation. Appeal submitted following review by Treasury & Resources Department.	Appeal outstanding as at 31.12.2012
31.12.2012	0054	3.12.2012	Assessment based on incorrect property categorisation	Appeal outstanding as at 31.12.2012