AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

100TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") brought by the Appellant in relation to a decision by the Revenue Commissioners ("the Respondent") refusing the Appellant's claim under the Help To Buy ("HTB") scheme, on the ground that the property relevant to the appeal did not meet the statutory definition of a "*self-build qualifying residence*". This appeal is made to the Commission pursuant to section 477C(21) and section 949I of the Taxes Consolidation Act 1997, as amended ("TCA 1997"). The amount of the claim under the HTB which is in dispute in this appeal is €30,000.

2. In accordance with the wishes of the parties, this appeal proceeded by way of an oral hearing on 7 May 2026. Prior to the hearing, the Appellant notified the Commission that she wished to have her appeal dealt with in private. Therefore, the appeal hearing was held in private, and this determination will be redacted prior to its publication on the Commission's website, that publication being pursuant to section 949AO TCA 1997.

3. In making her determination, the Commissioner has considered the Appellant's and [redacted] (her "Partner") oral evidence at the appeal hearing and the submissions from both parties during the appeal hearing, in addition to all submissions and documentation furnished prior to the hearing.

Background

4. The HTB scheme is provided for in section 477C of the TCA 1997 and is subject to a number of conditions as set down in the legislation. These conditions include: the claimant must be a first-time purchaser and a Pay As You Earn ("PAYE") employee; the incentive is limited to the amount of income tax paid by, and Deposit Interest Retention Tax ("DIRT") deducted, from the claimant(s) in respect of the previous four tax years, with a current upper limit of €30,000; the property must be a qualifying residence or qualifying self-build residence in accordance with the statutory definitions; the maximum purchase value of the qualifying residence or approved valuation for a self-build qualifying residence which is permitted under the HTB scheme is currently €500,000. In addition, the property must be purchased by way of a qualifying loan obtained from a qualifying lender, with a loan to value ratio exceeding 70%. There is a pro rata clawback of the incentive if the property upon which HTB relief was granted, is sold within a five-year period of its acquisition.

5. The land and pre-existing structure thereon [redacted] relevant to this appeal is situated in [redacted] ("the Property").

6. On [redacted], planning permission was granted to a third party to erect a detached, two-storey dwelling on the land, such planning permission being due to expire on [redacted]

7. The Land Registry Folio [redacted] records a different individual [redacted] ("the Original Owner") as the owner of the Property for the period between [redacted] 2025.

8. On [redacted], the Original Owner completed a "*Form of Commencement Notice for Development*" for [redacted] ("the County Council"), confirming construction was due to commence on the site on [redacted] t has not been confirmed when the construction by the Original Owner began.

9. Certain of the building works were undertaken by the Original Owner including the laying of the foundations, the erection and plastering of the brick walls, the construction of the roof and the installation of the exterior doors and windows, such that the building was deemed to be watertight and thus not exposed to the elements.

10. The evidence indicates that internally, the ground floor layout had been established, and plumbing pipework had been installed beneath a concrete flooring. Beyond these works, no further internal construction was undertaken by the Original Owner, and as a result the Property remained vacant and unused for a period of approximately [redacted] years until 2025.

11. The Property was not placed for sale on the open market. [redacted]

12. There are three stages to the HTB scheme which must be completed in order to receive the tax incentive; 1. the application stage, 2. the claim stage and 3. the verification stage.

13. On [redacted] 2025, the Appellant applied to the Respondent for the HTB in the maximum amount of €30,000, on the grounds that she and her Partner were intending to purchase land and build "*a self-build qualifying residence*". This constituted the first stage of the HTB scheme process.

14. On [redacted] 2025, the Respondent wrote to the Appellant and confirmed the initial HTB application was approved and explained how to proceed to the second stage of the HTB process.

15. On [redacted] 2025, a valuation report in respect of the Property was prepared by a professional valuer, [redacted] ("the Valuer") in contemplation of the Appellant's application to [redacted] ("the Bank") for a self-build mortgage loan. This report assessed the Property as having a current market value of €[redacted] in its condition at the time, with an estimated value upon completion of €[redacted]

16. This valuation report noted the following:

    16.1. Section 2 *"Property Description"*, listed the approximate age of the property as [redacted] *years*".

    16.2. Section 4 "*New Properties/Self-Build*", listed the main contractor as "*direct labour*," noted the roof was completed and indicated the Property was "*fully built*" and was at the "*first fix stage*", with an estimated date of completion of "[redacted] *2026".*

    16.3. Section 10 "*Condition of the Property,*" assessed the condition of various elements of the Property on a sliding scale of poor, fair, good and very good. The Valuer assessed the outside walls, windows and roof as being in "*good condition"* whilst the general condition, external decoration and internal decoration were assessed as being in "*poor"* condition. Additional comments by the Valuer were that the "*property requires completion, currently at first fix plumbing and electrical".*

17. Subsequently, the Appellant, together with her Partner, applied for and obtained a mortgage loan from the Bank to finance the purchase of the land and completion of the Property, in the amount of [redacted] for a [redacted] year term.

18. On [redacted] 2025, the Appellant and her Partner drew down the first tranche of the mortgage loan, in the sum of [redacted] from the Bank.

19. On [redacted] 2025, the Appellant and her Partner acquired the Property for the consideration of [redacted] this was funded by the first tranche of the mortgage loan with the remainder funded personally by the Appellant and her Partner. The Appellant could not confirm whether the purchase price was inclusive or exclusive of Value Added Tax ("VAT").

20. At the date of its acquisition by the Appellant and her Partner, the internal works of the Property were incomplete and required a range of works to be undertaken. The

Appellant's evidence indicates that these works included constructing and installing internal partitions, ceilings, plasterboard and insulated boards, plastering and skim finishes, internal finishes, a plumbing system, an electrical system and a heating system. The internal layouts on the ground floor were incomplete, the internal concrete floor structures were unfinished, and the Property was not connected to water or electricity services. Further, while a septic tank domestic wastewater system was installed, it was not connected to the Property.

21. On [redacted] 2025, the Appellant filed a Stamp Duty return whereby the Property was classified as a residential property. The Appellant paid stamp duty of [redacted] being 1% of the purchase price of [redacted]

22. The Appellant found she was unable to proceed with the claim stage on the Respondent's website as where a stamp duty return is filed relating to a property, the Respondent's internal systems automatically register a property for Local Property Tax ("LPT") and where a Property is registered for LPT then the Property is not eligible for the HTB incentive and therefore the system does not allow the filing of a HTB claim.

23. On [redacted] 2025, the Bank issued a letter to the Appellant confirming the transfer of the second tranche of the mortgage loan in the sum of €[redacted]. The balance of the mortgage loan, being €[redacted] had not yet been drawn down as of the date of the hearing.

24. Correspondence was exchanged between the Appellant and the Respondent between [redacted] as set out in the Respondent's Statement of Case, and agreed by the parties as having taken place, at the hearing. The correspondence related to queries concerning the Respondent's refusal of the Appellant's HTB claim, on the basis that it did not meet the statutory requirements.

25. On 26 September 2025, the Respondent issued a formal decision refusing the Appellant's claim on the grounds that the Property was ineligible for relief under the HTB scheme stating that the Property "*does not fall within the definition of a self-build within the provisions of section 477C of the TCA 1997"*.

26. On 5 October 2025, the Appellant appealed this decision to the Commission.

27. On 7 May 2026, a hearing was held at the Commission, the Appellant attended with her Partner, both of whom gave evidence under oath and the Appellant was represented by [redacted] BL ("the Appellant's Representative"). The Respondent was represented by its officers, [redacted]

Legislation and Guidelines

28. Section 477C of the TCA 1997, "*Help to Buy*", provides, among other things, that:

> *(1) 'appropriate payment' shall be construed in accordance with subsection (4);*
>
> *'approved valuation', in relation to a self-build qualifying residence, means the valuation of the residence that, at the time the qualifying loan is entered into, is approved by the qualifying lender as being the valuation of the residence;*
>
> *'first-time purchaser' means an individual who, at the time of a claim under subsection (3) has not, either individually or jointly with any other person, previously purchased or previously built, directly or indirectly, on his or her own behalf a dwelling;*
>
> *'loan-to-value ratio' means –*
>
> *(a) in the case of a contract referred to in subsection (3)(a) that was entered into before 11 October 2023, the amount of the qualifying loan as a proportion of the purchase value of the qualifying residence, and*
>
> *(b) in all other cases, the amount that is the aggregate of –*
>
> *(i) the amount of the qualifying loan, and*
>
> *(ii) in the case of a qualifying residence, the amount of the affordable dwelling contribution, if any, in respect of the qualifying residence,*
>
> *as a proportion of the purchase value of the qualifying residence or the self-build qualifying residence, as the case may be;*
>
> *'purchase value' means –*
>
> *(a) in the case of a qualifying residence, the price paid for the qualifying residence, being a price that is not less than its market value, or*
>
> *(b) in the case of a self-build qualifying residence, the approved valuation;*
>
> *'qualifying loan', means a loan, which –*
>
> *(a) is used by the first-time purchaser wholly and exclusively for the purpose of defraying money employed in –*
>
> *(i) the purchase of a qualifying residence, or*
>
> *(ii) the provision of a self-build qualifying residence (including, in a case where such acquisition is required for its*

construction, the acquisition of land on which the residence is constructed),

(b) is entered into solely between a first-time purchaser and a qualifying lender (but this does not exclude a loan to which a guarantor is a party), and

(c) is secured by the mortgage of a freehold or leasehold estate or interest in, or a charge on, a qualifying residence or a self-build qualifying residence;

'qualifying residence' means –

(a) a new building which was not, at any time, used, or suitable for use, as a dwelling,

(b) a building which was not, at any time, in whole or in part, used, or suitable for use, as a dwelling and which has been converted for use as a dwelling, or

(c) a building which was not at any time used as a dwelling and was purchased by a first-time purchaser in accordance with an affordable dwelling purchase arrangement (within the meaning of section 12 the Act of 2021), and –

(i) which is occupied as the sole or main residence of a first-time purchaser,

(ii) in respect of which the construction work is subject to the rate of tax specified in section 46(1)(c) of the Value-Added Tax Consolidation Act 2010, and

(iii) where the purchase value is not greater than –

(I) where in the period commencing on 19 July 2016 and ending on 31 December 2016, a contract referred to in subsection (3)(a) is entered into between a claimant and a qualifying contractor or the first tranche of a qualifying loan referred to in subsection (3)(b) is drawn down by a claimant, €600,000, or

(II) in all other cases, €500,000;

'self-build qualifying residence' means a qualifying residence which is built, directly or indirectly, by a first-time purchaser on his or her own behalf;

[…]

(2) In this section, a 'qualifying contractor' means a person who applies to the Revenue Commissioners for registration as a qualifying contractor (pursuant to arrangements for such registration that are put in place by the Revenue Commissioners) and in respect of whom the Revenue Commissioners are satisfied is entitled to be so registered and –

(a) who-

(i) complies with the obligations referred to in section 530G or 530H, or

(ii) in the case of a contractor who is not a sub-contractor to whom Chapter 1 of Part 18 applies, complies with the obligations referred to in subparagraph (i), other than the obligations referred to in paragraphs (a) and (b) of subsection (1) of section 530G or 530H.

(b) who has been issued with a tax clearance certificate in accordance with section 1095 and such tax clearance certificate has not been rescinded under subsection (3A) of that section, and

(c) who provides to the Revenue Commissioners –

(i) details of qualifying residence which the contractor offers, or proposes to offer, for sale within the qualifying period,

(ii) details of any planning permission under the Planning and Development Acts 2000 to 2015 in respect of the qualifying residences referred to in subparagraph (i).

(iii) details of the freehold of leasehold estate or interest in the land on which the qualifying residences referred to in subparagraph (i) are constructed or to be constructed, and

(iv) any other relevant information that may be required by the Revenue Commissioners for the purposes of registration of a person as a qualifying contractor.

(3) Where an individual has, in the qualifying period, either –

(a) entered into a contract with a qualifying contractor for the purchase by that individual of a qualifying residence, that is not a self-build qualifying residence, or

(b) drawn down the first tranche of a qualifying loan in respect of that individual's self-build qualifying residence,

that individual may make a claim for an appropriate payment.

(4) On the making of a claim by an individual referred to in subsection (3), a payment (in this section referred to as an 'appropriate payment') shall, subject to the provisions of this section, be made in accordance with subsection (16).

(5) (a) An appropriate payment in relation to a qualifying residence or a self-build qualifying residence under this section shall not be greater than, whichever of the amounts referred to in the following subparagraphs is the lesser, namely

(i) the amount of €20,000

[…]

(5A) Where an individual has, in that part of the qualifying period beginning on 23 July 2020 and ending on 31 December 2029, either

(a) entered into a contract with a qualifying contractor for the purchase by that individual of a qualifying residence, that is not a self-build qualifying residence, or

(b) drawn down the first tranche of qualifying loan in respect of that individual’s self-build qualifying residence,

paragraph (a) of subsection (5) shall apply subject to the following modifications:

(i) in subparagraph (i) of that paragraph, “€30,000” shall be substituted for €20,000.

[…]

(11) The loan-to-value ratio in respect of a claim under this section shall not be less than 70 per cent.

[…]

(21) An individual aggrieved by a decision by the Revenue Commissioners to refuse a claim under this section may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days of notice of that decision."

Submissions

Appellant's Evidence

29. The Appellant and her Partner gave evidence at the oral hearing which may be summarised as follows:

30. The Appellant stated: "*the seller,* [the Original Owner]*, had started a build in* [redacted] *and he had it up as far as, like an external shell. So there's the four walls, the windows and the roof on it".* She continued "*but there was substantial works to be completed on the house and we knew this after we saw the house. There was no plumbing, no electrics. The second floor had no floor. There was no stud walls upstairs. There was no internal [insulation], plastering. There was no grounds work, no connection to septic tanks. There was significant works to be done.*"

31. In relation to the stage of completion of the Property prior to the Appellant's acquisition she responded: "*Probably less than a third. Like, it was a shell of a house and I see my friends, do you know, they're building houses and I see, do you know, the different stages and the foundations, block work and roof level, it's quite quick to actually throw up a house to that level. But it's after that, all the plumbing work, the electrician work. Like, there's so much work that goes into it after that, like there's months' work. The original site that we got, like, it probably was a few weeks work first what we were doing, which is probably two thirds plus of the build, which is, do you know, it is expensive and, like everything is, you know, construction work to build this"*.

32. Regarding the works completed by the Appellant and her Partner, she stated: "*[W]e've completed first fixes; the plumbing; the electrician first fixes. We have a construction guy in and he did the upstairs, the ceilings, or the floors upstairs, the ceilings and downstairs, the stud walls, the plastering, and all that kind of stuff."*

33. In response to the Commissioner's query regarding planning permission the Appellant stated: "*The planning permission, it was originally granted in* [redacted] *I believe.[…]* [the Original Owner] *had built it then in* [redacted] *the external shell to comply with the planning permission. And as part of the mortgage they had looked for the Cert of Compliance from the building surveyor, at the time, that* [the Original Owner] *had working for him or had hired."*

34. The Appellant's Partner added: "*[W]hen the sub-floor was put in there was basic pipes put in around the perimeter in the concrete. When we got our plumber in he said they weren't fit for purpose. So, they were more or less useless. And they weren't fit for our purpose of where we needed heating. […] The plumber described it, if he was to pressure test it, it could fail at any minute. So he didn't want to go ahead with what was in the floor.*"

35. Regarding the septic tank, the Appellant's Partner confirmed: "*there is a septic tank, but it wasn't plumbed, […], not connected to the house, […] we still have to connect it*."

36. In support of the assertion that the Property was not habitable and required substantial works, at the time of the Appellant's acquisition, the Appellant submitted letters from a number of parties including the Original Owner, the Appellant's solicitor, the Valuer and a chartered building surveyor. However, limited weight must be attached to such evidence on the basis that the parties who furnished such letters were not in attendance at the hearing and therefore did not testify under oath or affirmation.

37. In addition, the Appellant submitted photographic evidence of the Property at various stages and a limited number of invoices for construction services totalling €[redacted] and purchases of goods by the Appellant's Partner from a hardware store.

38. A written statement proffered by the Original Owner dated [redacted] 2026, stated as follows:

> *"I carried out construction works on that structure personally and/or through contractors engaged by me.*
>
> *The works carried out by me were limited to the construction of the external structural shell, namely: Foundation and external structure walls; Roof structure and roof covering; and Installation of external windows and external doors*
>
> *I did not carry out any works for the purpose of the converting the structure into use as a dwelling. I sold the structure to* [the Appellant and her Partner] *in* [redacted] *2025. At the date of sale, the structure had not been completed and further building works were required in order to convert the structure into use as a dwelling.*
>
> *At the date of sale, the following works had not been carried out by me and remained outstanding: Internal building works and internal partitions, Fitting of ceilings, Installation of insultation, First-fix and second-fix plumbing and electrical works, Installation of kitchen units and sanitary ware, Internal doors, floor finished, and internal joinery, Completion and commissioning of water, wastewater and electrical services; and all other works necessary to convert the structure into use as a dwelling."*

Appellant's Submissions

39. The Commissioner will now summarise the submissions made by the Appellant, both in the documentation submitted in support of her appeal and at the hearing by the Appellant's Representative, as follows:

Appellant's Written Submissions

"The Appellants purchased a site containing an external shell structure in [redacted]*2025 with the aid of a self-build mortgage from* [redacted] *with staged drawdowns linked to construction progress. The Appellants purchased the site in order to build their family home.*

The structure was originally constructed to an external shell stage and remained incomplete thereafter for years, with several essential structural and internal building works outstanding. As a result, the structure was not suitable for use as a dwelling and was not offered for sale on the open market as a completed residential property.

At the date of purchase, the structure remained a shell only and was not suitable for use as a dwelling unless and until substantial construction works were carried out to convert it into use as a dwelling.

The works being undertaken include the block laying around the front door, erection of stud walls upstairs, the laying of floor structures, ceilings, plastering, insulation, plumbing, electrical installation, heating systems, internal layout works upstairs, and the fitting of doors, kitchens and sanitary ware.

The erection of internal walls (some of which are required for structural support), ceilings, floors, insulation, and permanent building systems plainly constitute construction/building activities. A building cannot be regarded as a dwelling where it lacks the essential internal structure, services and systems requires to make it capable of habitation.

When properly applied, the ordinary meaning of the term "built" includes the construction works being undertaken by the Appellants. They are building the dwelling directly and indirectly, within the meaning of section 477C, by commissioning, funding and supervising the construction works carried out on their behalf, as evidenced by the construction invoice which outlines some of the construction works completed to date and paid for by the Appellants.

The Respondent has referred to a recent Tax Appeals Commission determination (10TACD2025) in which reliance was placed on dictionary definitions and on the *proposition that building a dwelling necessarily entails construction from the ground up. It is respectfully submitted that such an interpretation is unduly narrow and does not reflect the statutory wording of section 477C.*

Section 477C does not state that a self-build qualifying residence must be built exclusively or wholly by the first-time purchaser, nor does it exclude a building where certain construction works were carried out by another party prior to prior to acquisition. The statutory requirement is that the qualifying residence is a building built, directly or indirectly, by a first-time purchaser on his or her own behalf. To suggest that the Appellants are not "building" in these circumstances would be artificial and inconsistent with the ordinary and common-sense meaning of that term.

7. Distinction from the Determination in 10TACD2025

In the precedent relied upon by the Respondent, the property acquired by the appellant was materially more advanced in terms of completion than the structure purchased by the Appellants in the present appeal. […]

The works being undertaken by the Appellants are fundamental construction works required to create a residential dwelling where none previously existed in a habitable form. Section 477C does not require that a first-time purchaser construct the foundations, external walls or roof. Such a requirement appears nowhere in the legislation. It would be unrealistic to say that the structure had already been "built" before it was purchased by the Appellants.

In particular, the auctioneer has confirmed in writing that references within the valuation report to the availability of services were made on the basis of standard valuation assumptions for lending purposes and site availability, rather than confirmation that such services had been installed or completed within the structure.

The Respondent states that the structure had been constructed to a significant degree but has produced no technical or professional evidence to support that claim. By contrast, the Appellants have furnished extensive professional and documentary evidence confirming the condition of the structure at the date of purchase and the extent of works required to render it suitable for use as a dwelling.

The Appellants are now directly and indirectly, carrying out substantial and fundamental construction works to convert that non-dwelling structure into a habitable dwelling for the first time. Those works plainly constitute building within the ordinary and statutory meaning of section 477C, which does not require construction from foundations upwards.

To conclude that the structure was suitable for use as a dwelling, or that it had already been "built" prior to the Appellants' acquisition, would be artificial and contrary to common sense and inconsistent with the statutory language and the definitions relied upon above.

Section 477C does not require that all construction works forming part of a qualifying residence must have been carried out by the Appellants from the outset. In those circumstances, the Appellants fall within Section 477C, and the refusal of Help to buy relief should be set aside.

The Respondent relies on a strict interpretation of the statute, supported by authorities such as Cape Brandy Syndicate v Inland Revenue Commissioners and Texaco (Ireland) Ltd v Murphy. However, the Respondent simultaneously relies on the perceived intention of the Oireachtas and introduces additional requirements, including that a self-build must be carried out "from start to finish", which do not appear anywhere in Section 477C.

[…]"

Appellant's Oral Submissions

40. The oral submissions made by the Representative on the Appellant's behalf at the hearing, included, among other things:

"They obviously haven't bought this from a registered builder, but rather they have bought a site with, I think what can be explained really is works done, work-in-progress.

So very much we're saying this is a self-build. Part of the work has been done and we do appreciate part of the work has been done, but it's only part of it. It's only about a third has been done.

So it can't be regarded as a built house when they bought it, but rather it was a work-in-progress. It's a site with works that have been commenced.

in terms of the optics, there is an issue I suppose in the general state of things that when you look at the house and particularly the kind of, the state of the house is, from the outside to the naked eye, or the uninformed, the general public, you'd think that, 'oh that to a large extent, the house is built. Sure it's there'.

There is quite a lot of progress made at the initiation stage of a building project in terms of the blocks and quite a lot of work can be done in 12, 15 weeks, but it's really all the *money you spend afterwards when you get on to things like kitchens and fittings and electrics and plumbing, and all those things, your connections, et cetera.*

We come clearly within section 477C. There's no mention either of reading in the idea that so-called -- there's such a concept as a half-built house and if you're in a half-built house you don't qualify.

I feel [the Respondent] *is reading quite a bit into the statute. I don't see any wholly and exclusively test, or any partially built houses, or derelict.*

Okay, granted it wasn't a greenfield site and granted all the building works weren't done by the Appellant, but the Appellant picked up the job and they've completed considerable, both in terms of quantum, in terms of time and in terms of money".

Respondent's Submissions

41. The Commissioner will now summarise the submissions made by the Respondent, both in the written submissions and documentation submitted in advance of the hearing and the oral submissions made at the hearing, as follows:

Respondent's Written Submissions

The Appellant did not build the property used in their application for the scheme and, therefore, the property does not qualify as a self-build residence in accordance with Section 477C of the TCA 1997.

The Appellant bought the property from a private individual; therefore, it is classified as a second-hand dwelling for the purposes of the HTB Scheme.

At no time was the property demolished in whole, in fact, the photographs provided by the Appellant clearly illustrate, the property had the foundations, walls, roof, windows, external doors, internal room layout completed prior to the Appellant purchasing the Property. Furthermore, it has been established the property was constructed to a significant degree, therefore, the Appellant did not build the property.

It is not within the remit of the Respondent to take it upon themselves to invent and exercise a discretion, in matters pertaining to eligibility of the HTB Scheme. The Respondent respectfully submits that this appeal must fail as the Appellant has not demonstrated how the Respondent has misapplied the relevant legislation in respect of their eligibility to the HTB scheme".

Respondent's Oral Submissions

42. At the hearing, in its legal submissions, the Respondent's official stated, among other things:

"In this appeal, it is confirmed that the Appellant purchased a property in [location] *in* [redacted] *2025 from an individual who is not an approved contractor for Help to Buy purposes. In its Outline of Arguments, the Respondent noted, this meant the avenue open to the Appellant to claim Help to Buy was under Section 477C(3)(b) of the TCA 1997, provided they fulfilled the relevant qualifying criteria.*

A literal interpretation is to be applied to the definition of a self-build qualifying residence. By explicitly defining a qualifying self-build residence as a building built, directly or indirectly, by a first-time purchaser on his or her own behalf, the legislation excludes properties partially built, directly or indirectly by, and on behalf of, a party other than a HTB first-time purchaser. Thus, providing that the building must be "built", directly or indirectly, wholly on behalf of the HTB first-time purchaser.

It is clear from the evidence presented that the primary construction in this case was completed by a party other than the Help to Buy first-time purchasers, therefore the building does not fall within the definition of a self-build qualifying residence and the Appellant cannot submit a claim under Section 477C(3)(b).

Additionally, there was no requirement for the Appellant to apply for planning permission in this matter as the property was already built by a third party before 2016. From the evidence submitted it would appear that the Appellant is not making significant structural changes to the property as any significant changes would require planning permission.

The submitted documentation provided confirms that the property was completed to a stage where it could not reasonably be considered to be a self-build property. To label the property as an external shell structure and state that the Appellant's primary motivation was to purchase a site where an external shell structure was also located, does not fall in line with the presented evidence".

Material Facts

43. Having reviewed all the documentation submitted, and having listened to the evidence and submissions at the hearing, the Commissioner makes the following findings of material fact:

43.1. The Property comprises land and a dwelling located at [redacted]

43.2. A third party was granted planning permission for a two-storey residential dwelling on [redacted] by the County Council, with an expiry date of [redacted]

43.3. The Land Registry lists the Original Owner as the owner of the Property for the period [redacted]

43.4. On [redacted], the Original Owner signed a "*Form of Commencement Notice for Development*" with the County Council, confirming construction on the land was due to commence on [redacted].

43.5. The Original Owner (and/or contractors on his behalf) constructed the Property including the foundations, brick walls with external plastering and the roof. The Original Owner also installed the exterior doors and windows rendering the Property watertight. The Original Owner built the internal room layout on the ground floor of the Property and installed the pipework for plumbing purposes underneath concrete flooring. No other internal works were completed by the Original Owner.

43.6. The Property was not occupied by any residents; it was left vacant for in or around [redacted] years and had not been for sale on the open market.

43.7. On [redacted] 2025, the Respondent approved the first stage of the Appellant's HTB application for €30,000, the maximum allowed for the tax rebate.

43.8. The Appellant and her Partner obtained a mortgage loan from the Bank in the amount of [redacted] to be drawn down in three tranches.

43.9. On [redacted] 2025, the Appellant and her Partner purchased the Property from the Original Owner for the value of [redacted] comprising the first tranche of the mortgage loan [redacted] with the balance of €[redacted] being funded by the Appellant and her Partner.

43.10. At the date of purchase by the Appellant and her Partner, the internal works of the Property were incomplete and required works to be undertaken by them. These works included installing internal partitions, ceilings, plasterboard and insulated boards, plastering and skim finishes and internal finishes to complete the internal fit-out.

43.11. The Appellant and her Partner (and in some cases their contractors) also installed electrical and heating systems in the Property. The Appellant and her Partner paid the relevant fees to connect the Property to external water and electricity supplies. The extant plumbing had to be removed as it was deemed unfit for purpose and new plumbing pipework fitted. The internal layouts and internal concrete floor structures required finishing.

43.12. The Appellant and her Partner did not and were not required to obtain planning permission for the works undertaken by them to the Property.

43.13. On [redacted] 2025, the Stamp Duty return that was filed by the Appellant classified the building as a residential building and the residential rate of 1% stamp duty in the sum of [redacted] was paid to the Respondent.

43.14. In [redacted] 2025, when attempting to initiate the claim stage of the HTB process, after having drawn down the first tranche of their mortgage, the Appellant was informed by the Respondent she was unable to do so as the Property had previously been registered for LPT.

43.15. Correspondence was entered into between the parties and the Respondent informed the Appellant she could not proceed to the claim stage of the HTB process as the Property did not constitute a *“qualifying self-build residence”*.

43.16. On 26 September 2025, the Respondent issued a formal decision confirming refusal of the HTB incentive in respect of the Property to the Appellant.

43.17. On 5 October 2025, the Appellant appealed the Respondent’s decision to refuse the Appellant’s HTB claim application, to the Commission.

Analysis

Burden of Proof

44. In an appeal before the Commission the burden of proof rests on the Appellant. The standard of proof applicable is the balance of probabilities. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and the Revenue Commissioners* [2010] IEHC 49 (“*Menolly Homes*”), Charleton J. stated at paragraph 22 that:

> *“The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable”*.

45. In this case, the enquiry is whether the HTB incentive should be granted to the Appellant in respect of the Property. Charleton J. further clarified at paragraph 12 of *Menolly Homes*: *"Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. Tax is not payable unless the circumstances of liability are defined, and the rate measured, by statute […].”*

46. The Court of Appeal confirmed the burden of proof in *JSS & Ors v Tax Appeals Commission* [2025] IECA 96 ("*JSS*"), in which McDonald J. held at paragraph 34 that: "*the taxpayer bears the burden of demonstrating that a tax assessment is wrong.*"

47. However, in *Hanrahan v The Revenue Commissioners* [2024] IECA 113, the Court of Appeal clarified the approach to the application of the burden of proof where an appeal relates to the interpretation of law only, expressing at paragraphs 97-98:

> *"Where the onus of proof lies can be highly relevant in those cases in which evidential matters are at stake…In the present case however, the issue is not one of ascertaining the facts; the facts themselves are as found in the case stated. The issue here is one of law;....Ultimately when an Appeal Commissioner is asked to apply the law to the agreed facts, the Appeal Commissioner's correct application of the law requires an objective assessment of what the law is and cannot be swayed by a consideration of who bears the burden. If the interpretation of the law is at issue, the Appeal Commissioner must apply any judicial precedent interpreting that provision and in the absence of precedent, apply the appropriate canons of construction, when seeking to achieve the correct interpretation".*

Statutory Interpretation

48. The current appeal presents a net issue of statutory interpretation, the issue is one of law and the Commissioner must therefore *"apply the appropriate canons of construction, when seeking to achieve the correct interpretation*". Thus the Commissioner considers it appropriate for this to determination to set out the well-established principles of statutory interpretation insofar as these apply to section 477C TCA 1997 and the HTB scheme.

49. McDonald J. in the High Court case of *Perrigo Pharma International Designated Activity Company v McNamara, the Revenue Commissioners, the Minister for Finance, Ireland and the Attorney General* [2020] IEHC 552 ("*Perrigo"*) considered the recent jurisprudence and summarised the fundamental principles of statutory interpretation at paragraph 74, as follows:

> *"The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in Dunnes Stores v The Revenue Commissioners [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in Bookfinders Ltd v The Revenue Commissioner [2020] IESC 60. Based on the judgment of McKechnie J. [in Dunnes Stores v The Revenue Commissioners [2019] IESC 50, the relevant principles can be summarised as follows:*

(a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;

(b) Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that:

"[…] context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that";

(c) Where the meaning is not clear but is imprecise or ambiguous, further rules of construction come into play. In such circumstances, a purposive interpretation is permissible;

(d) Whatever approach is taken, each word or phrase used in the statute should be given a meaning as it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning.

(e) In the case of taxation statutes, if there is ambiguity in a statutory provision, the word should be construed strictly so as to prevent a fresh imposition of liability from being created unfairly by the use of oblique or slack language;

(f) Nonetheless, even in the case of a taxation statute, if a literal interpretation of the provision would lead to an absurdity (in the sense of failing to reflect what otherwise is the true intention of the legislature apparent from the Act as a whole) then a literal interpretation will be rejected.

(g) Although the issue did not arise in Dunnes Stores v. The Revenue Commissioners [2019] IESC 50, there is one further principle which must be borne in mind in the context of taxation statute. That relates to provisions which provide for relief or exemption from taxation. This was addressed by the Supreme Court in Revenue Commissioners v Doorley [1933] I.R. 750 where Kennedy C.J. said at p. 766:

> *"Now the exemption from tax, with which we are immediately concerned, is governed by the same considerations. If it is clear that a tax is imposed by the Act under consideration, then exemption from that tax must be given expressly and in clear and unambiguous terms, within the letter of the statute as interpreted with the assistance of the ordinary canons for the interpretation of statutes. This arises from the nature of the subject-matter under consideration and is complementary to what I have already said in its regard. The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their*

> *operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason, from the burden of a tax thereby imposed generally on that description of subject-matter. As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as possible".*"

50. The Commissioner considers the more recent Supreme Court decision of *Heather Hill Management Company CLG & McGoldrick v An Bord Pleanála, Burkeway Homes Limited and the Attorney General* [2022] IESC 43 ("*Heather Hill*") also to be relevant to the principles to be applied to statutory interpretation. At paragraph 73, Murray J. in *A,B,C v Minister for Foreign Affairs and Trade* [2023] IESC 10 put it thus:

> *"the cases – considered most recently in the decision of this court in Heather Hill ... – have put beyond doubt that language, context and purpose are potentially in play in every exercise in statutory interpretation, none ever operating to the complete exclusion of the other. The starting point in the construction of a statute is the language used in the provision under consideration, but the words used in that section must still be construed having regard to the relationship of the provision in question to the statute as a whole, the location of the statute in the legal context in which it was enacted, and the connection between those words, the whole Act, that context, and the discernible objective of the statute. The court must thus ascertain the meaning of the section by reference to its language, place, function and context, the plain and ordinary meaning of the language being the predominant factor in identifying the effect of the provision but the others always being potentially relevant to elucidating, expanding, contracting or contextualising the apparent meaning of those words."*

51. At paragraph 108 of *Heather Hill* Murray J. stated: *"[…] the literal and purposive approaches to statutory interpretation are not hermetically sealed"*.

52. The approach to statutory interpretation as set down in *Perrigo* is authoritative. The judgment provides a framework for interpreting tax legislation.

HTB Scheme

53. The HTB scheme is designed to help first-time buyers acquire the deposit necessary to buy a newly built home or self-build a home and to incentivise developers to build more houses and apartments. On 21 April 2026; in response to a recent Parliamentary Question (Number 324) posed by Deputy John Connolly, regarding the HTB scheme, the Tánaiste and Minister for Finance stated: "*The Help to Buy (HTB) incentive, provided for in section 477C of the Taxes Consolidation Act 1997 (TCA), is a tax-based scheme to*

assist first-time purchasers with the deposit they need to buy or build a new house or apartment. It also aims to encourage additional supply of new houses by supporting demand".

54. The Commissioner has considered whether the Property constitutes a qualifying residence or a self-build qualifying residence for purposes of the HTB scheme.

Qualifying Residence

55. First, section 477C(1) TCA 1997 defines a "*qualifying residence*" as:

    (a) a "n*ew building which was not, at any time, used, or suitable for use, as a dwelling,*

    (b) *a building which was not, at any time, in whole or in part, used, or suitable for use, as a dwelling and which has been converted for use as a dwelling*".

56. It is not disputed by the Parties that section 477C(1)(a) TCA 1997 is not applicable as the Property is not a *"new building"*. The Commissioner has then considered section 477C(1)(b) TCA 1997 being "*a building which was not, at any time, in whole or in part, used, or suitable for use, as a dwelling and which has been converted for use as a dwelling*".

57. A significant portion of the Appellant's submissions and evidence furnished were based on the assertion that the Property was not suitable for habitation at the date of the Appellant's acquisition of the Property. The letter issued by the Quantity Building Surveyor included; *"I further confirm significant fit out and completion works are currently being carried out on the property, to bring the dwelling up to a habitable standard.*"

58. The Respondent at the hearing accepted that the Property was not habitable on the acquisition date in [redacted] 2025. It is therefore common case between the parties that prior to the acquisition by the Appellant and her Partner on [redacted] 2025, the Property had not been occupied or used as a dwelling and was not suitable for use as a dwelling. The Commissioner agrees with this characterisation based on a review of the adduced photographic and expert evidence.

59. The Commissioner accepts that the Property may meet the definition of a "*qualifying residence*" per section 477C(1)(b) TCA 1997 when viewed in isolation. However, the Commissioner observes that section 477C(3)(a) TCA 1997, outlines a further requirement in order for a claimant to qualify for payment of the HTB incentive in relation to a *"qualifying residence"* whereby *"Where an individual has, in the qualifying period […] entered into a contract with a* ***qualifying contractor*** *for the purchase by that individual of a qualifying residence,* ***that is <u>not</u> a self-build qualifying residence, […]*** *that*

*individual may make a claim for an appropriate payment [*being the current maximum of €30,000 HTB relief]". [Emphasis added]

60. As a consequence, in addition to the requirement that a property must be deemed a "*qualifying residence*", in order to obtain the HTB scheme payment, the qualifying residence must also be purchased from a "*qualifying contractor*", among other conditions. A qualifying contactor must be registered with the Respondent as such and is obliged to fulfil certain obligations, as laid down in section 477C(2) TCA 1997 (outlined above). The Appellant confirmed at the hearing the Original Owner was not a qualifying contractor.

61. The Commissioner notes that the Appellant's focus in her submissions on the Property not being habitable at the time of her acquisition in [redacted] 2025, seeks to sever a portion of the HTB provision and isolate a particular element amenable to the Appellant's appeal, however such an interpretation renders the provision inconsistent with the remainder of the statute and its wider context. The Appellant also falls foul of section 477C(3)(a) TCA 1997 on the basis that this section only applies to a qualifying residence which is not a self-build qualifying residence, which the Appellant has maintained.

62. Hence, section 477C(3)(a) TCA 1997 is not applicable to the specific circumstances of this appeal and cannot be relied upon by the Appellant to contend she was entitled to the HTB scheme payment.

Self-build Qualifying Residence

63. The Commissioner has next considered section 477C(1) TCA 1997 which defines a "s*elf-build qualifying residence*" as a "*qualifying residence*" (as previously defined above), which is "*built, directly or indirectly, by a first-time purchaser on his or her own behalf*". This statutory definition is the crux of the issue in this appeal.

64. In terms of receiving the HTB incentive, section 477C(3)(b) TCA 1997 provides that an individual may claim a payment, "*Where an individual has, in the qualifying period, drawn down the first tranche of a qualifying loan in respect of that individual's **self-build qualifying residence**, that individual may make a claim for an appropriate payment (being the current maximum of €30,000 HTB relief)".* [Emphasis added]

65. The Appellant sought to claim the HTB payment following the draw down of the first tranche of her mortgage loan and it is at this point that the dispute central to this appeal arose.

66. On the one hand, it is the Appellant's position that she and her Partner satisfied the conditions of section 477C(1) TCA 1997 and that they had both directly and indirectly built the Property on their own behalf. This assertion is on the basis that from their perspective,

when the Property was acquired by them on [redacted] 2025, while an "*external shell and core*" had been built, the Property in their view was only "*a third built*" and required significant works in order to render it habitable and complete.

67. The Appellant has sought to prove that significant works have been undertaken by the Appellant and her Partner. The Appellant maintains these works were undertaken directly and indirectly on her own behalf, as she and her Partner have engaged tradespeople and directed them in the carrying out of specific works. The key element which requires consideration by the Commissioner is the Appellant's argument that such works constitute building the Property within the meaning of the statutory definition and that accordingly she is entitled to the HTB scheme.

68. The Appellant's Representative argued that the Respondent has taken an overly strict interpretation of the statute, asserting in his legal submissions: "*A strict interpretation must be confined to the wording of the statute itself. Section 477C does not impose any requirement that a dwelling be wholly constructed by the first-time purchaser, nor that it be built from foundation stage onwards. The Respondent's interpretation therefore adds a requirement that the building must be constructed entirely by the first-time purchaser from foundation stage onwards. No such requirement appears in the legislation. If the Oireachtas had intended to impose such a restriction, it could have done so expressly but did not. In those circumstances, the Respondent's interpretation introduces limitations which are not contained in the statute and is inconsistent with the principles of statutory interpretation on which it relies*".

69. However, on the other hand, the Respondent's position was that the Appellant did not build the Property on the basis that the foundations, block work, external plastering and roof had been constructed with exterior doors, windows and cavity insulation installed by the Original Owner and the Property rendered watertight in or around [redacted] prior to the Appellant and her Partner acquiring the Property. The Respondent argues that the Appellant's works to the Property do not constitute the self-build of a qualifying residence for the purposes of satisfying the statutory test.

70. On that basis, the Respondent submitted: "*Furthermore, it has been established the property was constructed to a significant degree, therefore, the Appellant did not build the property*". The Respondent therefore contends that the Appellant's work to the Property did not constitute the self-build of a qualifying residence within the meaning of the statutory provision.

71. The Commissioner is satisfied that the wording of the HTB legislation, and, in particular, the specific wording laid out in the definition of "*self-build qualifying residence*", is plain

and its meaning self-evident and such words should be granted their ordinary, basic and natural meaning. The Commissioner concludes that there is no ambiguity in the wording of the statute and a literal interpretation of the wording of the provision does not lead to an absurdity in accordance with McDonald J.'s test set out in paragraph 74, subparagraphs (a), (e) and (f) of *Perrigo.*

72. The Commissioner notes that the valuation report dated [redacted] 2025 which had been completed in the context of the Appellant's mortgage application stated that the house was [redacted] years old, was completed to first fix stage; the walls, windows and roof were reported as being in "*good condition"* whilst the general condition, external decoration and internal decoration were assessed as being in "*poor"* condition. The Commissioner has also considered the statement signed by the Original Owner dated [redacted] 2026, which recorded which works were completed at the date of acquisition by the Appellant and her Partner and the list of outstanding works on that date.

73. Further, by the Appellant's own evidence, the works which remained outstanding in [redacted] 2025 were the installation of electrical wiring, the updating of the plumbing, installation of a heating system, the laying out of the upstairs rooms, the installation of the kitchen and bathroom sanitary wares. The Appellant contends that she carried out substantial works stating, "*there is quite a lot of progress made at the initiation stage of a building project in terms of the blocks and quite a lot of work can be done in 12, 15 weeks but it's really all the money you spend afterwards when you get on to things like kitchens and fittings and electrics and plumbing, and all those things, your connections, et cetera.*"

74. The Commissioner accepts from the evidence that the recent works were completed on the Appellant's own behalf both directly and indirectly, however from reviewing the photographs and details of such works, these works do not involve the "erection" of a static structure in accordance with the Oxford English Dictionary definition of "build". Furthermore, the Appellant was not required to obtain any planning permission for such works.

75. While the Appellant has presented detailed arguments for adopting a broad interpretation of the language in the statute, the Commissioner is satisfied that by applying the plain and ordinary meaning of the words used in section 477C TCA 1997, it is evident that it was the Original Owner who erected a permanent static structure and the Property was therefore already built, within the meaning of the provisions, by the Original Owner in or around [redacted]

76. It is also clear and unambiguous, that as the Original Owner built the Property on his own behalf which means for his own benefit or own interests, it cannot be said that it was

constructed on behalf of the Appellant. The meaning of the words "*on his or her own behalf*" set out in section 477C(1) TCA 1997 is clear, plain and self-evident, they are precise and do not allow for ambiguity. The Commissioner notes that the Appellant would have been approximately [redacted] years old at the time of the construction works in or around [redacted] and from her own oral evidence she did not personally know the Original Owner.

77. As noted by McDonald J. at paragraph 74 of *Perrigo,* subparagraph (b); *"context is critical: both immediate and proximate".* The context of the HTB scheme is clear, the tax incentive scheme was established to assist first-time purchasers with obtaining a deposit to buy or self-build a new house or apartment. Furthermore, the HTB incentive, similarly to tax exemptions, must be construed strictly as outlined in subparagraph (g) of paragraph 74 of *Perrigo*, where McDonald J. cited Kennedy C.J. in *Revenue Commissioners v Doorley* [1933] I.R. 750 at page 766:

"The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, excepts for some good reason, from the burden of a tax thereby imposed generally on that description of subject-matter".

78. The Commissioner notes the HTB incentive is not available for first time purchasers of second-hand dwellings and cannot be used to renovate an existing dwelling. The HTB scheme is not an incentive for every property purchase, by any purchaser, of any type of property. There are constraints included in the statute as a whole including the various conditions required to be satisfied and in the use of the words of limitation being "*built directly or indirectly on his or her own behalf*" which indicates that the intention of the legislators was to limit the eligibility for the HTB incentive.

79. To construe any other broader meaning to the words in the legislation, as argued for by the Appellant, would be to read words into the statute which are not to be found there. McDonald J. in subparagraph (d) of paragraph 74 of *Perrigo* is unequivocal; "*it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning"*. The relevant part of the statute does not include conditional wording for example such as wholly, partially or substantially built and therefore these qualifying adjectives cannot be inserted or read into the statute.

80. The literal and purposive interpretations of the words used in section 477C of the TCA 1997 do not lead to an absurdity. The Appellant has failed to identify any convincing argument based upon the legislative wording or context that would displace the literal construction of the wording of the HTB legislation. The Commissioner does not agree that the broader approach of the statute advanced on the Appellant's behalf is "*decisively*

probative of an alternative construction that is itself capable of being accommodated within the statutory language" per Heather Hill.

81. As a result of the above and having considered all the evidence adduced at the hearing, the written submissions and documentation furnished, the Commissioner is satisfied the initial construction of the Property in or around [redacted] constituted the building of a residential property, which was undertaken by the Original Owner on his own behalf, and the Property was not built directly or indirectly on behalf of the Appellant. It is evident therefore that the Property cannot fall within the definition of a "*self-build qualifying residence"* being a property built directly or indirectly on the Appellant's own behalf and therefore the Appellant cannot be eligible for the HTB scheme in respect of this Property.

82. For completeness, the Commissioner has not examined whether the Appellant has met all of the other conditions of the HTB scheme on the basis that the Property does not satisfy this fundamental, preliminary condition of the requirements of the scheme.

83. The Respondent was correct in not granting the Appellant the HTB incentive in accordance with Section 477C TCA 1997 on the basis the Property was not built by the Appellant or on her behalf and its decision not to grant such relief on [redacted] 2025 still stands.

84. The Commissioner has every sympathy for the Appellant in this instance and acknowledges the personal circumstances arising resulting in the HTB application in relation to this Property. The Commissioner appreciates that this decision will be very disappointing for the Appellant and her Partner.

Determination

85. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in demonstrating that the Respondent was incorrect to refuse the Appellant the HTB incentive in the amount of €30,000, in accordance with section 477C TCA 1997.

86. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

87. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section

949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997.

88. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

89. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

Róisín Jordan
Appeal Commissioner
7 July 2026

The Tax Appeals Commission has been requested to state and sign a case for the opinion of the High Court in respect of this determination, pursuant to the provisions of Chapter 6 of Part 40A of the Taxes Consolidation Act 1997.