



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

Between

34TACD2026

[REDACTED]

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**Determination**

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## **Introduction**

1. This determination concerns an appeal to the Tax Appeals Commission (“the Commission”) by the Appellant against a determination of the Respondent that she is a liable person for local property tax (“LPT”) in respect of a property with property ID [REDACTED] (“the Subject Property”) for the tax years 2017 to 2020 inclusive (“the Relevant Years”).
2. The appeal proceeded by way of a remote hearing held in private.

## **Background**

3. LPT is an annual tax on residential property situated in the State. It is payable by the liable person or persons, as defined in the Finance (Local Property Tax) Act 2012, as amended (“the LPT Act”), in relation to the property.
4. By way of correspondence dated 11 March 2025, the Respondent notified the Appellant that it had determined that she is a liable person for LPT in respect of the Subject Property for the Relevant Years.
5. The Appellant disputes the Respondent’s position and contends that her former husband bears sole liability for the LPT in question.
6. The Appellant appealed to the Commission on 13 March 2025.
7. The Appellant submitted a notice of appeal and accompanying documentation in support of her appeal. Each party provided a statement of case, and the Respondent submitted an outline of arguments.

## **Legislation**

8. The legislation relevant to the substantive issue in this appeal, as in force on the liability dates for the Relevant Years, is set out below.
9. Section 2 of the LPT Act states, among other things, that:

*“In this Act -*

*...*

*‘liability date’ means -*

*(a) 1 May 2013, in respect of the year 2013*

*(b) in respect of any other year, 1 November in the preceding year*

[...]"

10. Section 11(1) of the LPT Act provides as follows:

*"Subject to the provisions of this section, a person who holds any estate, interest or right in a relevant residential property entitling the person to -*

- (a) the immediate possession of such property for a period that may equal or exceed 20 years, or*
- (b) the receipt of rents or profits of such property for a period that may equal or exceed 20 years,*

*shall, for the purposes of this Act, be a liable person in relation to that property."*

11. Section 11(2) of the LPT Act provides as follows:

*"If -*

- (a) 2 or more persons each have an equal estate, interest or right in a relevant residential property that entitles each of them to the possession or receipt referred to in subsection (1)(a) or (b), all of those persons shall, for the purposes of this Act, be liable persons in relation to that property, or*
- (b) 2 or more persons have unequal estates, interests or rights in relevant residential property, such or so many of those persons as have an estate, interest or right in the property that, as against the estate, interest or right of the other or others, is the minimum estate, interest or right giving rise, in the circumstances, to an entitlement to the possession or receipt referred to in subsection (1)(a) or (b) shall, for the purposes of this Act, be the liable person or persons in relation to that property."*

## **Evidence and Submissions**

### *Appellant's oral evidence*

- 12. The Appellant gave sworn oral testimony on factual matters at the hearing.
- 13. The oral evidence given by the Appellant was consistent with the information contained in her notice of appeal and statement of case, extracts of which are reproduced below.
- 14. In oral submissions, the Appellant also stated, among other things, that "... *I don't have, per se, a legal argument to make. I have a moral argument to make on the whole thing.*", contending that her former husband bears sole liability for the LPT at issue as "[he] is the

one who was living in the house, [REDACTED]

*Appellant's submissions*

15. The Appellant's notice of appeal and statement of case contained similar information, with her statement of case providing additional detail. For brevity, the Appeal Commissioner ("the Commissioner") has included only extracts of the Appellant's statement of case.
16. In her statement of case, the Appellant submitted, among other things, as follows:

*"I dispute the [LPT] charge ... which [the Respondent has] attributed to me in respect of [the Subject Property] for [the Relevant Years].*

*While I acknowledge that my name was on the title deed during that time, I must emphasize that I was not the owner of [the Subject Property], nor did I have possession or control of it, and therefore I do not accept liability for the LPT for those years. I provide the following facts in support of my position:*

*1. Ownership and Mortgage Background:*

*[The Subject Property] was purchased in 2013 in my sole name [REDACTED], despite it being acquired during my marriage to [the Appellant's former spouse]. While the title and mortgage were in my name, [REDACTED]*

*2. Separation and Judicial Orders:*

*[The Appellant's former spouse] and I separated and filed for judicial separation in [REDACTED] 2015. [REDACTED]*

*3. Unlawful Occupation by [the Appellant's former spouse]:*

*After I secured vacant possession and listed [the Subject Property] for sale, [the Appellant's former spouse] unlawfully entered [the Subject Property] by changing the locks without my knowledge or consent or indeed that of the Court. Despite a court order dated [REDACTED] 2017 directing him to facilitate property viewings, he obstructed the sale process entirely. On [REDACTED] 2018, the Circuit Court found that [the Appellant's former spouse] would not comply with orders [REDACTED], while*



*[The Appellant's former spouse] has been residing in [the Subject Property] continuously since 2017 and has, for all intents and purposes, had full control and benefit of [the Subject Property] since our separation. He has been solely responsible for all expenses arising from [the Subject Property] during this period, [REDACTED]. It is both unreasonable and unjust to hold me liable for the LPT on a home I neither occupied nor benefited from in any way for over eight years.*

*Furthermore, [the Respondent] has already been furnished with the relevant legal documents and correspondence from my solicitor, clearly outlining that [the Appellant's former spouse] should be held accountable for the LPT as the de facto and de jure occupant and responsible party. Despite this, I have been subjected to repeated demands and undue stress, which I believe are both unfair and misplaced. [REDACTED]*

*[REDACTED], but that should not shift the burden of responsibility onto me for a matter over which I had no control or benefit. I respectfully request that my position be formally recognised and that any LPT liability be reassigned accordingly to [the Appellant's former spouse]. I trust that [the Commission] will act fairly and in accordance with the information provided."*

#### *Respondent's oral evidence*

17. Katie O'Riordan ("the Respondent's Witness"), an officer of the Respondent, gave sworn oral testimony at the hearing.
18. During examination-in-chief, the Respondent's Witness stated that she was familiar with matters relating to the LPT position regarding the Subject Property. She confirmed that it was the Respondent's understanding that the Appellant did not occupy the Subject Property during the Relevant Years.
19. Counsel for the Respondent opened and referred the Respondent's Witness to the Subject Property's Folio and the stamp duty return relating to the transfer of the Subject Property from the Appellant to her former husband. She was also questioned in relation to documents concerning the Appellant's separation and divorce from her former husband, which had been agreed for use at the hearing.
20. The authenticity and contents of the documents referred to in the preceding paragraph were not disputed by the Appellant, some of which had been provided by the Appellant in the first instance.

*Respondent's submissions*

21. The Respondent's position is that Appellant is a liable person for LPT in respect of the Subject Property for the Relevant Years, on the basis that she was the legal owner of that property on the liability dates for those years. This remains the position regardless of who occupied the Subject Property and irrespective of any orders made by the Circuit Family Court.

**Material Facts**

22. Having considered the documentation submitted, and having heard the evidence and the submissions of the parties at the hearing, the Commissioner makes the following findings of material fact:
  - 22.1. The Subject Property is a residential property.
  - 22.2. The Appellant purchased the Subject Property in 2013.
  - 22.3. The Appellant acquired the Subject Property for rental purposes.
  - 22.4. The Appellant's former husband became the owner of the Subject Property in 2025.
  - 22.5. The Subject Property is registered with the Land Registry on folio [REDACTED] ("the Subject Property's Folio").
  - 22.6. In part two of the Subject Property's Folio, it is recorded that the Appellant was registered as the full owner with absolute title of the Subject Property from [REDACTED] 2013 until [REDACTED] 2025, at which point the Appellant's former husband was registered as the full owner with absolute title of the Subject Property.
  - 22.7. The Appellant and former husband entered into marriage in [REDACTED].
  - 22.8. Over time, their marriage deteriorated. The Circuit Family Court granted a decree of judicial separation on [REDACTED] 2017 and a decree of divorce on [REDACTED] 2019.
  - 22.9. On [REDACTED] 2018, the Circuit Family Court ordered that the Appellant transfer her legal and beneficial interest in the Subject Property to her former husband. [REDACTED]  
[REDACTED]
  - 22.10. On [REDACTED] 2019, the Circuit Family Court ordered that the Appellant transfer her legal and beneficial interest in the Subject Property to her former

husband for his sole use and benefit. [REDACTED]  
[REDACTED]

22.11. The Appellant has never resided in the Subject Property.

22.12. The Appellant's former husband has resided in the Subject Property since in or around [REDACTED] 2017.

22.13. By way of correspondence dated 11 March 2025, the Respondent notified the Appellant that it had determined that she is a liable person for LPT in respect of the Subject Property for the Relevant Years.

## Analysis

### *Burden of proof*

23. The burden of proof in this appeal rests on the Appellant to establish that the Respondent erred in determining that she is a liable person for LPT for the Relevant Years in respect of the Subject Property.

24. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners and Anor.* [2010] IEHC 49 ("*Menolly Homes*"), Charleton J. stated at paragraph 22, among other things, 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."*

25. Additionally, in *Hanrahan v The Revenue Commissioners* [2024] IECA 113 ("*Hanrahan*"), the Court of Appeal clarified the approach to the burden of proof where an appeal relates to the interpretation of law only. The court stated, among other things, that:

*"97. Where the onus of proof lies can be highly relevant in those cases in which evidential matters are at stake. ...*

*98. 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. ...”*

26. This appeal concerns the correct interpretation of the legislation governing liable persons for the purposes of LPT, and its application to the facts of this appeal.

27. The standard of proof applicable in this appeal is the balance of probabilities.

*The Commissioner’s jurisdiction*

28. The Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. It is independent of the Respondent.

29. As a statutory body, the Commission only has the powers that have been granted to it by the Oireachtas. The powers of the Commission to hear and determine tax appeals are set out in Part 40A of the Taxes Consolidation Act, 1997, as amended (“the TCA 1997”).

30. The Commission’s jurisdiction was considered by the Court of Appeal in the case of *Lee v Revenue Commissioners* [2021] IECA 18 (“*Lee*”), in which Murray J. stated at paragraph 20, among other things, that:

*“The Appeal Commissioners are a creature of statute, their functions are limited to those conferred by [the TCA 1997], and they enjoy neither an inherent power of any kind, nor a general jurisdiction to enquire into the legal validity of any particular assessment. Insofar as they are said to enjoy any identified function, it must be either rooted in the express language of [the TCA 1997] or must arise by necessary implication from the terms of that legislation.”*

31. The Commissioner refers further to *Lee*, wherein Murray J. stated at paragraph 76:

*“The jurisdiction of the Appeal Commissioners ... under those provisions of [the TCA 1997] in force at the time of the events giving rise to these proceedings and relevant to this appeal ... is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of [the TCA 1997]. That means that the Commissioners are restricted to inquiring into, and making findings as to, those issues of fact and law that are relevant to the statutory charge to tax. Their essential function is to look at the facts and statutes and see if the assessment has been properly prepared in accordance with those statutes. They may make findings of fact and law that are incidental to that inquiry. Noting the possibility that other provisions of [the TCA 1997] may confer a broader jurisdiction and the requirements that may arise under European Law in a particular case, they do not in*

*an appeal of the kind in issue in this case enjoy the jurisdiction to make findings in relation to matters that are not directly relevant to that remit, and do not accordingly have the power to adjudicate upon whether a liability the subject of an assessment has been compromised, or whether [the Respondent is] precluded by legitimate expectation or estoppel from enforcing such a liability by assessment, or whether [the Respondent has] acted in connection with the issuing or formulation of the assessment in a manner that would, if adjudicated upon by the High Court in proceedings seeking Judicial Review of that assessment, render it invalid.”*

32. While *Lee* concerned assessments raised before the enactment of the Finance (Tax Appeals) Act 2015, and the statutory analysis was therefore based on the older legislation, Part 40 of the TCA 1997, the overarching analysis of Murray J. is applicable to Part 40A of the TCA 1997.

33. It follows from the judgment in *Lee* that the Commissioner does not have jurisdiction to adjudicate upon, among other things, allegations of unfairness in this appeal. The Commissioner has no equitable power or wider discretion to disapply statutory provisions.

34. It is also useful to cite paragraph 12 of the judgment of Charleton J. in *Menolly Homes*, as follows:

*“Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. ...”*

35. In this appeal, the Commissioner’s role is to consider whether the Appellant is a liable person for LPT in respect of the Subject Property for the Relevant Years, in accordance with the provisions of the LPT Act.

#### *Substantive issue*

36. The Commissioner recognises the personal and sensitive nature of the matters described in this appeal, and he wishes to acknowledge the Appellant’s engagement with the process.

37. There is no dispute between the parties concerning whether the Subject Property comes within the charge to LPT, its valuation or the quantum of LPT.

38. This appeal concerns whether the Appellant is a liable person for LPT for the Relevant Years in respect of the Subject Property. This constitutes the sole matter under appeal and issue for determination.

39. In considering the substantive issue in this appeal, consistent with the judgment in *Hanrahan*, the Commissioner is required to apply the appropriate canons of construction in interpreting the relevant legislative provisions governing liable persons for the purposes of LPT.
40. It is clear from the line of recent authority, including the Supreme Court judgments in *The People (DPP) v. Brown* [2018] IESC 67 (“*Brown*”), *Dunnes Stores v. The Revenue Commissioners* [2019] IESC 50 (“*Dunnes*”), *Bookfinders Ltd. v. The Revenue Commissioners* [2020] IESC 60 (“*Bookfinders*”), *Heather Hill Management Company CLG and Anor. v An Bord Pleanála* [2022] IESC 43 (“*Heather Hill*”) and *Hanrahan*, that the starting point of an interpretative exercise in an appeal of this nature is to consider the ordinary and natural meaning of the wording of the statute itself, viewed in context.
41. Applying the principles of statutory interpretation enunciated in *Brown*, *Dunnes*, *Bookfinders* and *Heather Hill*, the Commissioner is satisfied that no further rules of interpretation are required; the wording of the relevant provisions is plain and self-evident, viewed in context.
42. In accordance with section 2 of the LPT Act, the liability dates in respect of the Relevant Years are 1 November 2016, 1 November 2017, 1 November 2018 and 1 November 2019.
43. The liability for LPT may be borne by one or more persons depending on their connection to the property on a liability date.
44. Section 11(1) of the LPT Act provides, among other things, that “[s]ubject to the provisions of this section, a person who holds any estate, interest or right in a relevant residential property entitling the person to ... the immediate possession of such property for a period that may equal or exceed 20 years ... shall, for the purposes of [the LPT Act], be a liable person in relation to that property.”
45. As the Appellant was the full owner with absolute title of the Subject Property on each of the liability dates in respect of the Relevant Years, the Commissioner is satisfied that the Appellant’s connection to the Subject Property entitled her to the immediate possession of that property for a period equal to or exceeding 20 years.
46. That conclusion does not of itself establish that the Appellant is a liable person, as section 11(1) of the LPT Act requires that the remaining provisions of section 11 of the LPT Act be considered.

47. Having regard to those provisions, it is noted that section 11(2)(b) of the LPT Act provides that where two or more persons have “*unequal estates, interests or rights*” in a relevant residential property, the person or persons with “*the minimum estate, interest or right giving rise, in the circumstances, to an entitlement to the possession or receipt referred to in subsection (1)(a) or (b) shall ... be the liable person or persons in relation to that property.*”
48. In the present case, the Commissioner is satisfied that no other person, including the Appellant’s former husband, held an estate, interest or right in the Subject Property entitling them to the immediate possession or the receipt of rent or profits of that property for a period equal to or exceeding 20 years on any of the liability dates in respect of the Relevant Years. Accordingly, section 11(2)(b) of the LPT Act does not provide a basis to hold a person other than the Appellant as the liable person. This remains the position notwithstanding the orders made by the Circuit Family Court.
49. Having considered the remaining provisions of section 11 of the LPT Act, the Commissioner is satisfied that they do not have the effect of displacing the Appellant as a liable person.
50. Therefore, the Commissioner is satisfied that the Appellant is a liable person for LPT for the Relevant Years in respect of the Subject Property, in accordance with section 11(1) of the LPT Act. Consequently, it follows that the appeal cannot succeed.
51. The Commissioner recognises that the Appellant’s circumstances are unfortunate. However, the Commissioner’s jurisdiction is limited to considering and applying tax law, and he has no equitable power or wider discretion to disapply statutory provisions on the ground that he sympathises with an appellant’s personal circumstances. In that respect, it is noted that section 11 of the LPT Act affords no discretion to the Commissioner.
52. Having regard to the submissions of the parties, it is appropriate to note that orders made by the Circuit Family Court, [REDACTED] cannot override the provisions of the LPT Act in relation to holding an estate, interest or right in a property.
53. [REDACTED]

## Determination

54. Having considered the evidence adduced and all the material submitted by the parties, for the reasons set out above, the Commissioner is satisfied that the Appellant is a liable person for LPT for the Relevant Years in respect of the Subject Property.
55. The Respondent's determination of 11 March 2025 shall stand.
56. This appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AL. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.
57. The Commissioner recognises that this determination may be disappointing for the Appellant and is empathetic to the personal circumstances described on appeal. The Commissioner is, however, bound to apply the provisions of the legislation.

## Notification

58. 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. 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

59. 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.



Conor Walsh  
Appeal Commissioner  
5 February 2026