AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

35TACD2026

Between

[redacted]

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**Determination**

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## Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") brought by the Appellant under sections 477C(20) and section 949I of the Taxes Consolidation Act 1997 ("the TCA 1997") in relation to a Notice of Assessment to income tax issued by the Revenue Commissioners ("the Respondent") on 27 February 2024.

2. The appeal proceeded by way of a hearing on 10 July 2025. The Appellant represented himself and the Respondent was represented by two of its officials.

## Background

3. The Help to Buy Scheme ("the HTB") is designed to help first-time buyers purchase or self-build a property to live in as their home. It does this by providing refunds of income tax and deposit interest retention tax to claimants. Any such claims are repayable to the Respondent if it is the case that the eligibility conditions were not satisfied.

4. The Appellant and his spouse are jointly assessed to tax. In 2021, they claimed a payment under the HTB in respect of a property [redacted] ("the Property"). They received a payment of €15,000 under the HTB in the same year. For the purposes of this Determination, the Commissioner will refer to the claim by the Appellant and his spouse as the Appellant's claim.

5. In 2023, the Respondent conducted a review of the Appellant's claim. Following the review, on 27 February 2024, the Respondent issued the Appellant with a Notice of Assessment to income tax in the amount of €15,000 in respect of the year of assessment 2021, under section 477C(20) of the TCA 1997 ("the Assessment"). The Respondent also imposed a penalty.

6. On 1 March 2024, the Appellant submitted a Notice of Appeal to the Commission and enclosed supporting documentation.

7. On 15 April 2024, the Respondent objected to the making of this appeal, under section 949L of the TCA 1997, on the grounds that the Appellant had repaid the amount of HTB with interest and had therefore accepted the Respondent's decision, while the penalty was a matter for the Courts. However, the Commission did not agree that the Appellant's repayment of the assessed amount prevented him from appealing the Respondent's decision to recoup that amount. The Commission accepted the appeal.

8. On 25 and 29 August 2024, the Appellant submitted additional documentation and on 27 August 2024, the Respondent submitted a Statement of Case. On 15 October 2024, the

Appellant submitted pre-hearing documentation and on 15 November 2024, the Respondent submitted pre-hearing documentation. On 2 and 3 March 2025, the Appellant submitted additional documentation. The Commissioner has considered all the documentation submitted by the parties in this appeal.

9. The hearing of this appeal was initially scheduled for 26 March 2025. It was subsequently postponed [redacted] and rescheduled for 10 July 2025.

**Legislation**

10. The legislation relevant to this appeal is as follows:

11. Section 477C of the TCA 1997 provides (among other things) that:

*"(1) '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;*

*[…]*

*(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).*

*[…]*

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

*[…]*

*(20) (a) Where a person who is liable to pay to the Revenue Commissioners an amount referred to in subsection (17)(b) or paragraph (a), (b), (c) or (d) of subsection (18) fails to pay that amount, a Revenue officer may, at any time, make an assessment or an amended assessment on that person for a year of assessment or accounting period, as the case may be, in an amount that, according to the best of that officer's judgement, ought to be charged on that person.*

*(b) A person aggrieved by an assessment or an amended assessment made on that person under this subsection may appeal the assessment or the amended assessment to the Appeal Commissioners, in accordance with*

*section 949I, within the period of 30 days after the date of the notice of assessment or amended assessment.*

*(c) Where in accordance with paragraph (a), a Revenue officer makes an assessment or an amended assessment on a person in an amount that, according to the best of that officer's judgement, ought to be charged on that person, the amount so charged shall, for the purposes of paragraph (a) and Part 42, be deemed to be tax due and payable in respect of the tax year in which the person is liable to pay the amount involved and shall carry interest as determined in accordance with subsection (2) of section 1080 as if a reference in that subsection to the date when the tax became due and payable were a reference to the date the amount so charged is, under this section, payable to the Revenue Commissioners*."

**Submissions**

*Appellant's Submissions*

12. The Commissioner will now summarise the submissions made by the Appellant, both in the documentation submitted in support of his appeal and at the hearing, as follows:

    12.1. The Appellant and his spouse believe that they qualify for the HTB, as they are first-time buyers of a new build and their loan-to-mortgage ratio exceeds the required 70%.

    12.2. In 2021, the Appellant and his spouse made an enquiry with the Respondent, in which the Appellant referred to an "extension". In fact, they built a semi-detached, end-of-terrace home which is entirely separate from the existing farmhouse. It has its own access, living quarters, sleeping, and sanitation. [redacted] The architect has clarified that his design was for a separate dwelling. The Appellant and his spouse engaged transparently with the Respondent and facilitated a site visit. They obtained legal and tax advice. If they sought a division of the valuation of the Property, a new semi-detached house would most likely cost €220,000 or €200,000, which would show that they exceed the loan-to-value ratio.

    12.3. The Appellant did not hide from the fact that the documentation referred to an "extension", but to all intents and purposes they lived separately with different

sleeping, living, dining and access quarters. The Appellant confirmed that there was no valuation document other than [redacted] valuation report.

*Respondent's Submissions*

13. The Commissioner will now summarise the submissions made by the Respondent, both in the documentation submitted and at the hearing, as follows:

    13.1. On 21 February 2023, the Respondent commenced a review of the Appellant's claim under the HTB. [redacted] valuation dated [redacted] 2020 stated that the Appellant's spouse received the Property as a gift [redacted] and intended to build an extension. The documentation showed that the capital advanced for the works specified in the grant of permission was €194,000, of which €174,600 was advanced between [redacted] 2021 and [redacted] 2022. The valuation placed on the Property to secure the loan was €300,000. Therefore, the loan-to-value ratio is either 64.6 percent (based on the loan acquired) or 58.2 percent (based on €174,600 representing full drawdown). The minimum loan-to-value ratio required to qualify is 70 percent.

    13.2. The Appellant's claim does not meet the requirements of section 477C of the TCA 1997 on three counts: the loan to value ratio was below 70%; the Property is not a new build but an extension to a previous house and all the official documentation refers to an extension; the Appellant was gifted the Property on which they built the extension and was therefore not a first-time buyer. The penalty is a civil matter for the Courts.

**Material Facts**

14. At the hearing, the parties agreed to the following facts. Having read the documentation submitted and heard the oral submissions, the Commissioner accepts these as material facts:

    14.1. On [redacted] 2020, the Appellant and his spouse obtained planning permission which was stated to be for the construction of a new two-storey extension to the Property.

    14.2. On [redacted] 2020, the Property was valued at €300,000 in [redacted] valuation report.

    14.3. On [redacted] 2021, the Appellant and his spouse obtained a mortgage loan from [redacted] ("the Bank") in the amount of €194,000.

14.4. On 15 February 2021, the Appellant and his spouse applied for the HTB in respect of the Property.

14.5. On [redacted] 2021, the Property was transferred by deed to the Appellant's Spouse.

14.6. On 8 March 2021, the Appellant and his spouse claimed a payment under the HTB in the amount of €15,000 in respect of the Property.

14.7. The Commission was not provided with a valuation document in relation to the Property other than [redacted] valuation report dated [redacted] 2020.

15. Having read the documentation submitted and having heard the oral submissions, the Commissioner has also found the following to be material facts:

15.1. On [redacted] 2021, the Bank issued a "Letter of Offer of Mortgage Loan" to the Appellant and his spouse in the amount of €194,000. Under "Part 1 – Particulars of Offer of Mortgage Loan", the "Property Price/Estimated Value of Property" was stated to be €300,000.

15.2. On [redacted] 2021, the Bank issued a letter to the Appellant and his spouse regarding the transfer of the first tranche of the mortgage loan, in which the full amount of the mortgage facility was stated to be €194,000.

15.3. The planning permission was granted on the basis that an extension to the Property was being constructed.

15.4. The Property was valued on the basis that an extension to the Property was being constructed.

**Analysis**

*Scope of Appeal*

16. At the outset, the Commissioner wishes to confirm the scope of this appeal. As noted earlier, the Commission accepted this appeal despite the Respondent's objection. The Commission did so on the basis that the Appellant was entitled to appeal the Respondent's decision to recoup the payment made to him under the HTB. The Respondent also imposed a penalty in the amount of €5,000 under section 1077E of the TCA 1997. Having listened to the Appellant, the Commissioner appreciates that it was important for him to state that he engaged transparently with the Respondent and should not be subject to a penalty. Nonetheless, it is necessary to note that the penalty is not appealable to the Commission. The Commission does not have a general power to hear

appeals into matters where no appeal is authorised. In this case, the Appellant's right of appeal arises under section 477C(20)(b) of the TCA 1997 and relates to the Assessment. The Assessment was made in the amount of the payment made to the Appellant under the HTB, which was €15,000. The Commissioner will proceed to determine this appeal accordingly.

*Burden of Proof*

17. This appeal relates to a Notice of Assessment to income tax issued by the Respondent on 27 February 2024. In an appeal before the Commission, the burden of proof rests on the Appellant. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49, 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".*

18. The Court of Appeal confirmed this position in *JSS & Ors v A Tax Appeal Commissioner* [2025] IECA 96, in which McDonald J stated at paragraph 34 that:

    "*the taxpayer bears the burden of demonstrating that a tax assessment is wrong*."

*Statutory Interpretation*

19. Additionally, in *Hanrahan v The Revenue Commissioners* [2024] IECA 113, the Court of Appeal clarified the approach to the burden of proof where an appeal relates to the interpretation of law only, stating:

    "*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*".

20. This appeal involves consideration of the applicability of section 477C of the TCA 1997 to the facts of the Appellant's case. The Commissioner therefore considers it appropriate to set out well-settled principles of statutory interpretation.

21. The Commissioner adopts the summary of the relevant principles to be applied to statutory interpretation, as set out by McDonald J in *Perrigo Pharma International Designated Activity Company v McNamara, the Revenue Commissioners, the Minister for Finance, Ireland and the Attorney General* [2020] IEHC 552 at paragraph 74:

  "*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., 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, 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*"."

*Loan-to-Value Ratio*

22. The Commissioner will now turn to consider the "loan to value ratio" requirement of the HTB. Section 477C(1) of the TCA 1997 defines "loan to value ratio" as the amount of the qualifying loan as a proportion of the purchase value of the qualifying residence or the self-build qualifying residence. "Qualifying loan" is defined as a loan, which is used by the first-time purchaser wholly and exclusively for the purpose of defraying money employed in the purchase of a qualifying residence, or 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). "Purchase value" in the case of a self-build qualifying residence is defined as "the approved valuation". "Approved valuation" in the case of a self-build qualifying residence is defined as "the valuation of the residence that, <u>at the time the qualifying loan is entered into</u>, is approved by the qualifying lender as being the valuation of the residence" (emphasis added).

23. It follows from the above that the valuation that is relevant for the purposes of the HTB is the valuation at the time the Appellant entered into the mortgage agreement with the Bank.

24. In addition, section 477C(11) of the TCA 1997 provides that the loan-to-value ratio in respect of a claim for the HTB shall not be less than 70 percent. The use of the word "shall" in section 477C(11) indicates an absence of discretion in the application of this provision. The wording of the provision does not provide for extenuating circumstances in which the amount of the loan to value ratio may be reduced.

25. In this appeal, it was undisputed that on [redacted] 2020, [redacted] valuation report valued the Property at €300,000 and that on [redacted] 2021, the Bank issued the Appellant and his spouse with a letter of offer for a mortgage in the amount of €194,000. Furthermore, the Commissioner notes that the documents presented show that in the letter of offer which the Bank issued to the Appellant and his spouse, under "Part 1 – Particulars of Offer of Mortgage Loan", the "Property Price/Estimated Value of Property" was stated to be €300,000. In addition, the Commissioner observes that on [redacted] 2021, the Bank issued a letter to the Appellant and his spouse regarding the transfer of the first tranche of the mortgage loan, in which the full amount of the mortgage facility was stated to be €194,000. The Commissioner has found these to be material facts.

26. Instead, the Appellant submitted that if a division of the valuation of the Property built were obtained, it would comply with the required loan-to-value ratio. In support of this submission, the Appellant pointed to an email from [redacted] dated [redacted] [redacted] 2024 which stated that [redacted] valuation report "*included both of the houses…a division of this valuation can be obtained and most likely reflect the valuation of the new semi detached residence as at little more than cost circa €200,000/€220,000 with the remainder of the valuation referring to the attached farmhouse dwelling being the original farmhouse at circa €80,000/€100,000. On this basis the borrowing on the new semi detached property would be significantly in excess of the 70% required level*".

27. The Commissioner observes that [redacted] did not attend the hearing of this appeal to speak to that email. More fundamentally, however, the Commission was provided with no valuation document in relation to the Property other than [redacted] valuation report dated [redacted] 2020, and no letter of offer of a mortgage loan from the Bank other than the letter dated [redacted] 2021. As a result, the Commissioner is satisfied that the documentation before her shows that the valuation of the residence approved by the Bank at the time the loan was entered into was €300,000, and the amount of the loan was €194,000. The loan-to-value ratio therefore fell below 70% (€300,000/€194,000).

28. Consequently, the Commissioner is satisfied that the Appellant has not succeeded in showing that the Appellant's claim satisfied the loan-to-value ratio of 70%. It follows that the Commissioner finds no basis on which to conclude that the requirements of section 477C(11) of the TCA 1997 were met in this case.

29. Given this finding, the Commissioner determines that the Appellant's claim did not qualify for the HTB under section 477C(11) of the TCA 1997. Accordingly, the appeal does not succeed on that ground alone.

30. Nevertheless, for completeness the Commissioner will also address the Appellant's submission on whether the Appellant's claim was made in respect of a new build.

*Qualifying Residence*

31. Section 477C(3) of the TCA 1997 provides that an individual may claim a payment under the HTB where they have drawn down the first tranche of a "qualifying loan" in respect of their "self-build qualifying residence", subject to satisfying other criteria.

32. Section 477C(1) defines a "qualifying loan" as a loan which is used by the first-time purchaser wholly and exclusively, in the case of a self-build, for the provision of a self-build qualifying residence, is entered into solely between a first-time purchaser and a qualifying lender, and is secured by the mortgage of a freehold or leasehold estate or interest in, or a charge on, a self-build qualifying residence.

33. Section 477C(1) defines a "self-build qualifying residence" as a "qualifying residence" which is built, directly or indirectly, by a first-time purchaser on their own behalf. Section 477C(1) defines "qualifying residence" as a new building which was not, at any time, used, or suitable for use, as a dwelling, or 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. In addition, section 477C(1) provides that in order to be a "qualifying residence", the building must be occupied by the first-time purchaser as their sole or main residence.

34. On the one hand, the Appellant contended that he and his spouse had built a separate and new dwelling. On the other hand, the Respondent contended that the Appellant and his spouse had built an extension to the Property.

35. In considering this matter, the Commissioner has had particular regard to the following. The ███ valuation report of the Property dated ██████████ 2020 stated: "*For the purpose of the valuation we have made a number of assumptions and have relied on certain sources of information which we have assumed to be correct*, *set out below…*███ ████████████████████████████████████████████████ █

.". The planning permission documentation dated 2020 stated that permission was granted: *construct new two storey extension* ". Furthermore, the permission granted was subject to seven conditions, one of which was that: "*the proposed development shall be used solely for purposes incidental to the enjoyment of the main dwellinghouse*".

36. Having regard to this documentation, the Commissioner concludes that the planning permission was granted on the basis that an extension to the Property was being constructed, and that the Property was valued on this basis. The Commissioner has found these to be material facts.

37. At the hearing, the Appellant stated that he did not hide from the fact that the documentation referred to an "extension". He nonetheless submitted that it was a separate building. In support of this contention, the Appellant referred to a letter from an architect dated 2025, which stated: "*Despite it stating in our planning application and various documents that it was an extension to the farmhouse it is in fact a separate dwelling with separate living, dining/kitchen area and bedrooms with its own front entrance door and hallway. We have provided for internal access* ."

38. The Commissioner notes that the documentation provided includes a certificate of compliance with planning permission dated 2023, which is signed and stamped by the same architect at . did not attend the hearing of this appeal to explain the discrepancy arising between the certification of planning permission and their subsequent statement on 2025. In any case, the Commissioner does not find that this subsequent statement alters the fact that both the planning permission and valuation documents referred to an extension.

39. Having heard from the Appellant, the Commissioner understands that there was a personal motivation for building that part of the Property, being to enable the Appellant and his spouse to be near . Moreover, the

Commissioner notes that the part of the Property which was constructed has its own access door, three bedrooms, a kitchen, a shower, a lounge, and plumbing. Yet the Commissioner does not consider that these factors of themselves determine whether the Appellant met the criteria under section 477C(3) of the TCA 1997.

40. Section 477C(3) of the TCA 1997 requires, in the case of a self-build, that the claimant draw down a "qualifying loan" for a "self-build qualifying residence". The Commissioner cannot disregard the fact that planning permission was granted on the basis that an extension to the Property, as opposed to a new building, was being constructed. Neither can the Commissioner disregard the fact that the valuation document used in the Bank's loan offer referred to an extension of the existing farmhouse rather than a new building. In these circumstances, the Commissioner is not satisfied that the Appellant has established that he drew down a loan for the self-build of "*a new building which was not, at any time, used, or suitable for use, as a dwelling, or 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*", such that he drew down a "qualifying loan" for a "self-build qualifying residence".

41. Furthermore, it is an additional requirement of the definition of a "qualifying residence" that the person claiming the HTB "*reside in the residence as their sole or main residence*". By contrast, the force of the Appellant's own argument is that the part of the Property which was constructed was a separate dwelling which was not resided in by the Appellant and his spouse, who lived separately.

42. Consequently, the Commissioner is not satisfied to conclude that the requirements of section 477C(3) of the TCA 1997 were met in this case. Therefore, the Commissioner determines that the Appellant's claim did not qualify for the HTB under section 477C(3) of the TCA 1997.

43. In written submissions, the Respondent submitted that the Appellant did not qualify as a first-time purchaser as the Property was gifted to the Appellant's spouse by [redacted]. Neither the Appellant nor the Respondent addressed this point at the hearing of this appeal. Given the Commissioner's findings above, the Commissioner does not consider it necessary to address this point.

44. [redacted]. Having heard directly from the Appellant, the Commissioner appreciates the family circumstances which the Appellant outlined and understands that he will be disappointed

with this outcome. However, the Commissioner must apply the criteria set out in legislation when making a determination. In this case, the Commissioner is satisfied that the Appellant was not entitled to claim under the HTB, for the reasons outlined above.

45. Finally, the Commissioner acknowledges the Appellant's written references to the manner in which the Respondent handled this matter. Nevertheless, the Commission has no supervisory jurisdiction over the conduct of the Respondent's officials, or over its procedures. That complaint therefore falls outside the scope of this appeal.

**Conclusion**

46. In conclusion, the Commissioner has determined that:

    46.1. The Appellant's claim did not qualify for the HTB under section 477C(11) of the TCA 1997.

    46.2. The Appellant's claim did not qualify for the HTB under section 477C(3) of the TCA 1997.

    46.3. Accordingly, the Appellant was not entitled to receive payment under the HTB and the Respondent was entitled to assess the amount of €15,000 due under section 477C(20) of the TCA 1997.

**Determination**

47. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Assessment was wrong, and the Assessment shall stand.

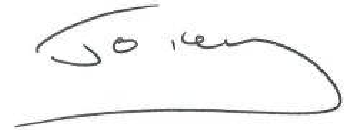
48. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AK thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ (6) of the TCA 1997.

**Notification**

49. 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**

50. 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.



Jo Kenny
Appeal Commissioner
5 February 2026