



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

232TACD2025

██████████

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This is an appeal by ██████████ (“the Appellant”) to the Tax Appeals Commission (“the Commission”) against the refusal by the Revenue Commissioners (“the Respondent”) of her application for relief under the Help To Buy (“HTB”) scheme, on the ground that, at the time her mortgage was entered into, the valuation of her property exceeded the maximum value allowed under HTB. The Appellant claimed that the original valuation of the property was an error and that a subsequent valuation showed that she qualified for HTB.
2. In accordance with the provisions of section 949U of the Taxes Consolidation Act 1997 as amended (“TCA 1997”), this appeal is determined without a hearing.

Background

3. The Appellant, together with her husband, applied for a mortgage from ██████████ ██████████ (“the bank”) to finance the self-build of a house in ██████████ (“the property”). On ██████████ 2024, the bank issued a “*Letter of Offer of Mortgage Loan*” to the Appellant’s husband in the amount of ██████████. Under “*Part 1 – Particulars of Offer of Mortgage Loan*”, the “*Property Price/Estimated Value of Property*” was stated to be

€575,000. The loan offer was accepted and signed by the Appellant and her husband on [REDACTED] 2024.

4. The Appellant applied to the Respondent for relief under HTB, and stated that the value of the property was €485,000. However, on [REDACTED] 2024, the Respondent notified the Appellant that she did not qualify for HTB, as the valuation of the property as stated on the loan offer was in excess of €500,000.
5. The Appellant claimed that the original valuation was in error, and submitted a subsequent valuation of €485,000 (dated [REDACTED] 2024), as well as a letter from the bank dated [REDACTED] 2024 which stated that *"the correct property value upon completion of construction should have been €485,000.00 as per the valuation completed on the [REDACTED] 2024 and not €575,000 as listed on your Letter of Offer issued on [REDACTED] 2024."*
6. On 26 February 2025, the Respondent confirmed to the Appellant that its decision was to refuse her application for HTB, as it stated that *"it is the valuation that the lender uses when approving a mortgage application that is used for Help to Buy, not any subsequent valuation. Your lender has the option of issuing a new letter of offer with the updated property price on it"*.
7. On 24 March 2025, the Appellant appealed against the Respondent's decision to the Commission. On 9 July 2025, the Commission notified the parties that the Commissioner considered the appeal suitable for determination without an oral hearing, pursuant to section 949U of the TCA 1997. They were informed that they could object to the Commissioner proceeding without an oral hearing within 21 days of the notice, and that they could also submit any additional documentation that they wished the Commissioner to consider within 21 days. Neither party objected to the appeal being determined without a hearing. The Commissioner is satisfied that it is appropriate to determine this appeal without an oral hearing.

Legislation

8. Section 477C(1), Help to Buy, of the TCA 1997 defines "approved valuation", in relation to a self-build qualifying residence, as *"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"*.
9. Section 477C(1) defines "purchase value", in the case of a self-build qualifying residence, as *"the approved valuation"*.

10. Section 477C(1) defines “qualifying loan” as a loan “*used by the first-time purchaser wholly and exclusively for the purpose of defraying money employed in... (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)...*”
11. Section 477C(1) also sets out the definition of a “qualifying residence”. For the purposes of this determination, it is relevant to note that the definition includes that “*the purchase value is not greater than...€500,000*”.
12. Section 477C(1) defines “self-build qualifying residence” as “*a qualifying residence which is built, directly or indirectly, by a first-time purchaser on his or her own behalf*”.
13. Sections 477C(5) and 477C(5A) provide that the maximum payment in relation to a qualifying residence is €30,000.

Submissions

Appellant

14. In her notice of appeal, the Appellant stated that:

“We are appealing our application for the Help To Buy outcome due to the use of an incorrect valuation report in our letter of offer which excludes us from this scheme. After raising our concerns with [the bank] of misinformation used to form the valuation, [the bank] decided to get the property revalued. On revaluation the value of the property is in line with the conditions of the HTB scheme.

After submitting our application for the HTB scheme which was subsequently rejected, [the bank] liaised with the HTB team on our behalf and produced documentation and outlined why we are eligible for this scheme.

[The bank] agreed to revalue the property on the grounds that the valuer did not visit the property and used photographs provided by us as proof of a site visit. We presented email evidence of this to the bank. [The bank] agreed that it was impossible to carry out a true valuation on this basis.

When we initially spoke to the HTB team it was suggested that we get [the bank] to amend the valuation on our letter of offer to show the true valuation of the property. It was at the point [the bank] presented us with the first of two letters outlining why we meet the criteria, which we in turn presented to the HTB Team. [The bank] then requested with our approval that they liaise directly with the Help to Buy Team on our behalf. They outlined in great detail the exact course of events which lead to our

eligibility for the Help To Buy Scheme. It later came to light that an amend letter of offer would not meet the criteria of the scheme as there had already been a drawdown on the mortgage.

We have been advised by the Help To Buy Team to lodge this appeal as they are unable to approve our application due to the valuation on the letter of offer not being in line the criteria for the HTB scheme.

[The bank], ourselves and our solicitor are certain that we are eligible for this scheme and meet all criteria.”

15. The Appellant restated this position in her Statement of Case.

Respondent

16. In its Statement of Case, the Respondent stated that:

“The Appellant made a claim for HTB in respect of a self-build qualifying residence. The Appellant’s lender confirmed that the approved valuation of the property at the time the loan was entered into was €575,000. The Appellant agreed the terms of the Letter of Offer of Mortgage Loan and their contractor provided a Building Certificate for Self-Build and Top-Up Mortgages in order to draw down the first tranche of the mortgage on [REDACTED] 2024. The property’s approved valuation exceeds the statutory limit of €500,000. The Respondent is precluded from allowing HTB relief where the statutory requirements are not met. The Respondent sympathises with the Appellant in this matter but notes that the legislation underpinning HTB does not allow for errors by third parties to be taken into consideration in relation to the purchase value of a property. 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.”

Material Facts

17. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:

17.1. The Appellant, together with her husband, applied for a mortgage from [REDACTED] [REDACTED] the bank”) to finance the self-build of a house in [REDACTED] [REDACTED] (“the property”).

17.2. On [REDACTED] 2024, the bank issued a “Letter of Offer of Mortgage Loan” to the Appellant’s husband in the amount of €380,000. Under “Part 1 – Particulars of

Offer of Mortgage Loan”, the “*Property Price/Estimated Value of Property*” was stated to be €575,000. The loan offer was accepted and signed by the Appellant and her husband on [REDACTED] 2024.

17.3. The Appellant applied to the Respondent for relief under HTB, and stated that the value of the property was €485,000. However, on [REDACTED] 2024, the Respondent notified the Appellant that she did not qualify for HTB, as the valuation of the property as stated on the loan offer was in excess of €500,000.

17.4. The Appellant claimed that the original valuation was in error, and submitted a subsequent valuation of €485,000 (dated [REDACTED] 2024), as well as a letter from the bank dated [REDACTED] 2024 which stated that “*the correct property value upon completion of construction should have been €485,000.00 as per the valuation completed on the [REDACTED]/2024 and not €575,000 as listed on your Letter of Offer issued on [REDACTED] 2024.*”

17.5. On 26 February 2025, the Respondent confirmed to the Appellant that its decision was to refuse her application for HTB. On 24 March 2025, the Appellant appealed against the Respondent’s decision to the Commission.

Analysis

18. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [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.*”

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. The court stated *inter alia* 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.....”

20. This appeal concerns the correct interpretation of the legislation governing the HTB scheme, and its application to the facts of the appeal. The HTB scheme was introduced by section 9 of the Finance Act 2016, which inserted section 477C into the TCA 1997. The scheme provides for the making of a payment to assist first time buyers to obtain a deposit to purchase or build their first home. The HTB payment is provided at deposit stage and takes the form of a repayment of income tax. The HTB scheme has been extended on a number of occasions since its introduction. Most recently, the Finance Act 2024 extended the scheme to 31 December 2029.
21. In this appeal, the Appellant has contended that she is entitled to relief under HTB in respect of her self-build property. Her application was refused by the Respondent on the basis that the value of the property as stated on the loan offer was €575,000, which was in excess of the maximum valuation allowed under the scheme of €500,000. The Appellant has contended that the original valuation was in error, and she submitted a later valuation which gave a value of €485,000. She has also submitted a letter from the bank dated [REDACTED] 2024 which stated that *“the correct property value upon completion of construction should have been €485,000.00 as per the valuation completed on the [REDACTED]/2024 and not €575,000 as listed on your Letter of Offer issued on [REDACTED] [REDACTED] 2024.”* However, it does not appear that the loan offer has been reissued by the bank.
22. Section 477C(1) of the TCA 1997 sets out various definitions in respect of the HTB scheme. The definition of “qualifying residence” includes that *“the purchase value is not greater than...€500,000”*. “Purchase value” in the case of a self-build qualifying residence, is defined as *“the approved valuation”*. Importantly, “approved valuation” in the case of a self-build qualifying residence is defined as *“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”* (emphasis added).
23. Therefore, the valuation that is relevant for the purposes of HTB is the valuation at the time the Appellant entered into the mortgage agreement with the bank. The loan offer stated that the valuation of the property was €575,000, and the Appellant and her husband signed the loan offer on that basis on [REDACTED] 2024. Consequently, it is clear that the valuation of the property, as of the date that the Appellant entered into the loan agreement with the bank, was in excess of the maximum purchase value of €500,000 allowed under the scheme.

24. The Appellant stated that she believed the original valuation was flawed because the valuer did not visit the site. A subsequent valuation valued the property at €485,000, and the Appellant also submitted a letter from the bank stating that this later valuation was correct. However, as is clear from the definition of “approved valuation” set out above, it is the valuation at the time the loan agreement is entered into, and not any later (or earlier) valuation that is relevant for the purposes of HTB. Therefore, the Commissioner is satisfied that the Respondent correctly concluded that this later valuation was not relevant for the purposes of deciding whether or not the Appellant’s property qualified for relief under HTB.
25. While the Appellant has stated that she believes the original valuation was flawed, she has not explained why she signed the loan agreement with the bank on the basis of that original valuation. The Commissioner is satisfied that the Respondent correctly concluded that the definition of “approved valuation” does not allow for subsequent amendments to the valuation at the time the loan is agreed, even where that valuation was made in error.
26. The Commissioner considers that the circumstances of this appeal are unfortunate, and he appreciates that this determination will be disappointing for the Appellant. However, he is obliged to interpret and apply the legislation governing HTB as enacted by the Oireachtas, and for the reasons set out above, he is satisfied that the Respondent correctly concluded that the Appellant’s property did not qualify for relief. Consequently, the appeal is unsuccessful.

Determination

27. In the circumstances, and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner is satisfied that the Respondent’s decision to refuse the Appellant relief under the Help to Buy scheme was correct, and the decision stands.
28. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AL and 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

29. 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

30. 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.



Simon Noone
Appeal Commissioner
2 September 2025