

**BUSINESS RATES APPEALS SUB COMMITTEE
10 MARCH 2015**

ABERDEEN, 10 March 2015 – Minute of Meeting of the BUSINESS RATES APPEALS SUB COMMITTEE. Present: Councillor Ironside, Convener; and Councillors Donnelly, Noble and Yuill. Apologies: Councillor Reynolds. In attendance: Steven Inglis, Roderick Macbeath and Emma Parr, Legal and Democratic Services. Representing the Council: David Massaro, Counsel, HBJ Gateley, Wayne Connell and Alison Blair, Finance Instructing Officers, Representing the Appellant: two legal representatives from Matthew Cohen and Associates.

DETERMINATION OF EXEMPT ITEM OF BUSINESS

1. The Chair proposed that the Sub Committee consider the reports identified on the agenda as being for determination in private with the press and public excluded.

The Sub Committee resolved:-

in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973, that the press and public be excluded from the meeting from Article 3 and 4 of this minute on the grounds that it was likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public or press were present there would be disclosure to them of exempt information as defined in Paragraphs 2.

**ABERDEEN CITY COUNCIL BUSINESS RATES APPEALS SUB COMMITTEE
PROCEDURE IN TERMS OF SECTION 238 OF THE LOCAL GOVERNMENT
(SCOTLAND) ACT 1947**

2. The Sub Committee had before it the procedure

The Sub Committee resolved:-

to note the procedure

In terms of the decision taken at Article 1 of the minute, the following items were considered with the press and public excluded.

APPEAL DOCUMENTATION

3. At the commencement of the hearing, both parties agreed that the decision before the Sub Committee was whether the appellant had been “improperly charged” by the Council, and whether or not the appellant had been in rateable occupation of the premises during the relevant period.

The Chair asked both parties to clarify the current court proceedings between both parties.

The Chair then asked Mr Massaro to clarify that the Appellant was not liable in respect of charges for 2010/2011 and that only 2011/2012 and 2012/2013 rates charges were in dispute.

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The Sub Committee had before it the papers and additional circulation circulated prior to the meeting. The Appellant's Representatives asked for late documentation being a summary of submissions on behalf of their client and two reported cases. The Councils Counsel also submitted an additional reported case and an extract from a loose leaf volume. The Sub Committee accepted the late documentation from both parties.

Thereafter both parties presented their cases and answered questions from the other side and from Members of the Sub Committee then given the opportunity to sum-up their case.

The Chairperson thanked them for their attendance and advised that the decision on the appeal would be conveyed to them within seven days, whereupon both parties withdrew from the meeting to allow the Committee to deliberate in private.

DECISION

The Sub Committee, in balancing the information and evidence before it, concluded that insufficient evidence had been presented to show that the alleged tenants had taken actual occupation of the premises.

On that basis, the Sub Committee concluded that the decision of the Council in identifying the Appellant as being in rateable occupation of the premises for the two assessment years under appeal (i.e. 2011/12 and 2012/13) should not be overturned. In respect of the assessment years 2011/12 and 2012/13, the Sub Committee concluded that the Appellant had not been "improperly charged" and the appeal was accordingly not upheld.

The Sub Committee resolved:-

- (i) to not uphold the appeal
- (ii) to provide a fuller account of proceedings in the decision letter to be sent to both parties.

- COUNCILLOR IRONSIDE, Convener