



An Bord Achomhairc um Sheirbhísí Maoine
Property Services Appeal Board

**PROPERTY SERVICES APPEAL BOARD
ANNUAL REPORT 2020**

PROPERTY SERVICES APPEAL BOARD

51 St Stephens Green, Dublin 2.

ANNUAL REPORT 2020

Foreword by the Chairman

Dear Minister McEntee,

It is my privilege to submit this report of the Property Services Appeal Board. This is my second annual report as Chairman since my appointment on 29th May, 2020 and the seventh Annual Report of the Board.

The Property Services Regulatory Authority which was established on 3rd April 2012 has introduced an entirely new regime for the licensing of property services providers. That fundamental change to the regulatory framework presented many challenges for stakeholders.

As mentioned in last year's report a matter that may have caused issues for the Authority and consequently the Appeal Board is the fact that in relation to the provision of services by licensees, section 95 of the Act of 2011 allows for regulations to be made regarding the standards to be observed in the provision of property services by licensees. I am pleased to see that these Regulations became effective on 30th November, 2020 which will extend the scope and range of issues which may be appealed to the Board.

The Property Services Appeal Board has also been included within the provisions under section 29 and 31 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 concerning remote hearing of appeals. I welcome this as it provides the Board with assurance to conduct remote hearings of appeals as routine and in particular during the difficulties which arose due to the Covid 19 pandemic.

I would like to take this opportunity to thank in particular Mr James Bridgeman SC Board member, for his dedication and long commitment to the Board since February 2012 and up to February 2021 when his term of appointment ceased. I thank my fellow Board members, for their work and also express my appreciation to the Board Secretary, Ms Kathleen Fitzpatrick. The Board have also asked me to express their appreciation for your support and that of your Department and its officials.

Yours Sincerely,



Philip O'Leary
Chairperson

7th June, 2021

SECTIONS IN THIS REPORT

1. Period covered by this report
2. Caseload data on appeals received
3. Board Membership & Fees
4. Meetings
5. Governance and Compliance

1. Period covered by this report

This report covers the period from 1st January, 2020 to 31st December, 2020. This is the seventh annual report to the Minister for Justice as required under Schedule 5, at paragraph 11, of the Property Services (Regulation) Act 2011.

2. Caseload data on appeals received

The volume of cases considered during the period covered by this report was 35.

Of the 35 appeals received during 2020,

- 26 appeals were disallowed and the Board affirmed the decision of the Authority;
- 1 appeal was withdrawn by the Appellant;
- 5 appeals were allowed and the decision of the Authority was overturned;
- 2 appeals were outside the remit of the Appeal Board;
- 1 appeal was referred back to the Authority for reconsideration.

Guidance has been provided by the Superior Courts in relation to lawful decision making. Therefore, the Appeal Board being guided by the principles of natural justice and fair procedures give reasons for their decisions.

3. Board Membership

Mr Philip O’Leary (Chairperson)

Appointed 29th May, 2020

The members listed below were reappointed to the Board for a subsequent term on 14th February, 2021.

Ms Dorothy Donovan

Ms Dairine Mac Fadden

Mr Philip Moynihan

Appointments to the Appeal Board are for a four year term. Again as last year, the Board would suggest that future appointments should involve a staggered expiry of Warrants to assist continuity of expertise and familiarity with the legislation.

The term of appointment of Mr James Bridgeman SC expired on the 13th February, 2021. Mr Bridgeman serviced for two terms on the Board. The process for appointing a new Board member has commenced to fill the vacancy which has arisen.

Payments to Members of the Appeal Board are made in accordance with Schedule 5 at Section 5 as below:

5. Members of the Appeal Board shall be paid such remuneration (if any) and allowances for expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.

Fees are not paid for Membership of the Board *per se* but for participation in sittings of the Board. The rates, which are subject to tax and all other levies, per sitting where that Member is in attendance are as below:

Chairperson €500

Ordinary Member €416

Board fees for 2020 totalled €27,884.

4. Meetings

There were 15 Board meetings during 2020.

5. Governance and Compliance

In so far as applicable, the Members of the Board acknowledge their responsibilities under the terms of the Code of Practice for Governance of State Bodies.

At the outset of each sitting of the Appeal Board, each Member is required to declare whether they consider they have any conflict of interest in relation to parties or issues scheduled for determination.

The Board has now established a website which has recently been upgraded to a new design, making it more user friendly and reflecting recent changes on the Board.

The Board engages in professional development training to ensure efficient service delivery in dealing with appeals.



An Bord Achomhairc um Sheirbhísí Maoine
Property Services Appeal Board

**AN BORD ACHOMHAIRC UM
SHEIRBHÍSÍ MAOINE
TUARASCÁIL BHLIANTÚIL
2020**

AN BORD ACHOMHAIRC UM SHEIRBHÍSÍ MAOINE

51 Faiche Stiabhna, Baile Átha Cliath 2.

TUARASCÁIL BHLIANTÚIL 2020

Réamhfhocal ón gCathaoirleach

A Aire McEntee, a chara,

Is mór an phribhléid dom tuarascáil seo an Bhoird Achomhairc um Sheirbhísí Maoine a chur faoi do bhráid. Is í seo an dara tuarascáil bhliantúil agam i mo Chathaoirleach ó ceapadh mé ar an 29 Bealtaine 2020 agus is í seachtú tuarascáil bhliantúil an Bhoird í.

Thug an Bord Achomhairc um Sheirbhísí Maoine, a bunaíodh ar an 3 Aibreán 2012, réimeas iomlán nua isteach maidir le soláthóirí seirbhísí maoine a cheadúnú. Chruthaigh an bunathrú sin ar an gcreat rialála go leor dúshlán do pháirtithe leasmhara.

Mar a luadh i dtuarascáil na bliana seo caite, tá saincheist amháin ann a d'fhéadfadh fadhbanna a chruthú don Údarás agus dá bharr sin, don Bhord Achomhairc, a bhaineann le seirbhísí atá á soláthar ag ceadúnaithe, go gceadaítear faoi Alt 95 den Acht rialúcháin a dhéanamh maidir leis na caighdeáin a bheidh le leanúint ag ceadúnaithe i soláthar seirbhísí maoine. Cuireann sé áthas orm a fheiceáil gur tháinig na Rialacháin seo i bhfeidhm ar an 30 Samhain 2020 a leathnóidh scóip agus raon na saincheisteanna a bhféadfaí a achomharc chuig an mBord.

Tá an Bord Achomhairc um Sheirbhísí Maoine san áireamh freisin laistigh de na forálacha faoi Alt 29 agus Alt 31 den Acht um an Dlí Sibhialta agus an Dlí Coiriúil (Forálacha Ilghnéitheacha) 2020, a bhaineann le hachomhairc a éisteacht go cianda. Cuirim fáilte roimhe seo mar go gcuirtear dearbhú ar fáil don Bhord leis chun éisteachtaí cianda ar achomhairc a dhéanamh mar ghnáthnós agus go háirithe le linn na ndeacrachtaí a tháinig chun cinn de dheasca phaindéim Covid-19.

Ba mhaith liom an deis seo a thapú chun buíochas faoi leith a ghabháil leis an Uasal James Bridgeman, comhalta Boird SC, as a chuid dúthrachta agus as a thiomantas fadtéarmach don Bhord ó mhí Feabhra na bliana 2012 suas go Feabhra na bliana 2021 nuair a tháinig deireadh lena théarma ceapacháin. Gabhaim buíochas le comhaltaí eile an Bhoird as a gcuid oibre agus ba mhaith liom mo bhuíochas a chur in iúl chomh maith do Rúnaí an Bhoird, Kathleen Fitzpatrick Uasal. D'iarr comhaltaí an Bhoird orm a mbuíochas a chur in iúl duit freisin as do chuid tacaíochta agus as tacaíocht oifigigh do Roinne.

Is mise, le meas,



Philip O'Leary
Cathaoirleach

An 7 Meitheamh, 2021

CODANNA NA TURASCÁLA SEO

1. An tréimhse lena mbaineann an tuarascáil seo
2. Sonraí maidir le líon na gcásanna a fuarthas
3. Comhaltaí & Táillí Boird
4. Cruinnithe
5. Rialachas agus Comhlíonadh

1. An tréimhse lena mbaineann an tuarascáil seo

Baineann an tuarascáil seo leis an tréimhse ón 1 Eanáir 2020 go dtí an 31 Nollaig 2020. Is í seo an seachtú tuarascáil bhliantúil atá á cur faoi bhráid an Aire Dlí agus Cirt mar a éilítear faoi Sceideal 5, Alt 11 den Acht um Sheirbhísí Maoine (Rialáil) 2011.

2. Sonraí maidir le líon na gcásanna a fuarthas

Ba 35 cás a breithníodh le linn thréimhse na tuarascála seo. De na 35 achomharc a fuarthas le linn 2020,

- Dicheadaíodh 26 achomharc agus dhearbhaigh an Bord cinneadh an Údaráis;
- Tharraing an tAchomharcóir siar 1 achomharc;
- Ceadaíodh 5 achomharc agus aisiompaíodh cinneadh an Údaráis;
- Bhí 2 achomharc ann nach raibh ag teacht faoi chúram an Bhoird Achomhairc;
- Cuireadh 1 achomharc faoi bhráid an Údaráis arís.

Na hUaschúirteanna a chuireann treoir ar fáil maidir le cinní dleathacha a dhéanamh. Mar sin, tugann an Bord Achomhairc, agus prionsabail an cheartais aiceanta agus nósanna imeachta cóir mar threoir aige, cúiseanna i leith na gcinntí.

3. **Comhaltaí Boird**

An tUasal Philip O’Leary (Cathaoirleach)

A ceapadh ar an 29 Bealtaine, 2020

Athcheapadh na comhaltaí atá liostaithe thíos chuig an mBord ar feadh téarma eile ar an 14 Feabhra, 2021.

Dorothy Donovan Uasal

Dairine Mac Fadden Uasal

An tUasal Philip Moynihan

Téarma ceithre bliana atá sna ceapacháin chuig an mBord Achomhairc. Mar a dúradh cheana an bhliain seo caite, mholfadh an Bord go mbeadh Barántais in éag ar bhonn céimnithe ag baint le ceapacháin amach anseo chun go mbeidh fáil leanúnach ar dhaoine a bhfuil saineolas

agus cur amach acu ar an dlí.

Tháinig deireadh le téarma ceapacháin an Uasail James Bridgeman SC ar an 13 Feabhra, 2021. Chaith an tUasal Bridgeman dhá théarma ar an mBord. Tá an próiseas maidir le comhalta nua Boird a cheapadh tosaithe anois chun an folúntas atá ann a líonadh.

Déantar íocaíochtaí le Comhaltaí an Bhoird Achomhairc de réir Sceideal 5 in Alt 5 thíos:

5. Íocfar le comhaltaí an Bhoird Achomhairc cibé luach saothair (más ann) agus liúntais i leith caiteachas a chinneadh an tAire, le toiliú an Aire Caiteachais Phoiblí agus Athchóirithe.

Ní íoctar táillí *per se* as Comhaltacht ar an mBord ach íoctar iad as a bheith rannpháirteach i suíonna an Bhoird. Is mar seo a leanas na rátaí, atá faoi réir ag cáin agus gach tobhach eile, a íoctar le Comhalta a fhreastalaíonn ar shuí:

Cathaoirleach €500

Gnáthchomhalta €416

B'ionann táillí iomlán an Bhoird do 2020 agus €27,884.

4. Cruinnithe

Reáchtáladh 15 cruinniú Boird le linn na bliana 2020.

5. Rialachas agus Comhlíonadh

Aithníonn Comhaltaí an Bhoird na freagrachtaí a leagtar orthu faoi théarmaí an Chóid Cleachtas chun Comhlachtaí Stáit a Rialú, a mhéid is infheidhme.

Ag tús gach suí den Bhord Achomhairc, ní mór do gach Comhalta a dhearbhu má cheapann siad go bhfeadfadh coinbhleacht leasa a bheith i gceist maidir le haon pháirtithe nó saincheistanna atá leagtha amach lena gcinneadh.

Tá láithreán gréasáin bunaithe ag an mBord anois ar a ndearnadh uasghrádú le déanaí le leagan amach nua a chur air, atá níos so-úsáidte agus a léiríonn na hathruithe a tharla ar an mBord le déanaí.

Tugann an Bord faoi oiliúint forbartha gairmiúla chun seachadadh seirbhíse éifeachtaí a chinntiú maidir le hachomhairc a láimhseáil.