



***BERMUDA GOVERNMENT***  
***Ministry of Home Affairs***

**PATI Information Statement**

**Land Valuation Appeal Tribunal**



<b>Revision Information</b>			
<b>Version</b>	<b>Date</b>	<b>By</b>	<b>Changes</b>
1	6 <sup>th</sup> January 2021	Diane Elliott, Director	Version 1
2	4 <sup>th</sup> January 2022	Diane Elliott, Director	Version 2
<b>Name of Public Authority:</b> Land Valuation Appeal Tribunal			

## **Introduction**

The objective of the Public Access to Information Act 2010 (“PATI Act 2010”) is to give the public the legally enforceable right to access information held by public authorities, including Government Ministries, Departments and other public bodies.

The PATI Act 2010 is intended to increase transparency and eliminate unnecessary secrecy, with regard to information held by public authorities. This would be accomplished by informing the public about the activities of public authorities and generally placing more information into the public domain as a matter of routine. An expected consequence of introducing PATI is an increase in the accountability of public authorities.

The benefits envisaged by enactment of PATI legislation, as set out in the Discussion Paper, includes the following:

- Inform the public, including organizations, companies and the media, about the Government’s activities and operations, including the manner in which decisions are made;
- Encourage people to participate actively in the political process and decision-making in Bermudian society;
- Give the community confidence that public funds are being spent as intended and effectively;
- Help improve Government efficiency;
- Increase fairness in decision-making; and
- Eliminate unnecessary secrecy in Government.

## **Information Statement**

The PATI Act 2010 requires the Public Authority to prepare an information statement describing the following information about the authority:

- Structure and organization, and governing legislation;
- Functions, powers, duties and obligations;
- Summary of services provided;
- Classes of records held, in order to facilitate the exercise of right of access;
- Administrative manuals;
- Policies, rules and guidelines used for decision-making; and

- Name and contact information of the person designated by a public authority as the person to whom requests for information are to be directed.
- Any other information that the head of the authority considers relevant, in order to facilitate the exercise of right of access;
- Any other information that may be prescribed.

In summary, the purpose of the information statement is to provide people wanting access to information held by a public authority a “window” of the types of documents held by that public authority, what that public authority does and how a person can access the information they require.

Thus, the Land Valuation Department has a PATI Information Statement to provide a statutory right for people to request and obtain information held by this Department.

### **Overview of the Public Access to Information**

Which records are covered?

The PATI Act 2010 will apply to records held by all public authorities, including all Government Ministries and Departments; non-Ministry departments such as the Office of the Governor and the Office of the Clerk to the Legislature; all quasi-autonomous non-governmental organizations (quangos) such as the Bermuda Health Council and the Bermuda Housing Corporation; all statutory boards and committees; the Corporations of Hamilton and St. George’s; and every parish council under the Parish Councils Act 1971.

A record means a record held by a public authority, in any form or medium, in which information is recorded, whether printed or on tape or film or by electronic means or otherwise, and includes any map, diagram, photograph, film, microfilm, videotape, sound recording, or machine-readable record produced by means of equipment or a program.

Which records are excluded?

Records created in the carrying out of the functions of the Auditor General, Human Rights Commission, Office of the Information Commissioner, Office of the Ombudsman, the Department of Public Prosecutions and any court, tribunal or other body or person in the exercise of judicial or quasi-judicial

functions are excluded. However, the administrative records of these public authorities, i.e. those relating to expenditure and staffing, etc. are included, and may be released upon request by a member of the public.

### **Exemptions**

The PATI Act 2010 provides that certain information held by public authorities will be covered by exemptions and cannot or may not be disclosed upon request because of the harm that disclosure is likely to cause. The test of whether disclosure by a public authority of a record or the existence of a record is in the public interest is whether the public interest would, on balance, be better served by disclosure than by non-disclosure.

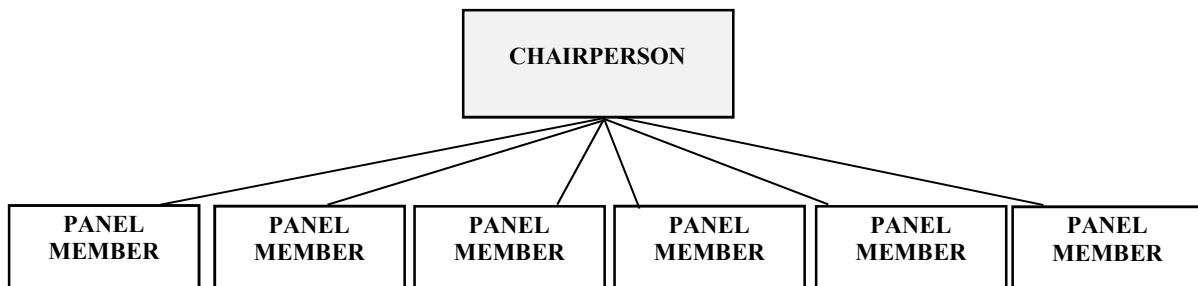
The exemptions are for records pertaining to the following areas:

- Health or safety of an individual, where disclosure would endanger the physical or mental health or the safety of an individual;
- Personal information, subject to certain instances where disclosure may be allowed;
- Commercial information, for example trade secrets or contractual negotiations;
- Information received in confidence;
- Cabinet documents, including official records of deliberations or decisions;
- Ministerial responsibility, where disclosure of records could undermine free and frank discussion and advice between Ministers, or between Ministers and public officers, in the course of their public duties;
- Deliberations of public authorities, where disclosure could undermine free and frank discussion and advice provided during the course of the deliberative process;
- Operations of public authorities, where disclosure could prejudice the effectiveness of operations of public authorities e.g. with respect to negotiating positions and industrial relations, or in relation to investigations, inquiries or audits conducted by public authorities;
- Records for which disclosure could have a serious adverse effect on the financial and economic interests of Bermuda or on the ability of the Government to manage the national economy;
- National security, defense, and international relations, where disclosure could prejudice the security or defense of Bermuda;
- Governor's responsibilities and communications with the United Kingdom;

- Law enforcement records for which disclosure of certain types of information would prejudice law enforcement efforts or would endanger a person's life or safety;
- Legal professional privilege, where disclosure of records would be exempt from production in legal proceedings on the basis of legal professional privilege;
- Records for which disclosure would be in contempt of court or an infringement of parliamentary privilege; and
- Disclosure prohibited by other legislation.

**Section A: Structure, Organization and Governing Legislation [s5(1)a]**

**Structure and Organization of the Land Valuation Department**



(The panel of members of the Tribunal shall not be less than five or more than nine persons appointed by the Minister responsible for the Land Valuation Department and shall hold office during the Minister's pleasure.)

**Legislation**

The Tribunal's governing legislation include the following:

Land Valuation and Tax Act 1967

Land Valuation and Tax (Objection and Appeals) Rules 1967

**Section B: I) Functions, Powers and Duties of the Authority [s5(1)b]**

**Mission Statement**

N/A

## **Objectives**

The present system of assessment and taxation was established in 1967 with the passing of the [Land Valuation and Tax Act 1967](#) (the Act). The Act sets out the functions, powers and authority for the Land Valuation Department to carry out its mandate of maintaining a Valuation List for Bermuda on which property taxes can be assessed.

The Land Valuation Appeal Tribunal (the Tribunal) is established under the Act to carry out the following main functions:

- Consider objections to the Draft Valuation List;
- Review and confirm each Draft Valuation List;
- Hear appeals against proposed amendments to the confirmed Valuation List.

Appeals to the Tribunal and the Supreme Court and the hearings are governed by the Land Valuation and Tax (Objection and Appeals) Rules 1967 (the Rules).

## **Constitution of the Tribunal (Section 19 of the Act)**

The panel of members of the Tribunal shall not be less than five or more than nine persons appointed by the Governor and shall hold office during the Governor's pleasure. The Chairman of the Tribunal is appointed in the same manner and is required to be a lawyer/attorney/solicitor as the Chairman determines all questions of law.

The panel members come from a cross section of the community ranging from lawyers, property and business professionals and anyone interested in serving on the Tribunal. Panel members are appointed on a yearly basis.

In the 2014 Throne Speech, Government announced that in its commitment to make Government more open, transparent and accountable, the Government will strengthen public engagement in its decision-making process. Members of the public are now invited to serve on one or more of the 100 statutory and advisory boards and committees that support the

Ministries. The process is now opened to the general public, with access to the Government website where they can complete an application to join a Board or Committee that interests them. This change has enabled greater participation and has enlarged the pool of qualified persons to assist Government in its deliberations.

When convened for an objection hearing, the Tribunal consists of a Chairman and two other members selected by the Chairman form the panel of members. If any member called to serve on a Tribunal has any reason to suppose that he may be conflicted or disqualified on any grounds, he should advise the Chairman immediately.

**Functions of the Tribunal (Section 20 of the Act)**

The Tribunal shall consider objections to the draft valuation list (the DVL), the proposals of the Director of Land Valuation (the Director) for the amendment of the DVL and the objections to such proposals. The Tribunal may accept or reject such objections or proposals in whole or in part and subject to such modifications as it sees fit. The Tribunal then directs the Director to make any necessary amendments to the draft valuation list.

No earlier than six months, but not later than seven months after the date of notice of deposit of the DVL, the Chairman shall confirm the DVL as amended.

In considering objections and proposals by the Director, the Tribunal shall have regard to:-

- a) annual rental values in the DVL concerned; and
- b) the object of ensuring that the annual rental values in the DVL are fair one with another.

Subject to section 7(2A), the Tribunal may also have regard to evidence of the market rental value of a valuation unit (i.e. evidence of the rent which the owner has received (or might reasonably expect to receive) for the tenancy of the valuation unit), but only evidence that was current on or about the valuation date.

In considering objections to proposals to amend a valuation list (once the draft valuation list is confirmed), the Tribunal shall have regard to:

- a) annual rental values in the valuation list concerned; and
- b) the object of ensuring that the annual rental values in the valuation list are fair one with another; and

The Tribunal shall not have regard to evidence of the market rental value of a valuation unit.

**Tribunal Procedure (Section 21 of the Act)**

The Tribunal shall hear objections and proposals in public in accordance with rules and, subject to such rules and the provisions of the Act, may regulate its own procedure.

The Tribunal may consider more than one objection or proposal or a combination of both at one and same time where, in the opinion of the Tribunal, such objections and proposals raise substantially similar points for determination by the Tribunal or may for any other good sufficient reason be conveniently considered together.

At any hearing of an objection or proposal by the Tribunal, the Director, the objector and any other person who is the owner of the land affected by the objection or proposal or whom in the opinion of the Tribunal, should be given an opportunity to be heard, shall be entitled to appear before the Tribunal in person or by his duly authorized representative and, subject to sections 7(2A) and 20(3B)(b), to produce evidence and to make representations relating to the objection or proposal.

The Tribunal may be differently constituted for the hearing of objections or proposals from time to time at the discretions of the Chairman.

Notwithstanding the foregoing provisions of this section, where in the course of determining any objection or proposal, one of the members of the Tribunal is unable to continue to act as a member for any reason, then, if all parties concerned agree, the Tribunal may proceed with the determination of that objection or proposal in the absence of that member and shall be deemed to be duly constituted in so doing.



The Director shall be a party to all proceedings before the Tribunal.

**Appeal to the Supreme Court (Section 24 of the Act)**

A party to the proceedings before the Tribunal aggrieved by the decision of the Tribunal may appeal to the Supreme Court against that decision within twenty-one days (or such longer period as the Supreme Court may in any particular case for good cause allow) after the Tribunal delivers its decision, by lodging a notice of objection with the Tribunal.

No appeal to the Supreme Court under this section shall lie except upon a ground of appeal involving a question of law alone or upon a ground involving a question of mixed law and fact.

Upon hearing any appeal under this Part, the Supreme Court may make such order, including an order for costs, as it thinks just.

**Onus of Proof (Section 61 of the Act)**

In any proceedings under this Act before the Tribunal or any court the onus of proving:

- (a) that any entry in a draft valuation list or valuation list is incorrect; or that any such document is incomplete; or
  - (b) that any proposal of the Director for the amendment of a draft valuation list, or valuation list, should not be confirmed; or
  - (c) that any demand note is incorrect in a material particular;
- shall be on the person so contending.

Notwithstanding the provisions relating to the onus of proof, in any proceedings before the Tribunal, the Tribunal may, at the request of any party to such proceedings, require the Director to disclose before the Tribunal the basis of his valuation of the annual rental value of the valuation unit which is the subject matter of such proceedings as a condition precedent to the discharge by any party of that onus.

### **Evidence in the form of Statutory Returns (Section 66 of the Act)**

In any proceedings under this Act before the Tribunal or any court, any document purporting to be a return made to the Director pursuant to Section 7 of the Act shall be receivable in evidence for the purpose of demonstrating the rents payable for and other particulars in respect of the valuation unit to which the return purports to relate, at the time when the return purports to have been made.

### **Clerk to the Tribunal**

The Governor may appoint a clerk and other servants to the Tribunal to perform such functions as the Chairman may determine on such terms and conditions as the Minister may, out of moneys appropriated by the Legislature therefore, determine. Any act or decision of the Tribunal or the Chairman may be signified under the hand of the clerk, provided that it shall not be competent for the clerk to confirm a Draft Valuation List.

### **Costs before the Tribunal**

Without prejudice to the provisions of any rules relating to the making and disposal of deposits, no costs shall be payable in respect of proceedings before the Tribunal by any party thereto; and all references in this Act to an order for costs shall relate only to costs before a court.

### **Price of Hearing**

The cost of taking a case to the Land Valuation appeal Tribunal is \$600 effective 1 April 2018. There is no cost associated with objecting to the Draft Valuation List or objecting to a Proposal. The \$600 fee is only payable when no agreement can be met after a period of negotiation and the matter has to be dealt with and heard by the Tribunal. This fee is payable in advance of the Hearing.

## **Section B: 2) Obligations under PATI Act [s5(1)b]**

*Same for all public authorities*

To provide an **information statement** for the public and promulgate it [s5],

- To provide **other information** to the public so that the public needs only to have minimum resort to the use of the Act to obtain information [s6]. This includes:

- General information, e.g. activities of the Authority
  - Log of all information requests and their outcome
  - Quarterly expenditure (upon request) [s6(5)]
  - Contracts valued at \$50,000 or more.
- To **respond to information requests** in a timely manner [s12-16]
  - To **track information requests**, and provide this data to the Information Commissioner
  - To **respond to requests** from the Information Commissioner [s9]
  - To **amend personal information** held by the Authority that it is wrong or misleading following a written request by the person to whom the information relates [s19]
  - To conduct an **internal review** if formally requested [part 5]
  - To give evidence for **review by the Information Commissioner** [part 6, 47(4)], or for **judicial review** [s49], if required
  - To provide an **annual written report** to the Information Commissioner of the status of information requests [s58 (3)].
  - **To do anything else as required** under the PATI Act and subsequent Regulations [s59, 60], including:
    - **Fees** for Requests for information
    - Management and maintenance of **records**
    - **Procedures** for administering the Act
  - To **train staff and make arrangements** so as to facilitate compliance with the Act [s61]
  - To **designate one of its officers** to be the person to whom requests are directed [s62]

### Section C: Services and Programmes [s5(1)c]

#### Function

As referenced in Section B, under Section 20 of the Land Valuation and Tax Act, the Tribunal shall consider objections to the draft valuation list (the DVL), the proposals of the Director of Land Valuation (the Director) for the amendment of the DVL and the objections to such proposals. The Tribunal may accept or reject such objections or proposals in whole or in part and subject to such modifications as it sees fit. The Tribunal then directs the Director to make any necessary amendments to the draft valuation list.

No earlier than six months, but not later than seven months after the date of notice of deposit of the DVL, the Chairman shall confirm the DVL as amended.

In considering objections and proposals by the Director, the Tribunal shall have regard to:-

- a) annual rental values in the DVL concerned; and
- b) the object of ensuring that the annual rental values in the DVL are fair one with another.

Subject to section 7(2A), the Tribunal may also have regard to evidence of the market rental value of a valuation unit (i.e. evidence of the rent which the owner has received (or might reasonably expect to receive) for the tenancy of the valuation unit), but only evidence that was current on or about the valuation date.

In considering objections to proposals to amend a valuation list (once the draft valuation list is confirmed), the Tribunal shall have regard to:

- a) annual rental values in the valuation list concerned; and
- b) the object of ensuring that the annual rental values in the valuation list are fair one with another; and

The Tribunal shall not have regard to evidence of the market rental value of a valuation unit.

#### **Section D: Records and Documents Held [s5(1)d]**

The Land Valuation Appeal Tribunal holds hardcopies of the following Draft Valuation Lists:

- Draft Valuation List 2015
- Draft Valuation List 2009
- Draft Valuation List 2004
- Draft Valuation List 1999

(Hardcopies of previous Draft Valuation Lists dating back to 1967 are stored at the Bermuda Archives.)

The current Valuation List is also available online on a computer at the reception area of the Land Valuation Department with dedicated access to the website [www.landvaluation.bm](http://www.landvaluation.bm).

#### **Section E: Administration (all public access) Manuals [s5(1)e]**

The Land Valuation Appeal Tribunal administers and carries out its responsibilities principally under the Land Valuation and Tax Act 1967 and also in accordance with other Acts and Orders as appropriate. The 1967 Act specifies how the Valuation List is to be administered.

Other administration manuals held by the Land Valuation Appeal Tribunal include:

- The Land Valuation Appeal Tribunal Handbook

#### **Section F: Decision-Making Documents [s5(1)f]**

The Land Valuation Appeal Tribunal has a statutory function as set out in the legislation above.

In addition to the legislation, the Land Valuation Appeal Tribunal is guided by the following:

- The Land Valuation Appeal Tribunal Handbook
- Objection Process Guidance Notes (for both the draft and confirmed Valuation List)

#### **Section G: The Information Officer [s5(1)g]**

**Mr. James Needham**, Assistant Director – Stamp Duty

Phone #: (441) 294-0478

Email: [jwneedham@gov.bm](mailto:jwneedham@gov.bm)

In the absence of the aforementioned Information Officer, Ms. Diane Elliott, Director of Land Valuation, will be authorized to act as Information Officer.

**Land Valuation Appeal Tribunal**

c/o the Land Valuation Department

Office Hours: 8:30am – 5:00pm, Monday – Friday, excluding Public Holidays

Reception Phone #: (441) 297-7964

Website address: [www.landvaluation.bm](http://www.landvaluation.bm) and [www.gov.bm](http://www.gov.bm)

**Physical Address**

2<sup>nd</sup> Floor, Global House

43 Church Street

City of Hamilton HM12

**Head of Public Authority**

Ms. Rozy Azhar, Permanent Secretary

Ministry of Home Affairs

1<sup>st</sup> Floor, Government Administration Building

30 Parliament Street

City of Hamilton HM12

**Section H: Any Other Information [s5(1)h]****Making a PATI request**

Before making a request, check with the Land Valuation Department/Land Valuation Appeal Tribunal to see if the record is already available to the public. If the record is not, a request for access to a record may be made by filling out a PATI Request Form, or providing a written request. You must take the completed request in person, along with proof that you are a Bermudian or a resident of Bermuda.

The request must contain sufficient detail in order for the Information Officer to identify what record(s) the request is referring to. The Information Officer will acknowledge receipt of the request within five (5) working days. If the request is valid, the record is accessible and does not contain any exempt and the Information Officer determines that the information is to be disclosed, a decision notice will be sent within six (6) weeks of receiving the request.

**Section I: Any Other Information To be Provided [s5(1)i]****Fees and Charges**

The PATI service fees in respect of access requests are in accordance with regulations under the Public Access to Information Act 2010 and Public Access to Information Regulations 2014.

**Section J: Information Statement: Copies and Updates [s5(2,3,4,5)]**

Every public authority shall update its information statement at least once a year, and make it available for inspection by the public at reasonable times by [s5(1-5), PATI Act]:

**Date Information Statement was last updated:** 6<sup>th</sup> January, 2020

**Locations of Information Statement:**

- |   |   |
|---|---|
| • The Land Valuation Dept (2 <sup>nd</sup> Floor Global Hse, 43 Church Street, Hamilton)  | Y |
| • The Bermuda National Library  | Y |
| • The Bermuda Archives  | Y |
| • Available electronically  | Y |
| • Websites for public authority ( <a href="http://www.landvaluation.bm">www.landvaluation.bm</a> and <a href="http://www.gov.bm">www.gov.bm</a> ) | Y |
| • Notice in the Gazette indicating the places where the Information Statement is available for the public   | Y |
| • The Information Commissioner  | Y |

**Signed and Dated:** *D Elliott*

4<sup>th</sup> January, 2022

Diane Elliott, Director of Land Valuation Department