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ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-936 6269

(Copy No. 2 of 7)

The Rt. Hon Nicholas Ridley AMICE, MP
Secretary of the State for the Environment
2 Marsham Street
LONDON SW1P 3EB

13 January 1989

Dear Secretary of State

RATING APPEALS

FILE WITH PG

You copied to Patrick Mayhew your minute of ~~6~~ January to the Prime Minister in connection with your proposal to curtail retrospectively the rights of ratepayers to make proposals for alterations to the 1973 valuation list. When the matter was first raised in correspondence last July, I expressed concern about the degree of retrospection then proposed and the arrangements which were to be made for dealing with ratepayers' proposals and appeals made after the announcement of the changes but before the relevant amending legislation had received Royal Assent.

It is now your aim to secure Royal Assent in October 1989 for changes to appeal rights which will apply retrospectively to ratepayers' proposals received after your announcement of the policy later this month. The period of retrospection now envisaged is therefore a little less than nine months, and the Bill to effect the necessary amendments to the General Rate Act 1967 will be on the point of introduction when the changes are announced. I note in particular that these measures are aimed primarily at neutralising the serious consequences for the revaluation of business premises which will flow from the foreseeable (and in many cases deliberate) overloading of the rating appeals system between now and April 1990.

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In view of the scale of the retrospective provision now contemplated and the likelihood of damaging abuse of the existing rules if it is not employed, I would not wish to object on constitutional grounds to what is proposed, provided that the rights of those ratepayers who have meritorious cases but who are now to be prevented or deterred from pursuing proposals and appeals are adequately protected. The effect of the safeguards you have in mind will, in most cases, be to preclude the alteration of the 1973 list in a ratepayer's favour unless the valuation officer is satisfied that some recent physical change to the property or its environment justifies a reduction in rateable value (which, in the case of a domestic ratepayer, must be more than 20%). Although this restriction has the clear merit of limiting alterations to the list to those proposals which are founded on significant changes of circumstances, its effect is to substitute an official for an independent tribunal as the ultimate arbiter of the ratepayer's rights. I am concerned to ensure that this restriction does not conflict with our obligations under the European Convention on Human Rights, and will write to you again early next week when I have satisfied myself about this point.

In the light of your forecast that very few proposals made by ratepayers following your announcement are likely to result in awards by valuation courts prior to Royal Assent, I am satisfied that those domestic cases in which a favourable award is not sufficiently substantial to be reflected in a valuation officer's proposal will be truly *de minimis*.

Finally, I must emphasise that Inland Revenue Staff should, until the Bill receives Royal Assent, continue to use their best endeavours to ensure that there is no undue delay in their handling of ratepayers' proposals received after your announcement. There is some likelihood that disappointed ratepayers may seek to show, in judicial review proceedings, that such proposals are being held back from valuation courts until after the amending legislation receives Royal Assent. If faced with such a challenge the Inland Revenue will, I think, need to be able to demonstrate at least that the progress of appeals is no slower than it has been in the past. It is indeed possible that a judge might be persuaded that the Inland Revenue should, in the light of the impending changes in the Bill, be taking steps to increase the progress of proposals and appeals. The risk of this is not, in my judgment, a very great one but it should nevertheless be acknowledged, and thought should be given to the arguments which might be deployed in response to

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such a contention.

Subject only to that caveat and to an early examination of the Human Rights point I have mentioned above, I am content with what you propose.

I am sending a copy of this letter to the Prime Minister, Nigel Lawson, John Wakeham and Malcolm Rifkind, and to Sir Robin Butler.

Yours sincerely

Peter Milner

B: NICHOLAS LYELL

(Approved in draft by the Solicitor General
but signed in his absence)

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LOCAL GOVT: Raling PT12.

