

Our Ref; MUR0004/01/EMcG Your Ref; CGallagher/1699/2007 16th April 2007

The Chief State Solicitor
Osmond House
Little Ship Street
Dublin 8
Fax: 4176299

**Re: The High Court – 2007 No. 2819 P Catherine Murphy and Finian
McGrath v The Minister for the Environment, Heritage and Local Government
& Ors**

Dear Sir,

We refer to the above in which we act for the Plaintiffs. We acknowledge receipt of your letter of 12th April 2007 in reply to ours of 11th April 2007.

Please note that the time for entry and service of a Memorandum of Entry of Appearance has expired.

Our letter to you of 11th April 2007 was intended to try and ensure that no time would be lost or frittered away in addressing the very serious and urgent issues raised by the proceedings and the issues adverted to therein. They are:

- a) There is a constitutional obligation on the Government and Ireland to ensure that only democratic elections are resorted to for the formation of the Dail (and consequently, the Government);
- b) The minimum basis for such democratic elections is prescribed in Bunreacht na hEireann;
- c) That basis is the allocation of Dail seats to constituencies based on population numbers within constituencies and the distribution of population within the State. The census is the source of such information.

In the past, the “preliminary” census figures have been used to determine the allocation of Dail seats to constituencies and to meet the constitutional imperative. These “preliminary” figures have been available from Census 2006 since last year.

- d) Regardless, the final census returns from Census 2006 are now available.
- e) The life of the current Dail is about to expire and elections are mandatory (again, under Bunreacht na hEireann).
- f) There now, beyond dispute, exists a constitutional obligation on the Government to ensure that the forthcoming elections are democratic and constitutional. This cannot be done if the Government relies on the Electoral (Amendment) Act 2005 as the basis for the drawing of constituencies and the allocation of seats to constituencies.
- g) A failure to meet this obligation would drain the outcome of any elections, called in defiance of the obligation, of democratic and constitutional legitimacy.
- h) There is, therefore, no task now facing the Government more urgent than the discharge of the aforesaid obligation.
- i) On behalf of our clients we call upon your clients to forthwith clear the legislative schedule in the Dail and introduce amending legislation revising the constituencies.
- j) If the Government fails to do this, it will breach one of the central principles of a democracy; that every vote shall have equal weight.
- k) Currently, it is far from the case that every vote is equal.

- l) Without prejudice to the matters pleaded, five constituencies are under-represented;
 - a. Dublin West;
 - b. Dublin North;
 - c. Meath East
 - d. Meath West
 - e. Laois-Offaly.

- m) Without prejudice to the matters pleaded, five constituencies are over-represented
 - a. Cork North Central,;
 - b. Dun Laoghaire;
 - c. Kerry North;
 - d. Kerry South;
 - e. Dublin North-East.;

- n) The voters of the under-represented constituencies are deprived of a vote of full value and the voters of the over-represented constituencies are privileged relative to every other voter.


- o) In truth, every voter is being short-changed; the democratic process is devalued and damaged.

We ask that you:

- h) forthwith serve your Memorandum of Entry of Appearance; (it would be insupportable to have to bring a Motion for Judgement in default in such a case as this);

- i) take instructions from your clients and urgently confirm their agreement to introduce the necessary legislation.

Yours faithfully,



McGarr Solicitors