



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference	:	CAM/00JA/HML/2018/0002
Property	:	10 Elm Street, Woodston, Peterborough PE2 9BL and those other properties recorded in the Schedule annexed to the Directions order dated 13 th April 2018
Appellant	:	Lets Move Estate Agents Ltd
Representative	:	Jonathan Manning (counsel, Arden Chambers)
Respondent	:	Peterborough City Council
Representative	:	Charles Snelling (counsel, Fenner's Chambers), instructed by Andrew Burton, PCC Legal Services
Original Application	:	Appeal against a decision to refuse to grant a licence under Part III of the Housing Act 2004 [HA 2004, s.94 & Sch 5, para 31(1)]
Tribunal	:	G K Sinclair, G F Smith MRICS FAAV REV & N Miller BSc
Hearing dates and venues	:	4 th July 2018 at Peterborough, 30 th October 2018 & 30 th November 2018 at Cambridge, and 7 th December 2018 at Peterborough
Date of substantive decision	:	15 th March 2019
Date of this decision	:	23 rd May 2019

DECISION REFUSING PERMISSION TO APPEAL

Decision of the tribunal

1. On 15th March 2019 the tribunal handed down its substantive decision dismissing the appellant's appeal against the decision by Peterborough City Council to refuse it a licence to act as manager for the letting of residential property within areas of the city which are subject to a selective licensing scheme under Part 3 of the Housing Act 2004.
2. By a formal application dated 15th April 2019, received just within the time limit for doing so, the appellant sought permission to appeal against the tribunal's decision. The seven grounds of appeal, settled by counsel, run to ten pages.
3. The tribunal has considered the appellant's application for permission to appeal and determines that :
 - a. it will not review its decision; and
 - b. permission be refused.
4. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the proposed appellants may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.

Reasons for this decision

5. The tribunal's decision was based on the evidence and submissions put before it at the hearing, including the written evidence, statements and statements of case appearing in the hearing bundle.
6. *Ground 1 – Mrs Hamid named as “responsible person” on application* – The tribunal repeats the points made by it at paragraphs 79 to 85 of its substantive decision. The tribunal can, and indeed should, take into account the facts known to it as at the date of the hearing. These included the fact that the application which formed the subject of the appeal to the tribunal named as a responsible person someone whom the appellant well knew was not and would not be involved in management of the properties.
7. *Ground 2 – Error of law/findings contrary to the weight of the evidence* – The tribunal rejects this ground of appeal. It was entitled to, and did, weigh the totality of the evidence before it and draw inferences from :
 - a. the inconsistencies between the terms of the share sale agreement and what actually happened,
 - b. the apparent reluctance of the appellant's director and minority shareholder, Mr Akhtar, to accept the tribunal's argument that the delay in the appeal beyond six months from purchase date may avoid the need to make any final payment,
 - c. the continued presence – as sole full-time employee – of a sister and hence associate of Shahnawaz Lal (and who had also fronted a separate company managing the self-same rental portfolio), and
 - d. the absence of any evidence from or attendance by Mr Raza, the holder of 50% of the company's shares.

8. The allegations in paragraphs 7 and 8 of the Grounds of Appeal are also rejected. The only “findings” recorded concerning Mr Ingle appear at paragraph 91 a. & c. and are not relevant to the findings by the tribunal concerning the fitness of the appellant company to hold a licence.
9. *Ground 3 – Findings contrary to the weight of the evidence* – Hearsay evidence, in this case an official police record of an officer’s report of an incident, is perfectly admissible in civil proceedings. It was contradicted by a statement in the name of Mr Iqbal who, despite attempts by the appellant on two separate days, failed to attend the hearing to confirm its content. While the origin of the police report was known that of Mr Iqbal’s statement was not, and Ms Bezant correctly pointed out an inconsistency between its content and what Mr Lal is said to have told the officer attending the incident. The appellant also ignores Mr Lal’s continued involvement, post share transfer, as a very unofficial “guarantor” for Ms Khan as tenant and his attempt to persuade her to pay arrears of rent.
10. *Ground 4 – Error of law* – At paragraph 91 a the tribunal determined that “The only experienced person there is Indrė Juškevičiūtė, who works from 10:00 to 14:00 four days per week, and has had the misfortune to acquire all her residential lettings experience in Lal family companies”. Implicit from that, the final sentence in paragraph 53, and (in paragraph 91 d) concern as to persisting use of informal guarantees, is the tribunal’s lack of confidence in the ability of the directors to manage a lettings agency in compliance with industry practice.
11. In his second witness statement (at paragraph 16) Mr Akhtar states merely that he has experience as a developer and manager of residential property, and that “myself and Mr Raza have completed the UKALA accreditation course which gives us sufficient knowledge of the nature of the business and meets the city council’s requirements.” In response to cross-examination from the respondent he said that he regarded a UKALA certificate as sufficient for him to manage a lettings business himself.
12. *Ground 5 – Error of law* – The question whether a local housing authority may require an individual member of an applicant company to be named so as to be DBS checked has been dealt with already under Ground 1. The tribunal’s view is that this is legitimate.
13. *Ground 6 – Error of law* – The tribunal stands by its determination that when findings have been made against a company a change in ownership is not itself sufficient to wipe the slate clean. Further, in this case the tribunal identified in its decision some continuing matters of concern since the share transfer.
14. *Ground 7 – Error of law/findings contrary to the weight of the evidence* – The decision reached by the tribunal concerning Ms Juškevičiūtė was based on its findings about what she did; not on what the appellant says she had not done. Paragraph 20 in the Grounds of Appeal is rather selective, especially with regard to the totality of the evidence concerning the number and origin of phone calls and messages received by Ms Khan on a single day. Ms Juškevičiūtė’s reason for phoning repeatedly, instead of simply leaving a text message, was unconvincing.
15. Her evidence concerning Mr Lal’s involvement in the office when the staff were

all trying to complete the council's on-line application program, when a company credit or debit card was said to be passed around between them, and her answers when questions became awkward, were equally unconvincing and appeared to be over-protective of others.

16. The tribunal is therefore satisfied that, in accordance with the criteria adopted by the Upper Tribunal, there are no reasonable grounds for arguing :
 - a. That the tribunal wrongly interpreted or applied the relevant law
 - b. That it took account of irrelevant considerations, or failed to take account of a relevant consideration or evidence, or
 - c. That there was a substantial procedural defect.

Dated 23rd May 2019

Graham Sinclair

Graham Sinclair
First-tier Tribunal Judge