



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

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| Case reference | : | CAM/00MD/LIS/2019/0006 |
| Property | : | Flat 45, Nova House, 1 Buckingham Gardens, Slough, SL1 1AY |
| Applicant | : | Pell Buy It Investments Limited |
| Representative | : | |
| Respondent | : | Ground Rent Estates 5 Limited |
| Representative | : | |
| Type of application | : | Application for permission to appeal |
| Tribunal member(s) | : | Tribunal Judge Dutton Miss M Krisko BSc (Est Man) FRICS |
| Venue | : | 10 Alfred Place, London WC1E 7LR |
| Date of decision under appeal | : | 25th September 2019 |

DECISION REFUSING PERMISSION TO APPEAL

DECISION OF THE TRIBUNAL

1. The tribunal has considered the applicant's request for permission to appeal dated 21st October 2019 and the Respondents representations dated 8th November 2019 and determines that:
 - (a) it will not review its decision; and
 - (b) permission be refused.

2. 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 applicant 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.
3. The Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710); or by email: lands@hmcts.gsi.gov.uk .

REASON FOR THE DECISION

4. The reason for the decision is that the tribunal had considered and taken into account all of the points now raised by the applicant, when reaching its original decision.

AND/OR

5. The original tribunal's decision was based on the evidence before it and the applicant has raised no legal arguments in support of the request for permission to appeal.
6. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that further application for permission to appeal is made), the tribunal has set out its comments on the specific points raised by in the request for permission to appeal, in the appendix attached.

Name: Tribunal Judge Dutton **Date:** 18th November 2018

APPENDIX TO THE DECISION
REFUSING PERMISSION TO APPEAL

For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the tribunal records below its comments on the grounds of appeal, adopting the paragraph numbering of the original application for permission. References in square brackets are to those paragraphs in the main body of the original tribunal decision.

Specific comments on the grounds of appeal

Ground 1 Expert evidence

Paragraph 13 of the decision sets out the background and is expanded upon in the Respondent's representations. Paragraph 22 explains the position. Stating that a party intends to rely upon a report is not the equivalent of seeking permission and no such permission was sought. Had it been then further directions could have been supplied, giving the Respondent an opportunity of providing its own report. In any event at the hearing Counsel for the Applicants accepted the position. It should be noted that the Applicants were represented by experienced Counsel at this hearing and a previous hearing concerning fire prevention costs.

Ground 2 Accounts for 218 and s20B

At paragraphs 66 and 68 these matters are dealt with. Further at paragraph 50 we record that the Applicant said it did NOT receive the letter.

Ground 3 Tribunal fact finding function.

It is not considered that these matters are grounds for appeal. The comment recorded as emanating from the tribunal judge is intended to be mischievous. Any comment concerning the bundles, running to more than 700 pages was to ensure that the parties drew specific papers to our attention. The use of words, which are not recorded, other than by Mr Pell it would seem, who subsequently referred to these alleged words in a newspaper interview, is an unreasonable attempt to justify the appeal. The tribunal members had a combined experience of over 40 years and knew what papers need to be studied in advance of the case. Neither of the directors of the Applicant company gave evidence. Instead they sought to rely on an experts report for which no permission was sought and their tenant, whose evidence is set out at paragraphs 19 to 21. This element is an attempt to rehear the case based on the Applicant's assessment of the evidence we heard.

Ground 4 cladding and compartmentation

Paragraphs 26 and 27 as well as paragraph 69 covers this complaint

Ground 5 Concierge

Paragraph 31 and 32 record this issue and our findings are at paragraph 65

Ground 6 Inspection

It was not considered by us that an inspection would assist. The issues did not require a site visit. There were photographs.

Ground 7 Wide implications

It is not considered that there are wider implications., The challenge was under s27A of the Landlord and Tenant Act 1985. The issue of cladding, amongst other issues are clearly important, and as we set out in the decision (Paragraph 77, amongst others) we recognised this. It is noted that no other leaseholder has challenged the service charges and the wider implication argument is not considered relevant.