



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

Case Reference	:	CAM/42UD/LSC/2019/0080 A : BTMMREMOTE
Property	:	Revetts House, 59–63 Norwich Road, Ipswich IP1 2EP
Applicants	:	Riverdale (Norwich Road) Company Limited, and the 11 individual lessees listed on the application
Respondent	:	Malvin Paul Brown
Type of Application	:	for determination of reasonableness and payability of service charges (insurance) for the years 2012 to date (2019)
Tribunal	:	Judge G K Sinclair
Date and venue of Hearing	:	Tuesday 28 th April 2020, by telephone hearing
Date of substantive decision	:	12 th May 2020
Date of this Decision	:	8 th June 2020

DECISION REFUSING PERMISSION TO APPEAL

Decision of the tribunal

1. The tribunal has on 8th June 2020 received an application by the lessor seeking permission to appeal the tribunal's decision dated 12th May 2020. The application seeks to appeal the tribunal's assessment in paragraph 4 e. that the amount of commission for insurance received by him in the period 2012/13 to 2019/20 was £8 386.86. He submits that the true figure was only £4 566.88.
2. Claiming, without offering any evidence in support, that it is currently difficult to obtain counsel's advice, he seeks to "submit this appeal without it necessarily being complete."

3. The tribunal has considered the application by the applicant 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 appellant 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 in writing, before or during the hearing. It is too late now to seek to introduce evidence which could reasonably have been produced at the material time. As paragraph 2 of the tribunal's directions order dated 13th January 2020 made very clear :

Parties should be aware that failure to provide evidence requested may result in the Tribunal drawing an adverse inference from the lack of that evidence. If documentation cannot be provided for a good reason a full explanation should be sent.
6. The evidence that the respondent now seeks to adduce in the form of a table marked "item 10" is an entirely new document which, if to be relied upon, should have been deployed by him at or preferably before the hearing. In paragraph 4 d) of the tribunal's directions the respondent was required to provide :

details of any remuneration, commission and other sources of income and related income or other benefits received in connection with placing or managing insurance received by the landlord/ associated landlord, its broker or other agents re insurance;...
7. No explanation is given for his not doing so, but in his "statement" or statement of case dated 7th February 2020 the respondent referred at page 2, point c), and at page 4, point m), to charging an insurance premium of £280 for the smaller flats and £330 for the larger ones with balconies. Nowhere did he suggest that this apportionment was only for the years 2018 and 2019. His comments were not time-limited, and both the applicant and the tribunal acted accordingly. At no stage during the hearing did the respondent seek to correct the impression given by his statement and thus the alleged errors in the appellant management company's table at page 158 of the hearing bundle.
8. Further, the respondent's statement of case had annexed to it only seven "items", so the proposed introduction on appeal of an "item 10" is unexplained.
9. Applications for permission to appeal cannot be conducted piecemeal, reserving the option to raise further grounds of appeal at a later date, and potentially out of time. The application for permission is therefore determined on the basis of its present contents, which refer only to the issue of the amount that the respondent must reimburse.

10. The tribunal is therefore satisfied that, in accordance with the criteria for appeals adopted by the Upper Tribunal, there are no reasonable grounds for arguing that the tribunal failed to take account of a relevant consideration or evidence.

Dated 8th June 2020

Graham Sinclair
First-tier Tribunal Judge