



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

Case Reference : CHI/29UN/HIN/2020/0020

Property : 10, Hadlow Drive, Cliftonville, Margate,
Kent CT9 3YQ

Applicant : Olympia Homes Limited

Representative : Mr Pedram Tamiz

Respondent : Thanet District Council

Representative :

Type of Application : Application for costs following revocation
of Improvement Notice

Tribunal Member : D Banfield FRICS

:

Date of Decision : 21 June 2021

DECISION

Summary of Decision

The application for costs under Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 is refused.

Background

1. The Applicant sought to appeal against an Improvement Notice dated 21 October 2020 in respect of the property. The Notice was subsequently revoked due to a change of the Respondent's address and a fresh Notice made dated 18 December 2020. This was in turn revoked by way of a Notice dated 18 January 2021.
2. The Applicant now seeks costs of £450 comprising £100 Tribunal fees and £350 time/costs.
3. The Tribunal made Directions on 7 April 2021 indicating that the Tribunal's cost powers were contained in Rule 13 of the Tribunal Procedural Rules 2013 and are limited to circumstances where "a person has acted unreasonably in bringing, defending, or conducting proceedings in a residential property case" The parties were also referred to guidance on how the Rule may be applied which is contained in the Upper Tribunal decision of Willow Court v Alexander and others [2016]UKUT 0290 (LC).
4. The Tribunal's directions invited the Applicant to provide a statement of case setting out their claim for costs under Rule 13 and a response from the Respondent to which the Applicant could reply.
5. The Tribunal considered that the application was suitable for determination on the papers without an oral hearing in accordance with Rule 31 of the Tribunal Procedure Rules 2013 unless a party objected. No objections have been received and the application is so determined.
6. Both parties have complied with directions and the tribunal has before it the Applicants statement of case with appended correspondence, the Respondent's reply and a reply from the Applicant.

The Law

7. Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, provides, in relevant part:
 - (1) The Tribunal may make an order in respect of costs only-
 - (a)...
 - (b) if a person has acted unreasonably in bringing, defending or conducting proceedings in-
 - (i) ...
 - (ii) a residential property case
 - (iii) ...
 - (c)...
8. An application under the Housing Act 2004 is a residential property case for the purposes of this section.

The Evidence

9. In their statement of case the Applicant refers to circumstances preceding the service of an Improvement Notice on 21 October 2020 which was subsequently revoked on 18 January 2021. The Applicant states that it was only their application to the tribunal in November 2020 that prompted the revocation and that there was a “clear abuse of power and authority”
10. In a statement of case dated 17 May 2021 Mr Stephen O’Shea a Senior Housing Improvement Officer with the Respondent said that he believed the Council acted with the best of intentions and went on to explain his understanding of the events.
11. The Applicant replied on 24 May 2021 disputing Mr O’Shea’s account and setting out further allegations in respect of the Council’s actions and motives.

Decision

12. The Tribunal’s relevant powers with regard to costs are contained in Rule 13 (1)(b)(ii) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 which enable the Tribunal to make an order for costs if a person has acted unreasonably in **bringing, defending or conducting proceedings in a residential property case.** (The Tribunal’s emphasis)
13. The Council’s conduct which is the subject of this complaint is in respect of their actions in making and subsequently revoking an Improvement Notice. Nothing in the Applicant’s case refers to the conduct of proceedings before the Tribunal and it only such conduct that I am able to take into account when considering if an award should be made.
14. Given that no evidence has been submitted in respect of the Respondent’s conduct **in bringing, defending or conducting proceedings in a residential property case** before this Tribunal **the application for costs under Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 must be refused.**

D Banfield FRICS
Regional Surveyor
21 June 2021

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.