



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

Case reference : **CAM/22UG/LRM/2021/004 & 5**

HMCTS code (paper, video, audio) : **P: PAPERREMOTE**

Property : **14-19 and 6-13 Darkhouse Lane,
Rowhedge, Essex CO5 7HJ**

Applicant : **Darkhouse B2 RTM Company Ltd
and
Darkhouse B3 RTM Company Ltd**

Representative : **RTMF Services Limited**

Respondent : **Legra Investments Limited**

Representative : **Tolhurst Fisher LLP**

Type of application : **Application for permission to appeal**

Tribunal member(s) : **Judge Wayte**

Date of decision : **28 April 2022**

DECISION REFUSING PERMISSION TO APPEAL

Covid-19 pandemic: description of determination

This has been a determination by on the papers, which is the basis on which all permission to appeal applications are considered, unless there is a request or order for a hearing. The respondent appealed by letter dated 12 April 2022.

DECISION OF THE TRIBUNAL

1. The tribunal has considered the respondent's request for permission to appeal dated 12 April 2022 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 respondent 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. Where possible, you should send your further application for permission to appeal **by email** to Lands@justice.gov.uk, as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently.
 4. Alternatively, 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).

REASONS FOR THE DECISION

5. The application for appeal is confined to the order made in paragraph 17 of the decision dated 28 March 2022 that the respondent reimburse the application fees of £200. As stated in the decision, this order was made under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, following a request by the applicant in their statement of case dated 22 February 2022.
6. Three reasons are given for the appeal: that there were insufficient grounds to make an order under Rule 13(2); that the tribunal did not give the respondent an opportunity to make representations as required by Rule 13(6) and that there were no grounds under Rule 13(1) to make the order “for costs”.
7. With respect to the respondent’s solicitor, there appears to be some confusion as to the basis on which the order was made. Rule 13 contains different provisions for orders in respect of costs and the reimbursement of fees. The respondent is correct that an order for costs can only be made under Rule 13(1) on limited grounds and that Rule 13(6) requires the paying person to be given an opportunity to make representations before an order for costs is made. By way of contrast, Rule 13(2) gives the tribunal discretion to make an order for reimbursement of fees without the requirement for representations (reimbursement of fees being different to costs).
8. In any event, in this case the request and reason for an order was set out by the applicants in their statement of case dated 22 February 2022. The respondent was therefore on notice that the tribunal had been asked to make an order and was also aware that the application would not be considered until on or after 7 March 2022. The tribunal explained why it decided to exercise its discretion in the applicants’

favour in paragraph 17 of its decision dated 28 March 2022. For the avoidance of doubt, that exercise does not require unreasonable behaviour in the “*Willow Court*” sense. The respondent’s request for an appeal makes no representations against the exercise of discretion other than a reference to “sufficient grounds”. The grounds given, that a reasonable respondent would have withdrawn their (weak) objections without putting both applicants to the expense of issuing the applications, are ample to justify the order.

9. In the circumstances, the tribunal does not consider that any ground of appeal has a realistic prospect of success.

Name: Judge Wayte

Date: 28 April 2022