



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

Case Reference : LON/00BB/LRM/2014/0002

Property : 21a & 21b Chobham Road, E15

Applicant : 21 Chobham Road RTM Company Limited

Representative : Urban Owners Limited

Respondents : Theori & Dimitri Limited & Binnings Properties Limited

Representative : Whitmore Law LLP

Type of Application : Right to Manage – Costs pursuant to Rule 13 The Tribunal Procedure (first-Tier Tribunal) (Property Chamber) Rules 2013

Tribunal : Mr M Martynski (Tribunal Judge)

Date of Decision : 13 May 2014

DECISION

Decision summary

1. The tribunal declines to make any award of costs.

Background

2. In a decision (made on the papers) dated 19th of March 2014 Tribunal Judge S O'Sullivan decided that the Applicant had

acquired the Right to Manage the subject property on 1 April 2014.

3. In coming to that decision, the tribunal considered and rejected the three grounds set out in the Respondents' counter-notice which denied the Right to Manage.
4. In the papers submitted to the tribunal the Applicant had made an application for costs pursuant to rule 13 of the Tribunal Procedure (First – tier Tribunal)(Property Chamber) Rules 2013 ('the Tribunal Rules') on the grounds that the counter-notice and the objections to the Right to Manage set out therein constituted frivolous and vexatious behaviour.
5. The tribunal dealing with that application did not consider that it had sufficient information as to the costs claimed and was not satisfied that the Respondent had had a proper opportunity to respond to the claim for costs. That tribunal therefore gave directions for a further decision to be made on the papers alone as to the Applicant's claim for costs.
6. Neither party requested a hearing of the application for costs and that application has therefore been considered and decided on the papers alone.

The grounds set out in the Respondents' counter notice

7. Briefly the objections set out in the Respondents' counter-notice were as follows: –
 - The Claim Notice was not served correctly
 - A shared accessway prevented the Right to Manage being taken over some or all of the subject property
 - Not all proprietors of the units on the estate of which the property forms parts were invited to participate in the RTM company
8. The Applicant gave details of the costs claimed which amounted to £130, that being one and a half hours in preparing the application to the tribunal and the papers for the final decision.

Decision

9. The relevant parts of Rule 13 of the Tribunal Rules provide as follows.

13.—(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) an agricultural land and drainage case,
(ii) a residential property case, or

- (iii) a leasehold case; or
- (c) in a land registration case.

10. The fact that the Respondents' objections to the Right to Manage were dismissed by the tribunal is not in itself sufficient to mean that the Respondents had behaved unreasonably in challenging the Right to Manage.
11. There was no suggestion that the Respondents had otherwise behaved unreasonably during the course of the proceedings.
12. For my part I cannot see that the Respondents have behaved in any way that could be described as unreasonable in opposing the Right to Manage on the grounds set out in its counter-notice.
13. The Respondents are entitled to object to the Right to Manage and they properly exercised that right, albeit ultimately to no effect. The objections set out in the Respondents' counter-notice do not therefore, in my view, amount to unreasonable conduct on their part.

Mark Martynski, Tribunal Judge