



Appeal number: EA/2021/0321

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS**

ARNOLD MARTYRES

Appellant

- and -

INFORMATION COMMISSIONER

Respondent

**RULING ON THE INFORMATION COMMISSIONER'S APPLICATION
TO STRIKE OUT THE APPEAL**

DECISION

1. Having considered the matters raised by the Appellant in his emails, in addition to the grounds of appeal and the Information Commissioner's decision notice I have concluded that there is no reasonable prospects of this appeal succeeding and it is struck out under rule 8(3)(c).

REASONS

2. On 15 November 2021 I decided that some parts of this appeal (identified in my decision of that date) were struck out as this tribunal has no jurisdiction to deal with those parts of the proceedings. To the limited extent that this appeal proceeded I made directions.
3. In his response to the appeal the Information Commissioner has applied to strike out the remaining parts of the appeal on the grounds that they have no reasonable prospects of success.

4. Mr Martyres was given an opportunity to make representations on the proposed strike out by 6 January 2022, in an email from the Tribunal dated 23 December 2021.
5. Since that time Mr Martyres has written to the Tribunal to request copies of correspondence with the public authority or documents relating to the ownership of land.
6. On 5 January 2022 at 16.10 the Information Commissioner wrote to request that this case was referred to a judge to be considered and gave reasons.
7. On 5 January 2022 at 19.58 Mr Martyres wrote to the tribunal including the reference number for this appeal and those of 2 others which were previously struck out. In that email he says as follows

"The Appellant requests the Tribunal to instruct the Respondent to Order Huntingdonshire District Council to disclose the Court Order that [name redacted] relies on to prove that they are the Sole Legal Owners of the land. Failing that this matter should be resolved at a Hearing on or near the site of the Disputed Land."
8. Mr Martyres has since applied for HM Land Registry to be joined as respondents to this appeal because he wants the Tribunal to consider a decision, they have made about who should be registered as the proprietor of land.
9. The Respondent's decision notice IC-82840-Y0C4 found that the public authority council was entitled to rely on section 14(2) FOIA in its refusal of the Appellant's request because it was a repeat of a previous request both of which were asking what evidence the council holds that provides proof of ownership of the land in question. The Appellant submitted that decision was wrong in law or involved an inappropriate exercise of discretion because the Respondent took into account evidence that was misleading or unworthy of belief or failed to take account of evidence he should have.
10. The Respondent submits that a submission that the Respondent took into account evidence that was misleading or unworthy of belief or failed to take account of evidence he should have is not sufficient to found a reasonable prospect of success.
11. The Appellant's grounds of appeal do not identify an error of law in the Respondent's Decision Notice, nor a wrongful exercise of discretion. In order for this appeal to succeed, there must be a reasonable prospect that the Tribunal might reach one of these two conclusions. No communication from the Appellant has addressed those questions.

12. Although the Tribunal has a duty to facilitate the participation of the parties in an appeal the tribunal may not create the substance of grounds of appeal. There is no clear or obvious error of law in the decision under appeal and so in the absence of any submissions from the appellant that are more than mere assertion, I conclude that there is no reasonable prospect that a Tribunal would conclude that the decision notice is wrong in law or includes a wrongful exercise of discretion. This is not simply a weak case, but the case has simply not been provided by the Appellant. In other words, having considered all the correspondence and finding no arguable grounds of appeal that could be considered by the First Toer Tribunal, the appeal is hopeless.
13. For these reasons the remainder of this appeal is struck out.
14. In the circumstances no question of joining HM Land Registry arises but I make it clear that I would not have ordered such a joinder in any event as the actions of that organisation are immaterial to the decision under appeal.

Tribunal Judge Lynn Griffin
10 January 2021