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

Case Reference : LON/00AW/LDC/2016/0009

Property : 28/29 Hans Place, London SW1X 0JY

Applicant for costs : Ms Volkers

Representative : Forsters LLP Solicitors

Respondents : 28/29 Hans Place Freehold Limited

Representative : Knightsbridge Land Management Limited

Type of Application : Costs application under rule 13

Tribunal Members : Charles Norman FRICS
(Valuer Chairman)
Michael Taylor FRICS

Date of Decision : 8 April 2016

DECISION ON RULE 13 COSTS

Decision

1. The application is **DISMISSED**.

Reasons

2. The Tribunal is in general a “no-cost jurisdiction” in that it does not have general cost-shifting powers. A successful party should not therefore hold any expectation of receiving its costs.
3. The Tribunal has power to make a costs order against a party only in the limited circumstances set out in rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the “rule”) (appended). Rule 13 is engaged only when a party has committed some form of misconduct as particularised in the rule.
4. In *Ridehalgh v Horsfield* [1994] CH 205 the Court of Appeal said

“Unreasonable”... means what it has been understood to mean in this context for at least half a century. The expression aptly describes conduct which is vexatious, designed to harass the other side rather than advance the resolution of the case, and it makes no difference that the conduct is the product of excessive zeal and not improper motive. But conduct cannot be described as unreasonable simply because it leads in the event to an unsuccessful result or because other more cautious legal representatives would have acted differently. The acid test is whether the conduct permits of a reasonable explanation. If so, the course adopted may be regarded as optimistic and as reflecting on a practitioner’s judgment, but it is not unreasonable. (emphasis added).
5. The Tribunal does not consider that the bringing of the application by the freeholder or its conduct of the litigation was unreasonable within the meaning of *Ridehalgh v Horsfield* or rule 13. Although the freeholder was unsuccessful, it had arguable grounds for making the application. The freeholder conducted the litigation properly; it complied (or substantially complied) with directions, it facilitated inspection by the Tribunal and its representatives conducted themselves correctly at the hearing.
6. For the above reasons the Tribunal concluded that the application must be dismissed.

C Norman FRICS
Valuer Chairman

8 April 2016

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix

The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

13.—(1) The Tribunal may make an order in respect of costs only—

(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;

(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.

(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

(3) The Tribunal may make an order under this rule on an application or on its own initiative.

(4) A person making an application for an order for costs—

(a) must, unless the application is made orally at a hearing, send or deliver an application to the Tribunal and to the person against whom the order is sought to be made; and

(b) may send or deliver together with the application a schedule of the costs claimed in sufficient detail to allow summary assessment of such costs by the Tribunal.

(5) An application for an order for costs may be made at any time during the proceedings but must be made within 28 days after the date on which the Tribunal sends—

(a) a decision notice recording the decision which finally disposes of all issues in the proceedings; or

(b) notice of consent to a withdrawal under rule 22 (withdrawal) which ends the proceedings.

(6) The Tribunal may not make an order for costs against a person (the “paying person”) without first giving that person an opportunity to make representations.

(7) The amount of costs to be paid under an order under this rule may be determined by—

(a) summary assessment by the Tribunal;

(b) agreement of a specified sum by the paying person and the person entitled to receive the costs (the “receiving person”);

(c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person by the Tribunal or, if it so directs, on an application to a county court; and such assessment is to be on the standard basis or, if specified in the costs order, on the indemnity basis.

(8) The Civil Procedure Rules 1998(1), section 74 (interest on judgment debts, etc) of the County Courts Act 1984(2) and the County Court (Interest on Judgment Debts) Order 1991(3) shall apply, with necessary modifications, to a detailed assessment carried out under paragraph (7)(c) as if the proceedings in the Tribunal had been proceedings in a court to which the Civil Procedure Rules 1998 apply.

(9) The Tribunal may order an amount to be paid on account before the costs or expenses are assessed.