



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

**Case reference** : **CAM/22UN/HNA/2019/0021-26**

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

**Property** : **7 & 9 Hayes Road, Clacton-on-sea, Essex  
CO15 1TX**

**Applicant** : **Mrs Lystra Dorval**

**Respondent** : **Tendring District Council**

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

**Tribunal member(s)** : **Regional Judge Ruth Wayte  
Marina Krisko FRICS  
John Francis**

**Date of decision** : **20 September 2022**

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**DECISION REFUSING PERMISSION TO APPEAL**

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**Covid-19 pandemic: description of determination**

This has been a determination on the papers in accordance with the standard practice for consideration applications for permissions to appeal. The applicant's arguments were on an excel spreadsheet sent to the tribunal on 9 September 2022.

**DECISION OF THE TRIBUNAL**

1. The tribunal has considered the applicant's request for permission to appeal dated 9 September 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 applicant 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](mailto: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 applicant's grounds requested the removal of various financial penalties varied by the tribunal based on arguments that evidence which post-dated the closure of the properties on 12 August 2019 (following the service of a Prohibition Order) was wrongly taken into account, that the damage was caused by the tenants after the closure of the properties or that she disagreed with the tribunal's findings of fact in the decision dated 15 August 2022.
6. Certain evidence which post-dated the closure of 7 Hayes Road was introduced by the applicant and accepted by the tribunal in its decision to reduce the penalties for maintenance of the fire alarm – for example in paragraphs [21] and [24]. The applicant has misunderstood the tribunal's approach which was to assess the condition of the property prior to its closure but allow the applicant to rely on other evidence which post-dated August 2019 to argue that the penalties should be reduced. If the tribunal had refused to consider that evidence the penalties may not have been reduced at all.
7. The other grounds repeat the applicant's case stated at the hearing or seek to make new arguments now which could and should have been raised at the time. In effect they amount to a disagreement with the tribunal's findings of fact based on the evidence given at the hearing or a misunderstanding of those findings. For example, the tribunal found in [29] that the gas leak occurred after the closure of 7 Hayes Road. Given that the penalty was for the failure to maintain both gas and electricity supplies, a penalty was still found to be due, albeit at a much lower level. In [37] the argument in relation to theft of lead from the main roof was considered but the tribunal decided that the leak was due to the flat roof. The applicant disagrees with that finding.
8. The same issues arise in respect of 9 Hayes Road. At [44] the tribunal took the applicant's evidence that there was no gas supply to the

property into account and reduced the penalty as a result. The tribunal found that the council's photographs were taken on 6 August 2019, for example at [50] and agreed with the original tribunal that the quality of the repairs carried out by the applicant were poor [52]. The application for permission to appeal either misunderstands these conclusions or disagrees with them.

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

**Name:** Judge Wayte

**Date:** 20 September 2022