



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

Case Reference : **MAN/00BY/AOF/2015/0035**

Property : **70 Rodney Street
Liverpool
L1 9AF**

Applicant : **Ms K Brighton**

Respondent : **Liverpool City Council**

Type of Application : **Application for Permission to Appeal**

Tribunal : **Judge J Holbrook
Mr J Faulkner FRICS**

Date of Decision : **14 July 2016**

DECISION

DECISION

The Tribunal's decision dated 3 June 2016 will not be reviewed.

Permission to appeal is refused.

REASONS

1. On 3 June 2016 the Tribunal made a determination of the price payable for the Property under section 9 of the Leasehold Reform Act 1967 ("the Decision").
2. The Decision was sent to the parties on the same day and, on 30 June, Ms Brighton applied for permission to appeal the Decision to the Upper Tribunal (Lands Chamber).
3. A decision of a Tribunal may be appealed to the Upper Tribunal (Lands Chamber) if:
 - (a) the decision shows that the Tribunal wrongly interpreted or wrongly applied the relevant law;
 - (b) the decision shows that the Tribunal wrongly applied or misinterpreted or disregarded a relevant principle of valuation or other professional practice;
 - (c) the Tribunal took account of irrelevant considerations, or failed to take account of relevant considerations or evidence, or if there was a substantial procedural defect; or
 - (d) the point or points at issue is or are of potentially wide implication.
4. Ms Brighton's permission application states that it is made in reliance on ground (b) above. In reality, however, it appears to rely almost exclusively on ground (c): in particular, upon an assertion that the Tribunal failed to take account of relevant evidence.
5. In essence, the permission application asserts that the Tribunal failed to take account of valuation evidence in respect of a relevant comparable property; namely, 50 Rodney Street, Liverpool. Ms Brighton says that the respondent Council owns the freehold of that property and has for many months been involved in negotiations with a property developer for its sale. Ms Brighton understands that "the transaction though not finalised is still proceeding". She complains that, throughout the proceedings before the Tribunal, the Council has thwarted her attempts to discover the proposed purchase price for 50 Rodney Street which, she considers, should have been disclosed in order that the Tribunal could have regard to it, along with other comparable evidence. Ms Brighton feels that the Council has thereby acted unfairly and has misled the Tribunal.

6. In a subsequent email to the Tribunal, Ms Brighton adds that she “did try to bring this information to the attention of the tribunal on the days leading up to the hearing when I handed this in to the tribunal offices in person, however it was deemed too late to be heard by the tribunal.”
7. A copy of the information to which Ms Brighton refers (“the Additional Documents”) was included with the permission application. It includes copies of various emails between herself and officers of the Council, together with sales particulars for 50 Rodney Street apparently obtained from the internet, photographs, and a commentary thereon by Ms Brighton in statement form.
8. Ms Brighton was represented during the run-up to the hearing of her application by a firm of surveyors, Orme Associates, and at the hearing itself by Mr M Loveday of counsel. In accordance with the Tribunal’s case management directions, Orme Associates had lodged a statement of case (with supporting documentary evidence) on Ms Brighton’s behalf. They had also lodged a response to the Council’s statement of case. These were before the Tribunal at the time of the hearing (along with the Council’s own submissions). They made no reference to 50 Rodney Street. Nor had any application been made during the pre-hearing stages of the case for an order compelling the Council to disclose documents or information relating to 50 Rodney Street.
9. Nevertheless, at some point during the week prior to the hearing, Ms Brighton attended the Tribunal’s offices in person in order to hand deliver the Additional Documents. She was informed by the case officer that it would be for the Tribunal to decide whether late evidence should be admitted.
10. At the beginning of the hearing on 25 April 2016, Judge Holbrook raised with the parties the question of the status of the Additional Documents. The Judge asked Mr Loveday whether he wished to make an application to admit the Additional Documents into evidence. Mr Loveday replied that he did not wish to do so. In consequence, the Additional Documents were put to one side and no further mention of them was made during the hearing. Nor was any mention made of 50 Rodney Street. It is thus incorrect to say that the evidence contained in the Additional Documents “was deemed too late to be heard by the tribunal”. The truth of the matter is that the Tribunal was simply not asked to admit that evidence. Indeed, Mr Loveday effectively invited the Tribunal to disregard it.
11. In these circumstances it is difficult to see how the exclusion of evidence relating to 50 Rodney Street from the Tribunal’s decision-making process can give rise to a valid ground of appeal. We do not consider that Ms Brighton’s permission application discloses grounds for appeal which are arguable and which have a real prospect of success.
12. We have also considered (taking account of the overriding objective of dealing with cases fairly and justly) whether to review the Decision. However, the Tribunal may only undertake such a review if, on an application for permission to appeal, it is satisfied that a ground of appeal is likely to be successful. For the reasons stated above, we are not satisfied that Ms

Brighton's grounds for appeal are likely to be successful. It follows that the Decision cannot be reviewed.

13. 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.