

IN THE FIRST-TIER TRIBUNAL

PROPERTY CHAMBER

(RESIDENTIAL PROPERTY)

IN THE MATTER OF No. 1 West India Quay, 26 Hertsmere Road, London E14

AND IN THE MATTER OF an application for recognition of a tenants' association pursuant to Section 29 of the Landlord and Tenant Act 1985

BETWEEN:-

ONE WEST INDIA QUAY RESIDENTS ASSOCIATION

Applicant

and

(1) WEST INDIA QUAY DEVELOPMENT COMPANY (EASTERN) LIMITED

(2) No. 1 WEST INDIA QUAY (RESIDENTIAL) LIMITED

Respondents

RESPONDENTS' REPLY TO THE APPLICANT'S SUBMISSION ON COSTS

DATED 3RD APRIL 2014

Introduction

1. The Respondents have received the submission of the Applicant on costs ("the Costs Submission"), prepared by Mr. Boyd.
 - 1.1 This document ("the Reply") replies, so far as necessary, to the Costs Submission. Expressions defined in the Respondents' Skeleton Argument for the hearing have the same meaning in this reply. Italics have again been added to quotations. References to page numbers in the hearing bundle are given in square brackets and bold print.
 - 1.2 The Reply is not intended to constitute a line by line reply to the Costs Submission. Where a particular allegation in the Costs Submission is not dealt with in the Reply, no assumption should be made that the allegation is accepted. The correct assumption is that the allegation is disputed.

Non-provision of the Costs Submission to the Respondents

2. The Costs Submission was not copied to the Respondents' solicitors, as it should have been, either by the Applicant or Mr. Boyd. In the result, the Costs Submission did not reach the Respondents until 24th April 2014, when it was sent by the Tribunal.

2.1 Mr. Boyd introduces the Costs Submission with the following preamble.

“Can I make the following submission on behalf of the applicants. I am not aware of the obligations to forward copies to the other parties now that the hearing is complete. Can I ask you to forward if required.”

2.2 Mr. Boyd plainly has experience of appearing in Tribunals. The idea that the obligation to copy the Respondents in on the Applicant's written submissions had somehow come to an end, at the conclusion of the oral hearing, is quite absurd.

2.3 This point does not simply rest on the fact that all written submissions lodged by a party in proceedings before the Tribunal should be copied to the other party. As a matter of common courtesy, at the very least, both the Applicant and Mr. Boyd should have taken the trouble to copy the Applicant in on the Costs Submission.

2.4 The situation gets even worse when it is borne in mind that paragraph 9 of the Costs Submission introduces an application for the Applicant's costs of the Recognition Application pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Tribunal will recall that Mr. Boyd was given permission, at the conclusion of the oral hearing, to put in a written submission in support of the Section 20C application. The recollection of the writer (confirmed by his instructing solicitor) is that Mr. Boyd made no mention of the fact that there would also be an application for costs pursuant to Rule 13. There was also no such application in the section of

the Applicant's joint witness statement which dealt with the Section 20C application [177-178].

- 2.5 The Tribunal will also note that, in his introduction to the Costs Submission, Mr. Boyd did not alert the Tribunal to the fact that the Rule 13 application had been introduced into what the Tribunal would, presumably, have assumed to be a written submission on the Section 20C application.
- 2.6 The Respondents are not impressed by the conduct of Mr. Boyd and the Applicant. The Tribunal should be similarly unimpressed.
- 2.7 The Respondents are obliged to the Tribunal for allowing them until 2nd May 2014 to make representations in answer to the Costs Submission.

Paragraph 1 of the Costs Submission

3. There seems to be some confusion here. The Tribunal issued directions on 20th February 2014 ("the Directions"). Paragraphs 9 and 10 of the Directions directed as follows.

"9. The Applicants have made an application under S.20C of the Landlord & Tenant Act 1985 and the parties should be prepared to make oral submissions on this matter at the end of the hearing.

10. Similarly, the Tribunal will wish to hear oral submissions at the end of the hearing on the issue of costs."

- 3.1 Paragraph 11 of the Directions directed that the Respondents were to provide a bundle for the hearing on 27th March 2014. The Respondents did provide the bundle for the hearing. Both the Applicant and the Tribunal have the bundle.
- 3.2 The Costs Submission is not lodged pursuant to paragraph 9 or 10 of the Directions, but pursuant to the direction of the Tribunal given at the conclusion of the hearing.