

IN THE Highbury Corner
Magistrates Court.

EXHIBIT

This is the Exhibit **MAW / 02** referred to in the Witness Statement
of Michael Anthony Warren.

Dated... 20 August 2014

Signed:.....

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

London RENT ASSESSMENT PANEL

10 Alfred Place, London, WC1E 7LR
Telephone: 020 7446 7700
Facsimile: 020 7637 1250
E-mail: london.rap@rpt.gsi.gov.uk
DX: 134205 Tottenham Court Road 2

Direct Line: 020 7446 7734

Mike Warren

LB of Camden - Environmental Health
Officer
Town Hall
Argyle Street
London
WC1H 8EQ

Your ref:

Our ref: CI/LON/00AG/HMV/2012/0001

Date: 23 July 2012

LB Camden
FINANCE
24 JUL 2012
CENTRAL MAIL ROOM
Registry Section Dept. 10

Dear Sirs

RE: Housing Act 2004 - Schedule 5 Paragraph 32(1)

PREMISES: 21 Harrington Square, London, NW1 2JJ

The Tribunal has made its determination in respect of the above application and a copy of the document recording its decision is enclosed. This includes reasons for the Tribunal's decision. A copy of the document is being sent to all other parties to the proceedings.

If you are considering appealing, you are advised to read the guidance attached to this letter.

Any application from a party for permission to appeal to the Lands Tribunal must normally be made to the Residential Property Tribunal within 21 days starting with the date specified in the decision notice as the date on which reasons for the decision were given. If the Residential Property Tribunal refuses permission to appeal you have the right to seek permission from the Lands Tribunal itself.

Yours faithfully



Mrs Charlene Ives
Case Officer

RECEIVED
23 JUL 2012

GUIDANCE NOTE ON APPEAL FROM THE RPT

Introduction

1. The decision of the Residential Property Tribunal (RPT) is final and there is no power for the RPT to revisit or reconsider that decision. If a party to a decision is dissatisfied with the decision of an RPT, the statutory remedy is to appeal to the Lands Tribunal.¹
2. A decision and reasons may be issued together. Alternatively, a decision may be issued and reasons sent at a later stage.

Permission to appeal

3. In order to appeal to the Lands Tribunal, the party who wishes to appeal ("the appellant") must first obtain permission to do so. A request for permission to appeal must first be made to the RPT. If the RPT refuses permission the request may be renewed to the Lands Tribunal. (See paragraph 7 below for details). A request should normally be made in writing to the RPT. (Alternatively a request for permission may be made orally at a hearing if the tribunal announces at that hearing the decision the appellant wishes to appeal).²
4. The general rule is that a request to the RPT for permission to appeal must be made within the period of 21 days starting with the date on which the reasons for the decision were sent to the party seeking to appeal.³ However, despite that rule, the RPT has power to extend the time within which a request for permission to appeal may be made even if the 21 day period has expired. This power may only be exercised where (a) it would not be reasonable to expect the appellant to request or to have requested permission within the 21 day period or (b) where not to permit a request to be made out of time would result in substantial injustice.⁴
5. A request for permission to appeal that is made in writing must be signed by the appellant or their representative and must
 - a. state the name and address of the appellant and any representative of the appellant;
 - b. identify the decision and the tribunal to which the request for permission relates and
 - c. state the grounds on which the appellant intends to rely in the appeal.
6. On receipt of a request for permission to appeal the RPT will serve a copy on every other party to the decision that is being appealed. To facilitate the process it would assist if sufficient copies were provided with the request for this purpose.
7. The RPT will give the appellant and every other party written notification of its decision. If permission to appeal to the Lands Tribunal is granted by the RPT the appellant's notice of intention to appeal must be sent to the registrar of the Lands Tribunal so that it is received by the registrar within 28 days of the grant of permission by the RPT.⁵ If the RPT refuses to give permission to appeal, a renewed application for permission may be made to the Lands Tribunal within 14 days of that

¹ [Planning Act 2004, Section 231](#)

² [Residential Property Tribunal \(Procedure\)\(England\) Regulations 2006 \(SI 2006/331\), reg 35\(2\)](#)

³ [SI 2005/2371, reg 35\(3\)](#)

⁴ [SI 2005/2371, reg 21](#)

⁵ If it is satisfied that it is in the interests of justice to do so the Lands Tribunal may by direction reduce this period or permit the application to the RPT for permission to appeal to stand as notice to the registrar of the Lands Tribunal of an intention to appeal. See [The Lands Tribunal Rules 1998 \(SI 1998/1411\), r 4.2 as amended](#).

refusal.⁶ (Details as to the power of the Lands Tribunal to permit a notice of appeal or application for permission to appeal to be made outside the relevant time limit are given on the appropriate Lands Tribunal notice obtainable from the Lands Tribunal).

Costs

8. In contrast to the RPT, the Lands Tribunal may order a party to the appeal to pay costs incurred by another party in connection with the appeal.

The Lands Tribunal may be contacted at:

43-45 Bedford Square
London
WC1B 3AS

DX : 149065 Bloomsbury 9

Tel: 020 7612 9710

Fax: 020 7612 9723

Email: lands@tribunals.gsi.gov.uk
Website: www.landtribunal.gov.uk

July 2009

⁶ www.landtribunal.gov.uk



HM Courts
& Tribunals
Service



Residential
Property
TRIBUNAL SERVICE

LONDON RENT ASSESSMENT PANEL

DECISION OF THE RESIDENTIAL PROPERTY TRIBUNAL
ON AN APPEAL UNDER SCHEDULE 5 PARAGRAPH 32
OF THE HOUSING ACT 2004

Case Reference: LON/00AG/HMV/2012/0001

Premises: 21 Harrington Square, Camden,
London NW1 2JJ

Appellant: [REDACTED]

Representative: [REDACTED] counsel

Respondent: London Borough of Camden

Representative: Mr E Sarkis, legal department
Mr M Warren, environmental health officer

Date of hearing: 20th July 2012

Residential Property Tribunal: [REDACTED]
Mr H Geddes JP RIBA MRTP

Date of decision: 20th July 2012

is not plumbed in. All the residents of the property have access to communal kitchens and WCs. There is also a communal lounge area on the ground floor.

7. The Tribunal has no doubt that the majority (and possibly all but one) of the rooms used for accommodation at the property are not self-contained within the meaning of s.254(8) which provides that a "self-contained flat" means a separate set of premises in which all three basic amenities, namely a toilet, personal washing facilities and cooking facilities, are available for the exclusive use of its occupants. While there is no dispute that each room contains personal washing facilities, the problem lies with the other two amenities.
8. Mr Livingstone, on behalf of the Appellant, conceded that at least some of the rooms shared toilet facilities with other rooms. That is sufficient to bring those rooms outside the statutory definition because one amenity is not for the exclusive use of the occupants of one room. He argued that there was a "measure of exclusivity" by which the Tribunal understands him to be saying that the sharing was limited. For example, some of the toilets had padlocks on the door to which only some residents had the key. However, the statute does not provide for gradations of exclusivity. The amenity is for someone's exclusive use or it is shared. There is no middle ground.
9. There was an argument as to whether the amenities in question must be within the relevant unit of accommodation or can be outside it. For what it is worth, the Tribunal agrees with the reasoning for the decision dated 12th January 2009 of another Tribunal in relation to 139 Fellows Road, London NW3 3JJ (case ref: LON/00AG/HXO/2008/0002) that amenities must be within the unit. However, it is unnecessary to decide this issue given the lack of exclusive access to the relevant amenity, namely the toilet.
10. The Tribunal also does not accept that each room had cooking facilities within the meaning of s.254(8). There is no statutory definition of "cooking facilities" but the Tribunal has no doubt that it means more than one electric hob and a fridge. Cooking facilities, properly so called, would include some storage space for food, a worktop area large enough to prepare food and washing facilities suitable for food preparation. Some of the rooms had barely enough room for the hob or the fridge next to the bed, shower and basin, let alone any area that could be used for food storage or preparation. Further, a wash-hand basin is not a sink and is not suitable for all the activities a sink would be used for. The property contains proper cooking facilities but they are shared between the residents in the communal kitchen areas and so are not for anyone's exclusive use.
11. [REDACTED] pointed to the fact that another department of the Respondent had decided that the property did not constitute an HMO. However, that decision was made in the context of who should be liable for council tax. A person's liability for council tax is determined under entirely different legislation which uses a different definition of an HMO. Such a decision has no relevance to that of this Tribunal.

Appendix of relevant legislation

Housing Act 2004

Section 254

S254 Meaning of "house in multiple occupation"

- (1) For the purposes of this Act a building or a part of a building is a "house in multiple occupation" if-
 - (a) it meets the conditions in subsection (2) ("the standard test");
 - (b) it meets the conditions in subsection (3) ("the self-contained flat test");
 - (c) it meets the conditions in subsection (4) ("the converted building test");
 - (d) an HMO declaration is in force in respect of it under section 255; or
 - (e) it is a converted block of flats to which section 257 applies.
- (2) A building or a part of a building meets the standard test if-
 - (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
 - (b) the living accommodation is occupied by persons who do not form a single household (see section 258);
 - (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
 - (d) their occupation of the living accommodation constitutes the only use of that accommodation;
 - (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
 - (f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.
- (3) A part of a building meets the self-contained flat test if-
 - (a) it consists of a self-contained flat; and
 - (b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).
- (4) A building or a part of a building meets the converted building test if-
 - (a) it is a converted building;
 - (b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);
 - (c) the living accommodation is occupied by persons who do not form a single household (see section 258);
 - (d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
 - (e) their occupation of the living accommodation constitutes the only use of that accommodation; and
 - (f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.
- (5) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.
- (6) The appropriate national authority may by regulations (a) make such amendments of this section and sections 255 to 259 as the authority considers appropriate with a view to securing that any building or part of a building of a

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EXHIBIT

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of Michael Anthony Warren.

Dated... 20 August 2014

Signed:.....




HM Courts
& Tribunals
Service

17 DEC 2012

Upper Tribunal (Lands Chamber)

45 Bedford Square
London WC1B 3DN

Tel: 020 7612 9710
Fax: 020 7612 9723
DX: 149065 Bloomsbury 8
Typetalk: 18001 020 7612 9710
Email: lands@hmcts.gsi.gov.uk
Website: www.landstribunal.gov.uk

The office hours are 9am to 5pm
Please reply to THE REGISTRAR

Edward Sarkis
Law & Governance
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9LP

Your ref: ES22/374.3089
Our Ref: HA/5/2012

11 December 2012

Dear Sir,

HA/5/2012

Happy Vale Hotel, 21 Harrington Square, London, NW1 2JJ

Please find enclosed the decision dated 4 December 2012 refusing permission to appeal to the Lands Chamber.

Yours faithfully,



Direct Tel: 020-7612-9710
For the Registrar



INVESTOR IN PEOPLE

GEN36.DOT

*The Lands Chamber of the Upper Tribunal
is the successor to the Lands Tribunal*

IN THE Highbury Corner
MAGISTRATES COURT.

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This is the Exhibit **MAW / 04** referred to in the Witness Statement
of Michael Anthony Warren.

Dated... 20 August 2014

Signed:.....

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 23 JUL 2014 AT 11:25:12. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY LAND REGISTRY, CROYDON OFFICE.

TITLE NUMBER: LN198884

There is no application or official search pending against this title.

A: Property Register

This register describes the land and estate comprised in the title.

CAMDEN

- 1 (14.08.1933) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 21 Harrington Square, London (NW1 2JZ).

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (19.12.2006) PROPRIETOR: STEPHEN PAUL GETHIN of 21 Harrington Square, London NW1 2JZ.
- 2 (19.12.2006) The price stated to have been paid on 13 October 2006 was £336,000.
- 3 (19.12.2006) RESTRICTION: Until the 13 October 2016 no disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without the written consent signed by the conveyancer for the trustee, Anthony John Springett of North Wall House, North Street, Stamford, Lincolnshire PE9 1AA.
- 4 (19.12.2006) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any future registered charge, is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 13 October 2006 in favour of Commercial First Business Limited referred to in the Charges Register.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (19.12.2006) REGISTERED CHARGE dated 13 October 2006.
- 2 (19.12.2006) Proprietor: COMMERCIAL FIRST BUSINESS LIMITED (Co. Regn. No. 5289018) of Lutea House, Warley Hill Business Park, The Drive, Brentwood, Essex CM13 3BE and of DX 148520 Brentwood 7.
- 3 (26.10.2012) REGISTERED CHARGE dated 8 October 2012.
- 4 (26.10.2012) Proprietor: JOSEPH BAPTISTA BRAGANZA and SANTANA ALBINA ALDILA FERNANDES BRAGANZA of 53 Langdale, Stanhope Street, London NW1 3RA.