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FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : LON/00BG/OCE/2015/0055&0060

Property : Phase 1 and Phase 2 City Walk,
Fuller Close, London E2 6DX

Applicant : City Walk Freehold Limited

Representative : Fairweather Stephenson & Co.

Respondent : Bloomfold Limited

Representative : Prettys

Type of Application : Application for costs
Rule 13

Tribunal Members : Judge Dickie
P Casey, MRICS

DECISION

Decision of the Tribunal

The Tribunal dismisses the Applicant's application for costs under Rule 13.

The application

1. Further to issue of the tribunal's decision dated 10 December 2015 the Applicant seeks an order for costs pursuant to the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013. The parties consent to a determination of this application without an oral hearing.

2. So far as is relevant, Rule 13 provides:

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; ...

Submissions, Decision and Reasons

3. The Applicant argues that the Respondent acted unreasonably in defending and/or conducting the proceedings because:
- a) The tribunal valuation of the pieces of appurtenant land was close to the Applicant's valuation. The Respondent's valuation of the appurtenant land was wildly extravagant. It had valued those pieces at a total of £1,775,000 in their counter notices, and at £500,000 in its expert report for the hearing.
 - b) The Respondent apparently proceeded on the basis that the injunction affecting the appurtenant land was not binding on successors, but withdrew this argument at the hearing. The Applicant assumes this was a significant factor in the Respondent's valuation.
 - c) The Respondent's valuer treated the appurtenant land as a single site rather than two separate sites and does not appear to have appreciated that other car parking spaces would have to be moved in addition to those of the injunction holders in order for any development to proceed.
4. The tribunal is not persuaded that the application discloses any grounds for an order for costs against the Respondent under Rule 13. The tribunal, having considered the evidence and argument, preferred the Applicant's case as to the effect of the injunction on valuation. However, this does not imply that the Respondent had acted unreasonably in putting the case that it did. There was a triable issue for the tribunal to determine. The large difference between the Respondent's valuation and the tribunal's was simply a function of the nature of the issue in dispute – namely whether the existence of the injunction effectively reduced the otherwise substantial value of the appurtenant land to that of a gambling chip.
5. There is no evidence that the Respondent's valuation had been reached improperly or irrationally. Both parties' valuers expressed reasoned positions which the tribunal carefully considered in arriving at its decision. There are no grounds on

● which the tribunal could make an application for costs (or on which it would exercise its discretion to do so in the event that such a ground was made out).

6. The application is without merit and is dismissed.

F. Dickie

8 February 2016