Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL

LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0023/07/24

In the Matter of Meridian Quay, Swansea

B E T W E E N:

(1) Meridian Quay Management Company Limited
(2) Philip David Blackler
(3) Christopher Ian Hope
(4) Mohinder Mattu
(5) Arun Daniel Midha
(6) Nageb Farhat Dahan

Applicants

and

Meridian Quay Limited

Respondent

DECISION CONCERNING A LETTER SENT BY MR LAKE ON 16 DECEMBER 2025

1. By way of attachment to an email sent at 3pm on 24 November 2025, the Tribunal released the Tribunal's full decision to the parties (**'the Decision'**). Although the Decision was only signed by the chairperson, it was, as it said, the unanimous decision of a three-person panel consisting of a lawyer (me), a surveyor member (Mr Watkins) and a lay member (Mrs Calvin-Thomas). As a panel, we had heard factual evidence and legal submissions over the course of four days, as well as also considering a large quantity of documents relevant to this dispute, and detailed written legal arguments submitted by the parties' legal representatives.

2. The Decision was accompanied by an information sheet ('Guidance on Appeal from the LVT') (**'the Guidance'**) setting out the existence of appeal rights, and how to exercise them, and referring to the relevant provisions of the Tribunal's underlying and governing procedural rules, namely the Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004 (**'the Rules'**).

3. Paragraph 4 of the Guidance reads as follows:

> "An application for permission from the LVT must be made within 21 days of the date on which the reasons for the Decision were sent to the party seeking to appeal (Regulation 20a). The LVT has power to extend the time for seeking permission to appeal but no extension will be granted unless

there is good and sufficient reason for it. The LVT can only give an extension of time if the request is made before the expiry of the initial 21 days (Regulation 24)".

4. For the sake of completeness, Rule 20(a) relevantly says:

> "Where a party makes an application to a tribunal for permission to appeal to the Lands Tribunal —
>
> (a) the application shall be made to the tribunal within the period of 21 days starting with the date on which the document which records the reasons for the decision under regulation 18 was sent to that party [...].

5. Where time runs 'starting with', that date is counted as the first day of the 21. The 21 days starting on 24 November therefore ended on Sunday 14 December 2025. However, where - as here - that period ends on a Saturday, Sunday, or Public Holiday, the period is automatically extended to the next working day, which was Monday 15 December 2025. Therefore, any application for permission to appeal needed to be made by no later than 15 December 2025.

6. Rule 24, in its entirety, says:

"Allowing further time

24. (1) In a particular case, the tribunal may extend any period prescribed by these Regulations, or prescribed by a notice given under these Regulations, within which anything is required or authorised to be done.

(2) A party may make a request to the tribunal to extend any such period but must do so before that period expires."

7. On Tuesday 16 December 2025, several things happened.

8. Most importantly for present purposes, Mr Lake, a director of MQL, contacted the Tribunal by email setting out (amongst other matters) disagreement with several aspects of the Decision. The first part of his email read:

> "LVT Decision - COMPLAINT AGAINST JUDGE MCNALL - DEFAMATION OF CHARACTER
>
> [...]
>
> With reference to my recent call, please find below my Complaint against Judge McNall in the recent Leasehold Tribunal Case.
>
> I attach the Decision and attach evidence which the Judge dismissed.

I respectfully request the LVT consider the Judges condemnation of me, defamation of character against me personally which resulted in his opinion being biased.

To receive these insults from someone I have never met is astonishing.

I would welcome the opportunity to attend to discuss this serious matter and provide any evidence that may be requested.

Phil Lake"

9. Also on 16 December 2025 (although I do not know at what time, and in particular whether this was before or after Mr Lake's email) Mr Blackler, on behalf of ManCo, contacted the Tribunal to ask whether any application for permission to appeal had been received, and was told that none had been received. As far as I am aware, Mr Blackler was not told, then or subsequently, that a long email had been received from Mr Lake. This may be the first that he and the other parties are hearing about it.

10. There was also detailed correspondence from the parties' legal representatives regarding the Tribunal's powers in relation to costs, which led to a short order by me making no order for costs and remitting the dispute to the High Court, from where it had come to the Tribunal.

11. Mr Lake's email of 16 December 2025 was forwarded onto the President of the Tribunal, Judge Trefor Lloyd, who instructed the Tribunal's administration to write to Mr Lake as follows:

> “I have reviewed your email dated the 16th of December 2025 relating to the written decision handed down in this matter.
>
> I consider the matters you raise and criticism levied against Tribunal Judge C McNall to constitute a request to appeal against the decision in this matter.
>
> As a consequence, I have treated the same as a request for permission to appeal the initial decision. In accordance with Residential Property Tribunal Wales (“RPTW”) procedure the request for permission to appeal will be sent to the original Tribunal Panel to determine and the outcome of the application for permission to appeal will be forwarded to you in due course.
>
> The above course of action will not prevent you from raising a complaint once the question of permission to appeal has been dealt with”.

12. It is not clear to me whether that email was copied to Mr Blacker and/or to the opposing party's legal representatives.

13. Given the allegation of bias, I have considered whether it is appropriate for me to consider anything to do with this dispute at all. My clear view is that I can deal with this correspondence. Indeed, I have already dealt with the parties' submissions on costs, filed post-release of the Decision, including those filed by MQL's legal representatives. No-one by or on behalf of MQL suggested that there were grounds whereby I should consider recusing myself and passing the matter onto another judge. I should add that no concerns about bias had been raised during the hearing itself - these have emerged only after the Decision has been released.

14. I accept that allegations of bias have to be taken seriously, but such allegations have to be examined carefully to see whether they have proper substance and are not simply an attempt by a party which feels aggrieved by a decision to remove the judge from any further involvement with the case. A complaint simply that a judge has made adverse findings against a party is normally not sufficient to support an allegation of bias in the making of the decision: decision-making inevitably produces winners (who are pleased with the decision) and losers (who are not). Moreover, judges are often required to deal with matters arising consequentially to a decision (eg, costs, appeals) where, in the underlying decision, they have expressed adverse views, even in trenchant terms, about a party or witness.

15. I respectfully agree with Judge Lloyd that Mr Lake's email of 16 December 2025, read in substance, and although headed "complaint", can and should be treated as if it were an application for permission to appeal. It does not matter for present purposes that it can also be read as a complaint about the Tribunal and/or its decision and/or me. It is relevant though that the email does not refer expressly to appeal rights, or to an appeal more generally. But, even taking that into account, it seems to me that treating the document in this way, as Judge Lloyd had done, was fair and just and most favourable to Mr Lake and/or MQL.

16. However, and approaching the email as an application for permission to appeal, it was out of time, because it was not sent within the time period set out in Rule 20(a) and there was no application on or before 15 December 2025 for an extension of time ("The LVT can only give an extension of time if the request is made before the expiry of the initial 21 days").

17. This is on the footing that, although the Tribunal has a discretionary power to extend time (Rule 24(1)), in my view it can only consider the exercise of its discretion where a party has made a request to extend the period, and has done so before the period expires: Rule 24(2). That is to say, Rule 24(2) is a threshold condition for the extension of time.

18. I read Rule 24(2) as setting out exhaustively the Tribunal's power to extend time. There is no other obvious power in the Rules, and the Tribunal - as a creature of statute - has no inherent power. Unlike some other sets of procedural rules, there is no express overriding objective; nor any general list of case-management powers.

19. Here, there has not been any request to extend time. Given the absence of any in-time request for an extension of time, then there is no application for an extension of time to consider, and hence no application for permission to appeal to be considered either.

20. It is therefore the case, applying the Rules, that Mr Lake's letter of 16 December 2025 is not a justiciable application for permission to appeal. As such, it is neither granted nor dismissed because the Rule 24 threshold condition for advancing it was not met.

21. This primary conclusion - that Rule 24 has the effect that there is no extant application for permission to appeal - therefore ends any challenge by MQL to the Decision by way of appeal. No justiciable application for permission to appeal has been made to this Tribunal.

22. If that primary conclusion is wrong, and Rule 24(1) actually constitutes a free-standing power to extend time (that is to say, regardless of any Rule 24(2) application) I would nonetheless still refuse to extend time.

23. There is no guidance in the Rules as to how the Rule 24(1) discretion (treated as a free-standing rule) is to be exercised, but 21 days is a time limit and senior courts have made observations as to how time limits are to be treated. In BPP Holdings v HMRC [2016] EWCA Civ 121, the then-Senior President of Tribunals, held that "the stricter approach to compliance with rules and directions made under the Civil Procedure Rules as set out in Mitchell v News Group Newspapers Ltd [2014] 1 WLR 795 and Denton v TH White Ltd [2014] 1 WLR 3926 applies to cases in the tax tribunals". He went on to say (at Paras 37-38):

> "I can detect no justification for a more relaxed approach to compliance with rules and directions in the tribunals and while I might commend the Civil Procedure Rules Committee for setting out the policy in such clear terms, it need hardly be said that the terms of the overriding objective in the tribunal rules likewise incorporate proportionality, cost and timeliness. It should not need to be said that a tribunal's orders, rules and practice directions are to be complied with in like manner to a court's. If it needs to be said, I have now said it.

> A more relaxed approach to compliance in tribunals would run the risk that non-compliance with all orders including final orders would have to be tolerated on some rational basis. That is the wrong starting point. The correct starting point is compliance unless there is good reason to the contrary which should, where possible, be put in advance to the tribunal. The interests of justice are not just in terms of the effect on the parties in a particular case but also the impact of the non-compliance on the wider system including the time expended by the tribunal in getting HMRC to comply with a procedural obligation. Flexibility of process does not mean a shoddy attitude to delay or compliance by any party."

24. Here, there would be a delay of one day. Although on the face of it, this is short; but the consequences of even a day's delay where a Management Company is in receipt of a decision that it can continue to make plans and commitments for the future without the need to factor in an appeal cannot be properly assessed.

25. Moreover, and more importantly, the delay is entirely unexplained. No reason at all is given for the delay, so there cannot be any assessment of whether the reason is a good one or not, so as to justify an extension of time sufficient to displace the principle of finality - that is to say, the principle that litigation comes to an end when the appeal window closes without any appeal having been made.

26. The reason cannot be lack of legal advice or representation during the 21 day period because, during that period, MQL continued to be represented by counsel who had appeared on its behalf at trial and its solicitors and was in active contact with the Tribunal in relation to the costs of the dispute. Hence, the applicant would fail the second-stage of the assessment required by Denton. That would suffice to bring the application for permission to appeal to an end by another route.

27. Even if it had surmounted that hurdle, I would be entitled to look at all the circumstances as the third stage of Denton, including the likely strength or merits of the intended appeal.

28. For reasons set out more fully below, these are very weak.

29. Permission only lies to the Upper Tribunal in relation to an identified error of law: section 11 of the Tribunals Courts and Enforcement Act 2007.

30. Nothing in the email of 16 December, treated as an application for permission to appeal, crosses (even arguably) this threshold.

31. Much of Mr Lake's email is either (i) a misunderstanding of how judicial fact-finding works; and/or (ii) is an attack on findings of fact; and/or (iii) seeks to introduce, impermissibly, new evidence.

How judicial fact-finding works

32. As to (i):

In De Sena v Notaro [2020] EWHC 1031 (Ch), HHJ Matthews, sitting as a judge of the High Court, remarked (at Paras 23-32):

"Factfinding

23. For the benefit of the parties, and any others who are interested, I should say something about how English judges in civil cases decide cases of this kind. First of all, judges are not superhuman, and do not possess supernatural powers that enable them to divine when someone is not telling the truth. Instead they look carefully at all the oral and written material presented, with the benefit of forensic analysis (including cross-examination of oral witnesses), and the arguments made to them, and then make up their minds. But there are certain important procedural rules which govern their decision-making, some of which I shall briefly mention here, because lay readers of this judgment may not be aware of them.

The burden of proof

24. The first is the question of the burden of proof. Where there is an issue in dispute between the parties in a civil case, one party or the other will bear the burden of proving it. This is however subject to some important nuances which I shall mention later. In general, the person who asserts something bears the burden of proving it. The significance of who bears the burden of proof in civil litigation is this. If the person who bears the burden of proof of a particular matter satisfies the court, after considering the material that has been placed before the court, that something happened, then, for the purposes of deciding the case, it did happen. But if that person does not so satisfy the court, then for those purposes it did not happen.

The standard of proof

25. Secondly, the standard of proof in a civil case is very different from that in a criminal case. In a civil case it is merely the balance of probabilities. This means that, if the judge considers that a thing is more likely to have happened than not, then for the purposes of the decision it did happen. If on the other hand the judge considers that the likelihood of a thing's having happened does not exceed 50%, then for the purposes of the decision it did not happen. It is not necessary for the court to go further than this. There is certainly no need for any scientific certainty, such as (say) medical experts might be used to.

Failure to call evidence

26. Thirdly, where a party could give or call relevant evidence on an important point without apparent difficulty, a failure to do so may in some circumstances entitle the Court to draw an inference adverse to that party, sufficient to strengthen evidence adduced by the other party or weaken evidence given by the party so

failing. Such a suggestion has been made in the present case. I deal with it in more detail later on.

Reasons for judgment

27. Fourthly, a court must give reasons for its decisions. That is what I am doing now. But judges are not obliged to deal in their judgments with every single point that is argued, or every piece of evidence tendered. Moreover, it must be borne in mind that specific findings of fact by a judge are inherently an incomplete statement of the impression which was made upon that judge by the primary evidence. Expressed findings are always surrounded by a penumbra of imprecision which may still play an important part in the judge's overall evaluation.

Overall

28. So decisions made by civil judges are not necessarily the objective truth of the matter. Instead, they are the judge's own assessment of the most likely facts based on the materials which the parties have chosen to place before the court, taking into account to some extent also what the court considers that they should have been able to put before the court but chose not to. And, whilst judges give their reasons for their decisions, they cannot and do not explain every little detail or respond to every point made."

33. This is the approach which the Tribunal adopted. Mr Lake gave oral evidence, at a public hearing, and, in giving evidence, exposed himself to cross-examination. His cross-examination by Mr Rainey KC was lengthy and searching, but proper and fair. Mr Blackler on behalf of the Management Company was similarly cross-examined - at length, but properly and fairly - by Mr Sharples, acting on Mr Lake's instructions. Both sides had an equal and fair opportunity to present their evidence and legal argument. Neither side raised any concern with the Tribunal during the hearing that they were not getting a fair opportunity to present their case.

34. It is striking that, even now, Mr Lake - in calling for a meeting (for some unspecified purpose) with me (but not, as far as it seems, the other two members of the Tribunal who sat with me) and/or Judge Lloyd, appears not to understand the basic principles underpinning how independent judicial bodies in Wales work. Tribunals hear cases and make decisions. Subject to any appeals, the Tribunal's decisions are the public end-result of the dispute (which was heard in public). Their decisions are not the starting point for subsequent behind-the-scenes discussions or meetings with the parties. I wish to be entirely clear: there will be no meeting with me or with any of the other Tribunal members.

35. A similar misunderstanding of how the Tribunal works emerges in the letter sent on behalf of Mr Lake by Councillor Holley OBE (which I shall refer to further below), asking the Tribunal to "review" the case. Except for determining consequential

matters such as costs and whether to grant permission to appeal, the Tribunal's powers are at an end.

Appeals against findings of fact

36. As to (ii):

In Volpi v Volpi [2022] EWCA Civ 464, the Court of Appeal (Lewison LJ, with whom Males and Snowden LJJ agreed) remarked as follows:

> "The appeal is therefore an appeal on a pure question of fact. The approach of an appeal court to that kind of appeal is a well-trodden path. It is unnecessary to refer in detail to the many cases that have discussed it; but the following principles are well-settled:
>
> i) An appeal court should not interfere with the trial judge's conclusions on primary facts unless it is satisfied that he was plainly wrong.
>
> ii) The adverb "plainly" does not refer to the degree of confidence felt by the appeal court that it would not have reached the same conclusion as the trial judge. It does not matter, with whatever degree of certainty, that the appeal court considers that it would have reached a different conclusion. What matters is whether the decision under appeal is one that no reasonable judge could have reached.
>
> iii) An appeal court is bound, unless there is compelling reason to the contrary, to assume that the trial judge has taken the whole of the evidence into his consideration. The mere fact that a judge does not mention a specific piece of evidence does not mean that he overlooked it.
>
> iv) The validity of the findings of fact made by a trial judge is not aptly tested by considering whether the judgment presents a balanced account of the evidence. The trial judge must of course consider all the material evidence (although it need not all be discussed in his judgment). The weight which he gives to it is however pre-eminently a matter for him.
>
> v) An appeal court can therefore set aside a judgment on the basis that the judge failed to give the evidence a balanced consideration only if the judge's conclusion was rationally insupportable.
>
> vi) Reasons for judgment will always be capable of having been better expressed. An appeal court should not subject a judgment to narrow textual analysis. Nor should it be picked over or construed as though it was a piece of legislation or a contract."

37. In my view, much of what Mr Lake is now trying to do is what the unsuccessful appellant in Volpi was trying to do:

(i) seeking to retry the case afresh;

(ii) resting on a selection of evidence rather than the whole of the evidence that the Tribunal heard (what Lord Justice Lewison in another case called "island hopping" in the "whole sea of evidence");

(iii) seeking to persuade an appeal court to form its own evaluation of the reliability of witness evidence (especially that of Mr Lake) when that is the quintessential function of the panel which has seen and heard the witnesses;

(iv) seeking to persuade the appeal court to reattribute weight to the different strands of evidence; and

(v) concentrating on particular words used rather than engaging with the substance of the findings.

38. It is also important to draw a difference between things which the Tribunal did decide - set out in its Decision - and things which it did not. The Tribunal made no comment at all on Mr Lake's charitable or philanthropic activities. If people happen to come to believe, because of anything said in the Decision, that Mr Lake does not engage in charitable or philanthropic activity, then those people are reading things into the Decision which are not there.

New evidence

39. Generally, new evidence, if available at the time of the trial, is not admissible on appeal: Ladd v Marshall.

40. Mr Lake's assertion that he had been inundated by (unnamed) judges solicitors and barristers shocked at the decision is not admissible evidence.

A legal point?

41. Stripping all the above away, nothing is actually said about an appeal. The document is a scattered series of criticisms. None of these is actually framed as a ground of appeal, which is what any aspirant appellant in any case would ordinarily be required to do. No different rule applies to MQL or to Mr Lake.

42. Taking it at its highest, it seems to me that a general point is made that the Step-in Clause should not, as a matter of law, be subject to Braganza/rationality limitations. However, it is not said why not, other than a generalised assertion that

written contractual terms should not be so subject. This does not amount to an arguable ground of appeal; and it is not the Tribunal's job to work to construct an arguable ground of appeal for MQL.

43. Moreover, a challenge on this basis would be academic only given the Tribunal's view as to the exercisability *per se* of the Step-in Clause, which is not challenged.

44. Therefore, even if there were an in-time application for permission to appeal, or if time were extended, permission to appeal would be refused.

Other matters

45. Because I have referred to Mr Lake's email of 16 December 2025 in this decision, and have set out some of it, I have directed that the Tribunal's administration should copy it in its entirety to the opposing party's representatives. However, this is subject to an important limitation, which is that the second part of Mr Lake's email has been treated as a document in the litigation, and so is subject to the same restrictions as other documents in the litigation - namely, that it should be disseminated only for the purposes of the litigation, and not for anything else. It is presently difficult to see why there would be any need for wider dissemination of that part of Mr Lake's email.

46. I also direct that the Tribunal's administration copy to the other parties emails received by the Tribunal from Mr Lake on 29 December 2025

    46.1 It seems to me that these are all part of the relevant chain of correspondence;

    46.2 It is not fair for a party to contact the Tribunal asking it to do things about the case without copying in the other parties.

47. On 23 December 2025, Councillor Chris Holley OBE, the Leader of the Opposition on Swansea City Council, wrote to the Tribunal as follows:

    "[...]

    I have known Mr Phil Lake for over 20 years and I consider the comments made by Judge McNail in the LVT (Leasehold Tribunal Case) to be an insult to a person who has built his business up from the ground and has not forgotten his community that he once lived in.

    I could give several examples of his work with young people in an area which has a high rate of neglect, but I know Phil does not like to make public his work with them.

The fact that a Judge who to the best of my knowledge has no connection with Swansea and with Phil to say about him being bombastic and a bully is wrong what is his evidence.

I believe that the case should be reviewed as soon as possible.

Councillor Chris Holley O.B.E.

Leader of the Opposition on Swansea City Council"

48. I limit myself to the observation that this seems an attempt by the holder of an elected political office to use the prestige and power of that office, referred to in the letter, to influence the Tribunal. It is improper because it ignores the separation of powers between the judiciary and the executive. Whether the writing of this letter has consequences is not a matter for me.

49. The Tribunal's email to Mr Lake said that his letter would be referred to the full panel. Ordinarily, decisions concerning applications for permission to appeal (which, as already said, have to identify errors of law) are made by the lawyer-chairperson alone. However, given what the Tribunal told Mr Lake, I have referred his email of December 16 and this decision to my fellow panel members.

50. Because this decision discusses the Tribunal's powers, and hence could be of wider relevance than just to the immediate parties to the dispute, I have also directed that it be published on the Tribunal's website.

ORDER

1. The Tribunal declines to treat Mr Lake's email of 16 December 2025 as an application for permission to appeal.

2. If, contrary to the foregoing, the email could be treated as an out-of-time application, permission to extend time is refused.

Tribunal Judge McNall

Dated: 6 January 2026