



THE LEASEHOLDERS CHARITY

FAO
Roger McElroy
Chief executive, Canonbury Management (Investment Technology Limited)

cc Sir Peter Bottomley MP, co-chair All-Party Parliamentary Group on leasehold and commonhold reform
Justin Madders MP, ditto
Daisy Cooper MP, ditto

June 23 2021

FOR PUBLICATION

Canonbury Management / Defamation threat over two articles published by LKP in 2012 and 2016

Dear Mr McElroy,

I write in response to the two PDF letters attached to your two e-mails dated 18 June 2021 (attached).

I copy this correspondence to the co-chairs of the All Party Parliamentary Group on leasehold and commonhold reform, and will also pass it to the Financial Conduct Authority as grounds for a formal complaint for abuse of process, as Investment Technology Limited (Canonbury Management) is authorised and regulated by it, and you are a "registered person".

The Leasehold Knowledge Partnership has been contacted by leaseholders who have received threats of defamation proceedings for comments made on social media.

The PDFs attached to your e-mails refer to two different articles on the LKP website. The first article is dated 20 November 2012 and is here: <https://www.leaseholdknowledge.com/marathon-house-wins-celebrates-its-first-lvt-victory/>

The second article is dated 28 October 2016 and is here: <https://www.leaseholdknowledge.com/terrys-mews-right-manage-fails-not-knowing-peverel-om-now-firstport/>.

Neither of your letters complies with the Pre-action Protocol for Media and Communications Claims, so it is difficult to understand the basis on which you assert any claims in respect of either article.

From the limited information presented in your letters, it would appear any such claims are misconceived, or else time barred, for at least the following reasons:

1/ The publications in question were made respectively on 20 November 2012 and on 28 October 2016. The relevant limitation period for any defamation claim is one year from the date of publication (section 4A of the Limitation Act 1980). Any claims you wish to pursue for defamation in respect of either article are therefore well out of time. That would be a complete defence to any such claims.

2/ Notwithstanding point (1), your letter does not identify a proposed claimant, but as a body traded for profit Canonbury Management would need to prove the publications caused significant financial loss, or the risk of significant financial loss, in order for any claim to succeed (section 2(2) of the Defamation Act 2013). Your letters identify no such loss, or the realistic risk of any such loss, even if any claim were still in time.

3/ Further and in any event, each of the articles complained of is factually accurate. The 2012 article is a contemporaneous report of a judgment from the Leasehold Valuation Tribunal. Canonbury Management is quoted in response to the article.

The statement was included in the 2012 article following correspondence with your then solicitors, Mischon de Reya LLP.

The 2016 article is a contemporaneous report of a judgment handed down by the First-tier Tribunal. The judgment records at paragraph 3 that the Right to Manage application was prepared by, and made through, Canonbury Management Limited. Paragraphs 14 to 17 of the judgment then make findings regarding the error made by Canonbury Management Limited.

Given the clear findings in each of the judgments, together with the statement from Canonbury included in the 2012 article, it is fanciful to suggest that either article is in any way defamatory. Nor can it be said credibly that either article has caused, or has any risk of causing, significant financial loss to Canonbury Management.

4/ It is also possible that any claim in relation to the 2012 article, in addition to being time barred, is estopped by representation, given it has already been altered following correspondence with your then solicitors.

Accordingly, for the reasons set out above, the allegations in your letters are misconceived.

In the event you choose to issue any proceedings it will be necessary for the Leasehold Knowledge Partnership to apply to have those proceedings struck out, or else dismissed summarily. The Leasehold Knowledge Partnership would seek its costs of any such applications from Canonbury Management, including, without limitation, seeking orders for its costs on the indemnity basis and for a declaration that any claim of this nature is totally without merit.

I trust the above answers each of your letters fully.

Yours sincerely,

Sebastian O'Kelly