

IN THE COURT OF APPEAL
CIVIL DIVISION

Case No. CA-2024-002282

ON APPEAL FROM THE UPPER TRIBUNAL
(LANDS CHAMBER)
Upper Tribunal Judge Elizabeth Cooke

B E T W E E N:

LIAM PHILIP SPENDER AND OTHERS

Appellants / Tenants
(Respondents below)

– and –

- 1) **F.I.T NOMINEE LIMITED**
- 2) **F.I.T NOMINEE 2 LIMITED**

**(both companies limited by shares incorporated under
the Companies Act 2006)**

Respondents / Landlords
(Appellants below)

APPELLANTS' AMENDED GROUNDS OF APPEAL
Amended pursuant to the order dated 5 December 2024

- 1) The Appellants (Respondents below) respectfully seek permission for a second appeal engaging points of law and practice on three grounds, set out below.

Ground 1

- 2) The Upper Tribunal erred in law in setting aside the first instance decision by departing from previous Court of Appeal and other authority in applying a different test under s. 19 of the Landlord and Tenant Act 1985 in relation to relevant costs arising under long-term agreements.

Ground 2

- 3) In the alternative to Ground 1, the Upper Tribunal erred in law by setting aside the first instance decision by:
 - a) **Sub-Ground 2(a):** misapplying previous Court of Appeal and other authority by (i) holding that there was a need for any different guidance in relation to s. 19 in relation to relevant costs arising under long-term agreements and (ii)

giving such guidance contrary to previous authority or otherwise with no basis in law; and / or

- b) **Sub-Ground 2(b):** departing from prior Court of Appeal and other authority on the burden of proof by requiring the Appellants to disprove the Respondents' defence; and / or
- c) **Sub-Ground 2(c):** taking no or insufficient account of undisputed evidence that the costs in dispute were not objectively reasonable as at 2018-20; and / or
- d) **Sub-Ground 2(d):** failing to give reasons, or any proper or adequate reasons, for its substituted decision.

Ground 3

- 4) Parasitic on the success of Ground 1 or Ground 2, the Upper Tribunal further erred in law by relying on its own erroneous decision as the legal basis to both (i) set aside the first instance tribunal's order under s. 20C of the Landlord and Tenant Act 1985 and (ii) refuse an order under s. 20C in the Appellants' favour.

LIAM SPENDER

8 October 2024

Amended: 5 December 2024