



**Appeal number: CRR/2014/0004**

**FIRST-TIER TRIBUNAL (CHARITY)  
GENERAL REGULATORY CHAMBER**

**AUGUSTINE HOUSING TRUST**

**Appellant**

**- and -**

**THE CHARITY COMMISSION  
FOR ENGLAND AND WALES**

**Respondents**

**TRIBUNAL: JUDGE ALISON MCKENNA**

**Sitting in Chambers on 3 September 2014**

**RULING ON APPLICATION FOR AN EXTENSION OF TIME IN WHICH  
TO FILE A REPLY AND A STAY OF PROCEEDINGS**

1. At an oral directions hearing on 24 July 2014, the Appellant was granted an extension of time in which to file a Reply to the Charity Commission's Response. The new deadline for filing the Reply was 5 August 2014. On 5 August, Ms Kim Casey made a further application for an extension of time in which to file a Reply, on the basis that charity trustee Mr Gregory was unwell. A doctor's certificate was provided.

2. The 5 August application was refused on the basis that, as Mr Gregory was not the Appellant's representative, the other charity trustee could have prepared the Reply so as to meet the Tribunal's deadline. My written directions of 24 July (see paragraph 1 of the Reasons) recorded that whilst Mr Gregory had originally completed the Tribunal's Notice of Appeal form to show himself as the Appellant's "representative", he had explained at the hearing that he is not a qualified lawyer and did not "represent" the Appellant for the purposes of rule 11 of the Tribunal's rules. He told me at the hearing that he had attended as a charity trustee only.

3. In refusing the 5 August application I also pointed out that a Reply is an optional document under the Tribunal's rules and that it was not necessary for the Appellant to file one or for the Tribunal to delay compliance with the remaining directions in order to allow the Appellant to file a Reply. On 18 August Ms Casey made a further application for an extension of time to file a Reply, and was apparently unaware of the Tribunal's earlier refusal of a similar application.

4. By application dated 2 September Ms Casey has made a further request for an extension of time in which to file a Reply, for a stay of the Tribunal proceedings until 1 October and for the hearing date to be moved to November. She has provided a further medical certificate for Mr Gregory and now states that the other charity trustee, John Sullivan, is unable to assist in preparing the Reply due to challenging personal circumstances. She states that the Appellant is trying to recruit more charity trustees and has applied for free legal advice and representation but has not yet heard whether this will be provided. The Tribunal has asked for written confirmation that the application for legal assistance has been made.

5. In deciding the application for an extension of time and a stay, I must consider all the circumstances of the case and have regard to the overriding objective in rule 2, which includes the avoidance of delay so far as is compatible with proper consideration of the issues. The issue for the Tribunal at the final hearing will be whether the Charity Commission acted reasonably in opening its inquiry into the charity on the basis of the information before it when it made that decision – see *Regentford Limited v Charity Commission for England and Wales* [2014] UKUT 0364 (TCC)<sup>1</sup>. The Appellant has been in possession of all the relevant papers in relation to that issue from a date prior to the hearing on 24 July, and has in my view had ample time to prepare its case. The Appellant has apparently chosen to spend time making frequent and largely unmeritorious applications to the Tribunal rather than devoting the necessary time and effort to the preparation of its substantive submissions for the hearing, however there is yet time for it to apply itself to the preparation of its case. The Appellant's skeleton argument, which is due to be filed 7 days prior to the hearing (see paragraph 11 of the directions of 24 July) can cover all the issues which the Appellant wants to include in a Reply, and so I take the view that the Appellant would not be disadvantaged by a refusal of this application, as it can still present its case in full to the Tribunal in other ways.

6. I note that this case has already been listed for a final hearing on the papers on 6 October 2014. The appropriate time for filing the (optional) Reply has long since passed and the process of preparing the bundle for the hearing date has begun. The Charity Commission has complied with the Tribunal's directions thus far and it opposes the latest application for an extension of time and stay of proceedings, pointing out that a delay at this point would jeopardise the timetable of preparations for the hearing. The Charity Commission asks the Tribunal to hear and determine the Appellant's case without further delay so that, if successful, it can move forward and make progress with its statutory inquiry.

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<sup>1</sup> <http://www.tribunals.gov.uk/financeandtax/Documents/decisions/Regentford-v-CCEW.pdf>

7. Having considered all the circumstances I have decided to refuse the application for an extension of time and stay of proceedings. I am satisfied that a proper consideration of the issues in this case can be achieved without further delay and that the directions of 24 July can be complied with by the Appellant. I am sorry to learn that Mr Gregory is unwell, but he is not the Appellant's representative for the purposes of rule 11 and his fellow trustee bears equal responsibility for prosecuting the appeal that has been made to the Tribunal. In any event, it appears from recent events that Ms Casey has been given authority to conduct these proceedings on the Appellant's behalf.

8. I am pleased to hear that the Appellant has sought external legal advice. If and when a legal representative is appointed and is notified to the Tribunal in accordance with rule 11, then further directions may be necessary. The Tribunal would be happy to arrange a short-notice telephone directions hearing to hear representations from that person if requested.

9. Finally, I note that both the Tribunal and the Charity Commission have been having difficulty contacting the Appellant since the hearing of 24 July. I am told there have been instances of e-mails bouncing back and of papers sent by recorded delivery not being signed for. I would like to remind the Appellant of its duty to comply with the directions and to co-operate with the Charity Commission and the Tribunal in preparing its appeal for the final hearing.

**PRINCIPAL JUDGE**  
**3 September 2014**

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