



IN THE FIRST-TIER TRIBUNAL

Case No: CA/2013/0014

GENERAL REGULATORY CHAMBER

ON APPEAL/APPLICATION FROM:

Charity Commission decision reference: C-356462-2JFR

Dated: 17 December 2013

REGENTFORD LIMITED

Applicant

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Respondent

DECISION ON APPLICATION FOR PERMISSION TO APPEAL

DECISION

Permission to appeal is refused.

REASONS

1. The Applicant applies for permission to appeal against the decision of the First-tier Tribunal (Charity) dated 25th April 2014 (the “Decision”). In their application dated 20th May 2014 the Applicant set out the grounds of their appeal and identifies an alleged error in law in the Decision.
2. I have considered in accordance with Rules 43 and 44 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 whether to review the decision in this appeal but decided not to undertake a review as I am not satisfied that there was an error of law in the Decision.
3. By virtue of Rule 42(5) an application for permission to appeal to the Upper Tribunal must identify the alleged error or errors of law in the decision and state the result the party making the application is seeking.
4. The Applicant’s grounds of appeal are that the Tribunal erred in law when it determined that for Section 34(1)(b) of the Charities Act 2011 (“the Act”) to apply to

an organisation that organisation must not operate at all and because the organisation was operating "at an administrative level" than it was operating within the meaning of this section. The Applicant asserts that this section is to be understood as though the phrase "as a charity within the meaning of Sections 1-4 of this Act" is inserted after the word "operating" in Section 34(1)(b) of the Act. Section 34(1) of the Act reads as follows:

"34 Removal of charities from register

(1) The Commission must remove from the register –

(a) any institution which it no longer considers is a charity, and

(b) any charity which has ceased to exist or does not operate."

The Applicant states that Section 34(1)(b) contains two distinct conditions that are required in order to remove an organisation from the register of charities; a charity must have ceased to exist or it should be in a position where it does not operate. This provision must be interpreted, in the view of the Applicant, on the basis that an organisation can exist without operating. However, a company that does not operate at an administrative level will be removed from the Companies House register and must therefore cease to exist. The Applicant therefore asserts that the proper interpretation of Section 34(1)(b) is that it applies to an organisation that either does not exist or does not operate as a charity within the meaning of Sections 1-4 of the Act. It is not enough in law for a charity on the register to operate at an administrative level only.

5. I do not consider that there is an arguable point of law disclosed in this application for permission to appeal. Section 34(1)(b) can be interpreted and applied without the need to add in additional words or phrases. There is nothing illogical or inconsistent in the interpretation of the section in accordance with its simple and plain meaning. The Applicant seeks to justify its interpretation by reference to this being more conducive to achieving the Respondent's purpose. This is not, by itself, a basis on which the plain wording of the statute should be overlooked by the Tribunal in favour of a more particular or restricted interpretation.
6. In any event, it is not clear that the interpretation favoured by the Applicant would support its argument that it is wrong in law to conclude that a charity must not operate at all in order for Section 34(1)(b) to apply. The Decision stated firstly that the:

"very low level of activity and the very limited resources available to Regentford may be insufficient for it to continue as a viable charity, nevertheless, the Tribunal considered that it was sufficient to prevent the Commission from concluding that Regentford did not operate at the time of the decision."

And, secondly that;

"The objects of Regentford make it a charity. It is not required that all of its activities must be directly related to the achievement of its primary charitable purpose for it to be operating as a charity. It was sufficient that it was operating or surviving at an administrative level for it to be operating to the extent required by Section 34(1) of the Act."

The Decision was not therefore based on a conclusion that the Applicant was not capable of operating as a charity within the meaning of Sections 1-4 of the Act. The Tribunal decided that Regentford had charitable status by reason of its objects. In order to have this status Regentford must, at the time of the Respondent's decision, have satisfied the requirements set out in Sections 1-4 of the Act.

7. Having considered this Application and the Decision, I am not persuaded that Regentford has identified an arguable error of law in the decision and permission to appeal is accordingly refused.
8. If any party is dissatisfied with the outcome of the application for permission to appeal this decision, they have a right to apply to the Upper Tribunal for permission to appeal the decision in this appeal. Such an application must be made in writing to the Upper Tribunal Office, Tax and Chancery Chamber, 45 Bedford Square London WC1B 3DN no later than one month after the date of this notice. Further information about appealing to the Upper Tribunal can be found at:

http://hmctsformfinder.justice.gov.uk/HMCTS/GetForms.do?court_forms_category=Tax&Chancery%20Chamber%20-%20Upper%20Tribunal

Signed:

P M Hinchliffe

Date: 4th July 2014

Issued to the parties on:

4th July 2014