

## ROYAL INSTITUTION OF CHARTERED SURVEYORS

### APPEAL PANEL HEARING

#### Case of

**Mr Philip Greenslade (m) [1106458]**

**Philip Greenslade Associates Ltd (f) [053844]**

**Devon, PL20**

#### On

Wednesday 04 May 2016

#### At

RICS, Parliament Square, London

#### Chairman

Catherine Audcent (Lay Chair)

#### Members

Ian Hastie (Member)

Helen Riley (Member)

#### Legal Assessor

Tony Woodcock

#### RICS Representative

Vicki Buckley

#### Background

1. On 12 May 2015 Philip Greenslade (“the Appellant”) and Philip Greenslade Associates Ltd (“the Appellant Firm”) were found by the Disciplinary Panel of the RICS to be in breach of various RICS rules. As regards the Appellant, these related to failing to avoid actions or situations inconsistent with his professional obligations, failing to submit information properly requested by the RICS as his regulator, and failing to co-operate with RICS staff by not responding to correspondence. As regards the Appellant Firm, these again related to failing

to avoid actions which were inconsistent with its professional obligations, failing to submit information to the RICS relevant to a complaint made about its work, failing to submit information in a timely manner to the RICS, and failing to co-operate with the RICS. The Appellant was expelled from Membership and the Appellant Firm's registration was removed.

2. On 8 June 2015 a Notice of Appeal, purporting to comply with Rule 62 of the Disciplinary, registration and appeal panel rules ("the Rules") was submitted by the Appellant. No such Notice was submitted on behalf of the Appellant Firm but, out of an abundance of caution, this Appeal Panel ("the Panel") has treated the appeal as submitted on behalf of both the Appellant and the Appellant Firm.
3. Neither the Appellant nor representatives of the Appellant Firm attended the hearing. The Panel therefore had three preliminary points to consider.
4. Firstly, had Rule 23 on the service of Notice of the hearing been complied with. The Panel had regard to the correspondence exchanged between the Appellant, the Appellant Firm and the RICS and concluded that the rule had, and it is also clear, even as late as yesterday evening that he is aware of the hearing today and has voluntarily decided not to attend, not to send representatives nor to lodge written representations. The Panel is satisfied that rule 23 is complied with and that the Appellant/the Appellant Firm are aware of the hearing and that it is fair to continue.
5. Secondly, and again out of caution, the Panel has considered whether it should treat the latest correspondence as an application for an adjournment. It has done so and has had drawn to its attention the principles which should be applied in such applications. This case has a history of adjournments, usually on the basis of the Appellant's ill health. That appears to be the basis of the application today. The Panel has not received any medical evidence corroborating ill health as a reason for an adjournment, and has not done so on previous occasions when ill health has been the basis advanced for an adjournment. In any event, the Panel sees no reason why the Appellant and the Appellant Firm could not have engaged with the process when, as is clear, there have been periods when they could have done so. The Panel refuses an adjournment.
6. Thirdly, should the Panel continue with the hearing in the absence of the Appellant and the Appellant Firm. Rule 30 permits it to do so, though the Panel recognises it should do so only rarely. The Panel had drawn to its attention by the legal assessor the principles it should apply in determining whether it should proceed in the absence of a party as set out in the cases of *R v Jones*, *Tait v Royal College of Veterinary Surgeons* and *GMC v Adeogba*. The Panel is aware of the time that it has taken to bring these proceedings today, set against a background of delays invariably at the request of the Appellant. The Appellant has made no efforts to substantiate the appeal or to engage sufficiently in the process. Given the history of this case, the Panel has little confidence that the Appellant will ever fully engage. On the

other hand, the RICS has an interest in closure in the public interest. The Panel concludes that there is no good reason not to continue and will proceed in the absence of the Appellant and a representative the Appellant Firm.

7. Having reached those preliminary conclusions, the Panel proceeded with the appeal. The rules provide that the onus rests on the appellant to show that the decision of the Disciplinary Panel is wrong. The Appellant was not here, personally or through representatives, or through written submission to tell the Panel why the decision was wrong. The Panel therefore turned to Mrs Buckley on behalf of the RICS.
8. Mrs Buckley submitted that the Notice of Appeal failed to comply with Rule 62. Though the Notice was lodged within the stipulated notice period and used the appropriate form, it failed to comply with Rule 62 b in that it did not specify the grounds of appeal. The Panel considered carefully the wording of the notice of appeal. It states that the Disciplinary Panel did not have all the facts and evidence before it and that the Appellant wished to provide this to this Panel. The Appellant indicated what evidence it was that he would adduce, a doctor's letter and a letter to confirm that Homebuyer Reports were never carried out. Despite much correspondence from the RICS as to what the Appellant had to provide, and directions given at the hearing of the Panel on 27 January 2016, nothing further has been provided.
9. The Panel accepted this submission. The Notice of Appeal states little more than that the Appellant wishes to appeal. The Panel did not know on what basis: which of the charges; which of the sanctions; or why leave should be granted to adduce further evidence; what difference might it make. The Panel cannot embark on a review at large of the Disciplinary Panel's decision; that is not its role. It is the Appellant's/ Appellant Firm's role to show why it is wrong, not for the Panel to go looking for issues. The purpose of Rules 62 to 65 is, in fairness to all parties, to focus on the areas which are relevant, and to consider fresh evidence where it is fair to do so.

## **DETERMINATION**

### **Panel's Decision**

10. In reaching its decision, the Panel was mindful of the submissions made by RICS and of the number of times the Appellant had been reminded of his obligation to specify his grounds of appeal, and to provide details accordingly. In particular the Panel noted the reminders had been sent to the Appellant on 20<sup>th</sup> October 2015, 10<sup>th</sup> December 2015 and the 9<sup>th</sup> March 2016, as well as the clear directions given by the Panel on the 27<sup>th</sup> January 2016. In view of the Appellant's failure to specify and substantiate the grounds relied upon in support of his appeal, the Panel accordingly dismissed the appeal.

## **Determination on Publication**

11. The Panel directs publication in accordance with Supplement 3 to the Sanctions policy.