

Case Name: *Bishop & Anor v Transport for London* 2019 EWCA Civ 555 (05 April 2019)

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Commentary: The Court of Appeal dismissed an appeal of the decision made by the Upper Tribunal (Lands Chamber) to award costs in respect of a claim for compensation for compulsory purchase.

The appellants, the Bishops, owned a large site at Bishops Yard, a part of which was compulsorily acquired by the respondents, TfL, pursuant to s.6 of the Crossrail Act 2008. The appellants made a claim for compensation and the hearing before the Tribunal concluded that the only head of claim on which the appellants were entitled to compensation was their expenditure in clearing the site (as the business trading from that part of the site had discontinued and gone into liquidation, such that no profit would have been lost). The compensation award was substantially less than a sealed offer which was made by TfL. The Tribunal ordered the appellants to pay 80% of TfL's costs prior to the sealed offer being made and all costs after it was made. The subject of this appeal was whether the Tribunal was wrong to conclude that TfL was the "successful party" and so erred in law in ordering the appellants to pay 80% of TfL's costs before the offer was made.

The appellant's cited the Purfleet Farms and Blakes Estates cases and argued that the Tribunal's conclusion was contrary to guidance in para 12.3 (1) of the Upper Tribunal (Lands Chamber) Practice Directions that the "successful party ought to receive their costs" as the appellants should have been the "successful party" having been awarded a sum of money. Lord Justice Lindblom rejected this argument and held that the Tribunal's conclusion that TfL was the "successful party" was not in conflict with any relevant case law. The Tribunal had concluded that TfL was the "successful party" in the context of a claim for compensation for compulsory purchase, in which unless the claim is misconceived or fails completely, the party that will pay money will always be the acquiring authority, having taken the claimant's land by compulsion. The appellants had been awarded compensation amounting to only a tiny fraction (about 1%) of the total claim and the Tribunal had regard to the reference as a whole, in accordance with the Practice Directions. Lord Justice Lindblom then concluded that the Tribunal had made no error of law in exercising its cost discretion as it did and deciding that there was no reason to depart from the "general rule" in the Practice Direction that the "successful party" be awarded its costs.

Case summary prepared by Town Legal LLP