



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)**

Case Reference: **LON/00AZ/OCE/2015/0086**

Property: **37-47 Walerand Road, SE13 7PQ**

Applicants: **Reuben Sunvil Raveendran &
Mario Mia Malin Raveendran**

Representative: **Mr G Crews (Solicitor)**

Respondent: **Sinclair Gardens Investments (Kensington)
Limited**

Representative: **Mr A Halban (Counsel)**

Type of application: **Application for determination of terms of
acquisition - s.24 Leasehold Reform,
Housing and Urban Development Act 1993**

Tribunal members: **Mr M Martynski (Tribunal Judge)
Miss M Krisko (EST MAN) FRICS**

Date and venue of hearing: **25 August 2015
10 Alfred Place, London WC1E 7LR**

Date of decision: **7 September 2015**

DECISION

Background

1. The building in question is a purpose-built block ('the Block') containing six flats. Each flat's demise includes a separate parking space. The Block is one of three on a small estate which includes communal gardens, refuse areas, paths and parking spaces.
2. The six flats in the Block are all let on long leases which are in similar form.

3. The Applicant leaseholders' notice claiming the freehold interest in the Block is dated 7 July 2014.
4. The Respondent freeholder's Counter-notice is dated 15 September 2014. The notice was served without prejudice to the Respondent's position that the Claim Notice was invalid.
5. By the time of the hearing before us, the Applicants, we were told, had issued proceedings in the County Court seeking permission to amend the Claim Notice.
6. Our impression was that the amendment of the Claim Form was unlikely to be controversial and that the County Court proceedings would probably be resolved by consent.
7. This decision is subject to the validity of the Claim Form being resolved, one way or another, in the Applicants' favour.

The issues and our decisions

8. The only issues between the parties at the hearing before us concerned some specific terms of the draft Transfer that had been passing between the parties prior to the hearing.
9. During the course of this decision the references to;
 - (a) 'Points', are references to the circled numbering in red on the draft Transfer attached
 - (b) Clauses and wording are references to the draft Transfer and Riders attached to this decision.

Definitions – 'Service Media'

10. Point 3 – The words "or the Retained Land" should be included in the Transfer.

Definitions – Rider 1

11. Point 5 - This should be included for the sake of clarity; the parking spaces to be added after the court proceedings are determined.

Rider 2

12. Point 6 - We consider that Rider 2 should be included in the Transfer to replace clause 12.2.1 as this wording is needed following, what will be, the 'separation' of the legal title to the Block from the rest of the estate. The individual leases only refer to the rights of the individual flats, not the Block.

Clause 12.2.1

13. Point 7 - We do not consider that there needs to be reserved a right to re-route Service Media, this right would be implicit so long as the Block has the right to use that Media.

Clause 12.2.3

14. Point 9 – Clause 12.2.3 should remain as a useful ‘catchall’.

Rider 3

15. Point 10 - This Rider should be included in the Transfer as it is a clear and fair clause detailing the rights reserved to the Block in connection with the Retained Land.

Clause 12.3.1

16. Point 11 - This should be deleted in accordance with our decision above save for the first seven lines up to the word “full”.

Clause 12.4.1

17. Point 12 - This clause should be amended as per the red amendment given that the only costs that the Applicants will contribute to are the costs of insurance; these are to be determined if necessary by an independent Surveyor.

Clause 12.4.2

18. Point 13 - This clause should be deleted as the Management Company is not a party to the transfer and because these obligations are contained within the individual leases in the Block.

Clause 12.5 – indemnity

19. Points 14 & 15 – These clauses should remain save that clause 12.5.2 should be amended so that the indemnity takes effect after “the date hereof” not before.

Clause 12.6 - Restrictive covenants on part of Transferee

20. Point 16 - This clause should remain as it reasonably protects the Respondent.

Restrictions

21. Point 17 – Clause 12.7 - This clause should remain as it reasonably protects the Respondent.

Mark Martynski, Tribunal Judge
7 September 2015

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the Property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the Transferor.

Give full name(s).

Complete as appropriate where the Transferor is a company.

Give full name(s).

Complete as appropriate where the Transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

1	Title number(s) out of which the Property is transferred: SGL 370404
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	<p>Property:</p> <p>37-47 Walerand Road, London SE13 7PQ</p> <p><input checked="" type="checkbox"/> on the attached plan and shown coloured red</p> <p><input type="checkbox"/> on the title plan(s) of the above titles and shown edged in blue and numbered 12</p>
4	Date:
5	<p>Transferor: Sinclair Gardens Investments (Kensington) Limited</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix: 00771453</p>
6	<p>Transferee for entry in the register: Reuben Sunil Raveendran & Mario Mia Malin Raveendran</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>

energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media which are now or may be at any time be constructed or placed or pass on through over along under over or about any part of the Property.

" **The Leases**": the leases of flats 37, 39, 41, 43, 45 and 47 Walerand Road specified in the schedule of notices of leases on title number SGL 370404 (as shown on official copy entries dated 12 June 2015, issued at 12.27.09)

" **The Management Company**": Heathside House Management Limited

" **The Development**" is the land defined as such in the Leases

RISER 1 →

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

Rights reserved for the benefit of other land

12.2 The following rights are excepted and reserved to the Transferor for the benefit of the Retained Land and every part of it (and for the benefit of (a) those deriving title under the Transferor, (b) those authorised by the Transferor and (c) those authorised by those deriving title under the Transferor):

RISER 2 →

12.2.1. The right to connect up to and use any Service Media provided that the owner of the Retained Land may, at its discretion, reroute or replace any Service Media and the right shall then apply in respect of the Service Media as rerouted or replaced.

12.2.2 With or without agents and workmen at reasonable times and after reasonable notice (except in an emergency) as often as need or occasion shall require to enter into or upon the Property or any part or parts thereof and remain therein or thereon for so long as reasonably necessary for the purpose of cleaning repairing replacing laying or erecting Service media or for the purpose of repairing reinstating renewing inspecting or surveying any part or parts of the Retained Land the person or persons exercising such right making good any damage caused by such entry.

12.2.3 The exceptions and reservations granted to the Landlord in the Leases together with all such other rights or easements quasi easements and privileges for the benefit of the Retained Land over along and through the Property as now belong to or are enjoyed with or are necessary for the proper enjoyment of any part or parts of the Retained Land as if such rights were set out in this transfer in full (with all necessary changes made) provided that for the avoidance of doubt for the purposes of this clause the exceptions and reservations granted to the Landlord in the Leases shall be construed as they are in force at the date of this transfer and

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transfer the Transferee will at all times:

12.5.1 (to the extent that they relate to the Property or any part of it and are still enforceable) at all times to observe and perform the covenants on the part of the Landlord and the conditions contained or referred to in the Leases and the covenants, agreements, restrictions, stipulations, provisions conditions and other matters contained or referred to in the Registers of Title Number SGL 376404

12.5.2 To keep the Transferor and its successors in title fully indemnified at all times against any actions, proceedings, claims, demands, losses, costs, damages, expenses and liabilities made against and/or suffered and/or incurred by the Transferor whether arising before or after the date hereof and whether or not they are in the current knowledge or contemplation of the parties arising directly or indirectly out of the covenants, agreements, restrictions, stipulations, provisions conditions and other matters on the part of the Lessor contained or referred to in the Leases, any statutory liability and the covenants, agreements, restrictions, stipulations, provisions conditions and other matters contained or referred to in the Registers of the Title Number

Restrictive covenants by the Transferee

12.6 The Transferee covenants with the Transferor (to the intent that the burden of the covenant will run with and bind the Property and every part of it and that the benefit of the covenant will be annexed to and run with the Retained Land and every part of it) not to transfer the freehold interest in respect of the whole or any part of the Property other than to a person who has first entered into a deed of covenant (jointly and severally where the proposed Transferee comprises more than one person) with the Transferor to perform the covenants on the part of the Transferee in this transfer in respect of the Property

Restrictions

12.7 The Transferor applies to the Chief Land Registrar for a restriction in the following terms to be entered on the registered titles for the Property

“No transfer of the registered estate by the proprietor of the registered estate, or the proprietor of a registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by a conveyancer that the provisions of clause 13.6 of a transfer dated 2015 between Sinclair Gardens Investments (Kensington) Limited (1) and Reuben Sunil Raveendran & Mario Mia Malin Raveendran (2) have been complied with.”

RIDER 1

"Parking Spaces" is the land shown coloured green on the attached plan

"Services" is water, sewage, gas, fuel oil, electricity, telephone, television, video, audio, fax, electronic mail, data, information, communications and all other services and supplies

"External Common Areas" is the land shown coloured brown on the attached plan.

RIDER 2

- 12.2.1 To support as at present enjoyed by the Retained Land from the Property or any part thereof
- 12.2.2 Subject to the reimbursement to the Transferee of a fair proportion of the costs of maintaining, repairing and renewing the same to the free and uninterrupted passage and running of the Services through, over and along the Service Media

RIDER 3

- 12.3.1 To support as at present enjoyed by the Property from the Retained Land or any part thereof
- 12.3.2 To park private motor vehicles in the Parking Spaces
- 12.3.3 At all reasonable times and with or without workmen and others to enter upon the Retained Land for the purpose of carrying out maintenance, repairs and alterations to the Property or the Service Media thereof subject to the party exercising such right making good any damage caused by the exercise of this right
- 12.3.4 Subject to reimbursement to the Transferor of a fair proportion of the costs of maintaining, repairing and renewing the same:
 - 12.3.4.1 to the free and uninterrupted passage and running of the Services through, over and along the Service Media
 - 12.3.4.2 in common with the owners and occupiers of the Retained Land:
 - 12.3.4.2.1 to use for the purpose of obtaining access to and egress from the Property and the Parking Spaces the paths, roads and driveways situated on the External Common Areas
 - 12.3.4.2.2 to use the gardens situated on the External Common Areas
 - 12.3.4.2.3 to use the refuse areas situated on the External Common Areas