

4244



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

Case reference : **VG/LON/OOAW/OEV/2015/0001**

Property : **Part of the Gateways Estate:
1-26 The Gateways, Sprimont Place,
1 -23 (odd) Sprimont Place and
1-23 (odd) Whiteheads Grove,
Chelsea, London SW3**

Applicant : **The Gateways & Elystan
Management Company Limited**

Representative : **Pemberton Greenish LLP**

Respondents : **As per list in schedule 1 attached**

Type of application : **Section 75 Leasehold Reform
Housing and Urban Development
Act 1993 Variation of Estate
Management Scheme**

Tribunal Members : **Prof Robert M. Abbey;
Mr Trevor Johnson FRICS**

Date of decision : **08 February 2016**

DECISION

Background

1. A Management Scheme for the Gateways Estate¹ was made pursuant to Section 19 of the Leasehold Reform Act 1967 (the 1967 Act) by a Leasehold Valuation Tribunal (predecessor to this Tribunal) and amended on 3 December 2003 and 9 November 2004.
2. On 26 October 2015 this Tribunal received an application for the variation of the Scheme under Section 75 of the Leasehold Reform, Housing and Urban Development Act 1993 (the 1993 Act).
3. The applicants seek deletion of clause 20 of the Scheme by removing their obligation to undertake external decorations. The detail is set out in paragraphs 4 – 6 of the witness statement of John Charles Fraser sent with the application.
4. Copies of the original Estate Management Scheme and of the proposed variation have been sent to all Respondents. The freeholders are now named as respondents so that they can take part in the proceedings, in support or in opposition.
5. The Applicant has informed the Tribunal that the freehold owners have been consulted about the proposed variation by a memorandum sent by the agents Smith Walters on 28 October 2014.
6. The parties are referred to the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for guidance on how the application has been dealt with.

Decision

1. The tribunal gives permission under s. 75 of the 1993 Act to the applicant to vary the scheme of management dated 3 December 1993 and made pursuant to s. 19 of the 1967 Act. The variation is the deletion of clause 20 of the Scheme by removing the obligation to undertake external decorations.

Reasons

2. This case is concerned with an application to vary a scheme of management affecting part of the Gateways Estate Chelsea London SW3. The variation sought is to remove the obligation to undertake external decorations to all the outside wood metal iron stucco and cement work of the buildings covered by the scheme.
3. Clause 27 of the scheme permits variations and the applicant seeks to remove the obligation upon the company to undertake external decorations
4. They argue that over time owners have replaced windows making cyclical repainting unnecessary and that the need to coordinate the works across the estate adds disproportionately to the cost. It is thought that it is better for all concerned for this obligation to now fall to the owners to be responsible for external decorations.

¹ As defined in the application.

5. On receipt of the application the tribunal issued directions dated 18th November 2015 that included a form for the Respondents to complete in the following form inviting responses as therein set out:-

Form for respondents

Case Reference:

Premises: **Part of the Gateways Estate:
1-26 The Gateways, Sprimont Place,
1 -23 (odd) Sprimont Place and
1-23 (odd) Whiteheads Grove, Chelsea,
London SW3**

Please return this form to the tribunal as soon as possible but at latest by **11 December 2015**

Address: First-tier Tribunal Property Chamber (Residential Property), 10 Alfred Place, London WC1E 7LR fao Vincent Gacquiere rplondon@hmcts.gsi.gov.uk

and send a copy to the applicant's solicitors Pemberton Greenish fao ref KDG/16198.9/LM:

	Yes	No
1. I/We support the application for variation of the Estate Management scheme to remove the Applicants responsibility to undertake external repairs.	<input type="checkbox"/>	<input type="checkbox"/>
2. I/We will send written representations to the tribunal and the landlord by 28 January 2016	<input type="checkbox"/>	<input type="checkbox"/>
3. I/We agree that the tribunal may decide the matter on the basis of written representations only (no hearing):	<input type="checkbox"/>	<input type="checkbox"/>
4. OR I/We wish the tribunal to hold a hearing and will attend on Wednesday, 10 February 2016 from 1.30 p.m	<input type="checkbox"/>	<input type="checkbox"/>
5. Name address of any spokesperson or representative appointed for the leaseholder:	

Date: **Signed:**

Print Name:

House address:.....

Telephone nos: /

Email address:

6. Subsequently responses were indeed received by the tribunal such that by the date mentioned above of 11 December 2015 seventeen replies had been received and all save two were supportive of the variation. Thereafter one of the objections was withdrawn so at the time of this decision there was just one objection to the proposed variation.
7. Indeed prior to the application the applicant company had, through its managing agents, circulated a memorandum to all owners seeking their views on the proposed variation. A majority of those who responded were in favour of the amendment. The applicant says that this level of response is far higher than would normally be expected given the fact that many owners are not ordinarily resident in their properties.
8. The one outstanding objection was made on the tribunal form but did not set out any reasons for the objection. Accordingly the tribunal notes the objection but cannot discern the basis for it.
9. The tribunal is of the view that the variation is both fair and reasonable particularly given the level and nature of support amongst the respondents and bearing in mind that it would appear that over time owners have replaced their windows thus making cyclical repainting unnecessary. Indeed the tribunal agrees with the applicant that the need to coordinate the works across the estate adds disproportionately to the cost. The tribunal further agrees that it is better for all concerned for this obligation to now fall to the owners to be responsible for external decorations.

Name: Prof Robert M. Abbey

Date: 8th February 2016

Schedule 1

Respondents

Mr & Mrs T R Diaz
Mrs D E Wells
Mr E Raw
Mr and Mrs M Bier
Mr Owian Deri Evans & Ms Wan Chuin Lee
Mrs Maria Gabriella Garis
Miss A Flowerree
Mrs Marguerita Garis
Mrs G M Grattan-Bellew
Mrs L J Sells
B V Blauwe Dak
Mrs E Merriman
Mr C B Silvert
Mr T A Cowie
Mr D Hood
Mr & Mrs Farley
Mr J H Kabza
Maliebaan N.V
Brigadier J L Pownall
Mr N Pownall & Mrs C Mountain
Mr M Foroughi
Mr M Foroughi
Lartington Estates Ltd
Sheridan Ltd
Mr G K Goh
The General Trust Co
Vestor Ltd
Mr J Johnson & Mr C Reeve-Tucker
Miss K Rouse
Mr K P Wood
Courtney Leyland Manton
Mr & Mrs V A Tregear
Mr & Mrs R Jureidini
Mr John Fraser
Billiat
Mr Mahdi Kabbani
Mr J Mayhew
Mrs M F Leong
Mr Francis Paszylk
Miss P J Moncreiff
Miss I Davis
RH Catherine Elizabeth Baroness
Mr H Y Chen & Ms L Wang
Mrs Gayane Antaryan & Mr Movses
Princess T Metternich
Mr D & Mrs C Kateb
Miss S R Christodoulides
Doverfield Inc
Mr Ian Sutherland
Sloane Advisory Services Ltd
Whiteheads Grove LLC