



12988

**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference : CAM/00MG/LVL/2018/0001

Property : Lovat Field,
Japonica Lane,
Milton Keynes,
MK15 9ED

Applicant : The Extracare Charitable Trust

Respondents : The leaseholders set out in the Schedule
attached to the application

Date of Application : 29th March 2018

Type of Application : Application to vary leases (Part IV
Landlord and Tenant Act 1987 as
Amended (“the 1987 Act”))

The Tribunal : Bruce Edgington (lawyer chair)
David Brown FRICS

DECISION

Crown Copyright ©

1. The Application to vary the long leases for the one and two bedroom apartments on the estate known as Lovat Field as set out in the 2 draft leases submitted to the Tribunal with the addresses of the flats in respect of each draft being set out on the list attached to the drafts, succeeds subject to any reasonable requisitions of the Land Registry upon registration.
2. It is a condition of this order that the long leaseholder Respondents to the application shall not be responsible for any of the costs arising from the variations.

Reasons

Introduction

3. This is an unusual application in the sense that all leases on this estate (“the Village”) have to be amended because of changes in government funding. Until

9th April 2018, leaseholders in the Village received a grant called Housing Related Support from the local authority, Milton Keynes Council. In order to replace the grant, the Applicant is using a Community Charge and Enhanced Management fee which is less than exists but they will be eligible for Housing Benefit. In addition, further variations have been requested which make the leases in similar terms to other leases used by the Applicant. These additional variations are said to involve updating wording rather than providing substantial changes in the terms.

4. The Applicant has consulted with the leaseholders. There was a meeting on the 3rd January 2018 and a formal consultation letter dated 26th January 2018 in which it says *"The net effect of these changes is that the overall charges you will pay is (sic) not likely to increase as a result of these changes."*
5. As a result of the consultation, according to the evidence of Duncan Carragher, the Applicant's Regional Operations Manager, the Applicant has received 127 responses from the 153 leaseholders. 126 consent to the variations, as does the Applicant landlord.
6. The Tribunal issued a directions order on the 6th April 2018 timetabling this case to a final conclusion. The Tribunal agreed to the Applicant's suggestion that this case could be dealt with as a paper determination and would be dealt with on that basis on or after 18th May 2018. It was also made clear that a hearing would be arranged if any party asked for it. None has. The Respondent leaseholders were ordered to file any written representations on or before 4th May 2018. None have been received. The delay in this decision being made has been caused because the Tribunal lacked information which had to be obtained from the Applicant.

The Inspection

7. In view of the nature of the variation sought, no inspection of the property was thought necessary and none was requested.

The Leases

8. The Tribunal has seen a document in the bundle submitted for this determination which is said to be a copy of the 2 variations to the long leases for each Respondent omitting the formal parts such as the leaseholders' names, the address etc. and which has the variations sought coloured in blue. A large number of variations are sought which all appear to be related directly to the funding change and updating referred to above. It would be too cumbersome and unnecessary to set all the variations out in this decision.
9. When the Applicant submits this decision to the Land Registry it will have to arrange for a certified copy of the amended long leases and lists of properties relating to each varied lease in question to be included i.e. certified by solicitors as being a true copy of the document identified in the previous paragraph of this decision.

The Law

10. Section 37 of the 1987 Act permits any party to a long lease of a flat to apply to

this Tribunal for an order varying such lease if “*the object to be achieved by the variation cannot be satisfactorily achieved unless all the leases are varied to the same effect*”. The Tribunal has the power to vary a number of leases in a building where, in the case of less than 9 leases, all or all but one of the parties consent or, in the case of more than 8 leases, at least 75% agree and not more than 10% oppose.

Conclusions

11. The Tribunal agrees that the conditions set out in section 37 of the 1987 Act are all met and the variations are therefore put into effect subject to the condition mentioned in the decision. This is made as the variations result from (a) a simple change in financial arrangements and (b) an updating of the form of leases, none of which have been caused or required by the Respondents.

.....
Bruce Edgington
Regional Judge
6th September 2018

ANNEX - RIGHTS OF APPEAL

- i. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- ii. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- iii. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- iv. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.