

SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00HN/LVM/2010/0001

REASONS

Application : Section 24(9) of the Landlord and Tenant Act 1987 (“the 1987 Act”)

Joint Applicants : Carolyn Smith and Huw Cyril David Wathan (Flat 4), June Tempany (Flat 1), Gary Mark Tempany (Flats 2 and 3), Gary Mark Tempany and Sally Anne Tempany (Flat 5), Joan Lesley Franklin (“the Manager”)

Building : Stourwood Court, 17 Stourwood Avenue, Bournemouth, BH6 3PW

Flats : the flats in the Building

Date of Application : 18 December 2009

Date of Directions : 21 January 2010

Date of hearing : determined on the papers without a hearing pursuant to Regulation 18 of the Residential Property Tribunal Procedure (England) Regulations 2006

Members of the Tribunal : Mr P R Boardman JP MA LLB (Chairman), Mr A J Mellery-Pratt FRICS

Date of Tribunal’s Reasons : 15 March 2010

Introduction

1. This application is for the discharge of the order of an LVT on the 2 March 2007 appointing the Manager as manager and receiver of the Building. A copy of the order was attached to the application
2. In their application the Applicants stated that :
 - a. the Applicants were all tenants of individual Flats
 - b. 3 of them, namely Carolyn Smith, Huw Cyril David Wathan, and Gary Mark Tempany, were co-trustees of the freehold
 - c. Gary Mark Tempany had contracted to purchase Flat 4 from Carolyn Smith and Huw Cyril David Wathan, and completion was conditional on the determination of this application
 - d. the terms of the order requested would not come into force until the completion of the sale
 - e. the Applicants had agreed that the reasons for the making of the order dated the 2 March 2007 would no longer exist, and that, once the sale and purchase of Flat 4 had been completed, June Tempany and her son and daughter-in-law Gary Mark Tempany and Sally Anne Tempany would between them own all the long leasehold interests in the Flats and the freehold interest in the Building, and had decided to manage the Building themselves
 - f. the manager had joined in the application to give her consent to the discharge

Letters from the Applicants' solicitors

3. Letters before the Tribunal were :
 - a. from Lester Aldridge dated the 25 January 2010, stating that they acted for June Tempany, Gary Mark Tempany and Sally Anne Tempany, and that they agreed for the matter to be dealt with without an oral hearing
 - b. from Richards & Morgan dated the 3 February, stating that they agreed with the contents of the letter dated the 25 January 2010 from Lester Aldridge, that contracts for the sale of Flat 4 had been exchanged with a latest completion date of the 31 August 2010, but with the ability to bring the date forward on notice
 - c. from Lester Aldridge dated the 9 February 2010, stating that they agreed that the order could take effect on date of completion of the sale of Flat 4

Letter from the Manager 9 February 2010

4. The Manager stated that she understood the reason for the request for her to stand down and was happy to do so

The law

5. The material parts of section 24 of the 1987 Act are as follows

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(9)[A leasehold valuation tribunal] may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, [the tribunal] may by order direct that the entry shall be cancelled.

[(9A)[the tribunal] shall not vary or discharge an order under subsection (9) on [the application of any relevant person] unless it is satisfied—

(a)that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and

(b)that it is just and convenient in all the circumstances of the case to vary or discharge the order]

Tribunal's decision and reasons

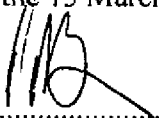
6. The Tribunal, having considered all the evidence before it, and the representations by and on behalf of all the Applicants, makes the following findings :
 - a. the discharge of the order dated the 2 March 2007 will not result in a recurrence of the circumstances which led to the order being made if the discharge takes effect on the date of completion of the sale of Flat 4, for the reasons set out in the application
 - b. it is just and convenient in all the circumstances of the case to discharge the order with effect from the date of the completion of the sale of Flat 4 by Carolyn Smith and Huw Cyril

David Wathan to Gary Mark Tempany, that date being the 31 August 2010 or earlier on notice

Discharge of the order of the LVT dated the 2 March 2007 appointing the Manager

7. The Tribunal accordingly discharges the order with effect from the 31 August 2010, or from such earlier date as that on which the completion of the sale of Flat 4 by Carolyn Smith and Huw Cyril David Wathan to Gary Mark Tempany takes place

Dated the 15 March 2010



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P R Boardman
(Chairman)

A Member of the Tribunal appointed by the Lord Chancellor