



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

**Case Reference** : CHI/00ML/LVT/2020/0007

**Property** : Cliftonville Court, Goldstone Villas, Hove,  
BN3 3RX

**Applicant** : Cliftonville Court RTM Company Limited

**Representative** : Deacon Crickmay Asset Management

**Respondent** : The Freeholder and Leaseholders

**Representative** :

**Type of Application** : Variation of a lease pursuant to Section 37  
of the Landlord and Tenant Act 1987

**Tribunal Member(s)** : Judge D. R. Whitney

**Date of Decision** : 12th February 2021

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**DETERMINATION**

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**This is a formal order of the Tribunal which must be complied with by the parties.**

**The Tribunal Judge directs that the parties must comply with the Statement on Tribunal Rules and Procedure issued August 2020 and the Guidance on PDF bundles dated August 2020, which are enclosed with these directions (if not already provided).**

**Due to the Covid 19 pandemic, communications to the Tribunal MUST be made by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk). All communications must clearly state the Case Number and address of the premises.**

### **Background**

1. The Applicant seeks to vary all the leases at the development pursuant to section 37 of the Landlord and Tenant Act so that the Applicant shall be responsible for repairing and replacing the windows in the flats.
2. The Tribunal issued directions on 9<sup>th</sup> October 2020 and various other sets of directions. The Applicant has now produced an electronic bundle and references in [] are to pages within that bundle.

### **The Law**

3. The relevant law is set out in section 37 of the Landlord and Tenant Act 1987 a copy of which is annexed hereto marked A.

### **Determination**

4. The Applicant is an RTM company which manages the Property. The freehold belongs to Cliftonville Court Limited. The Property is an 8- storey block of flats with 42 leasehold flats.
5. The Applicant is looking to undertake various external refurbishment works. The leases provide that responsibility for maintenance and repair of the windows and window frames is that of the individual leaseholder. The Applicant relies upon a report dated 5<sup>th</sup> November 2020 from a Chartered Building Surveyor Stephen Pook [199-201]. This suggests given the way the windows are installed and interact with cladding at the Property it may be impractical for individual leaseholders to repair and maintain their own windows.
6. The report suggests that it would be preferable for the Applicant to carry out window replacement.
7. The Applicant suggests that the current leasing scheme does not allow this given the windows are the responsibility of the leaseholders. The application relies upon two statements made by Mr Staples, the managing agent [189-192]. It appears original leases were granted

and certain leaseholders have varied their leases by way of deeds of variation. The Applicant contends the forms of the original leases and deeds are in similar form for the flats. The deeds of variation extend the term of the original lease, referred to as the "Lease" and make other minor changes not relevant to this application.

8. 32 leaseholders have confirmed in writing that they agree and support the proposed variation [279-303]. There are also within the bundle letters from the freeholder confirming that they agree to the proposed variation [221 & 222]. The Applicant itself agrees to the application.
9. There are 44 interested parties (42 leaseholders, 1 freeholder and the Applicant RTM company). 34 parties positively support the application for a variation. No objections have been received from any party. In excess of 77% support the application.
10. I am satisfied that the statutory qualification requirements under section 37 of the Landlord and Tenant Act 1987 are met.
11. It is necessary to consider the wording of the proposed variation. The changes sought are that the window frames and glazing will no longer be the responsibility of the individual leaseholders. Responsibility for repair, maintenance and replacement will be transferred to the freeholder whose obligations currently vest in the RTM company. I have carefully considered the letter from Mr Pook. His findings make clear that it would be to the benefit of all parties if it was the RTM company and freeholder who had this responsibility.
12. I am satisfied it is right and proper to agree the proposed variation and that the outcome may only be achieved if all the leases for the Property are so varied. I determine that the leases shall be varied upon the terms of the leases set out below and subject to the Applicant registering the same at the Land Registry.

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ORDER

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Pursuant to Section 37 of the Landlord & Tenant Act 1987 the Tribunal Orders that each and every Lease of Cliftonville Court, Goldstone Villas, Hove, BN3 3RX be varied on the terms set out in paragraph 2 below.

The Applicant shall be responsible for making applications to the Land Registry to note the decision against the Freehold Titles and the Leasehold Titles of the properties as aforesaid.

1. 32 Leaseholders have provided their consent to the application, as have the Freeholder and the Applicant, Right to Manage Company. The object to be achieved by the proposed variations cannot be achieved without varying all of the leases of the aforesaid properties. The requirements of Section 37 of the Landlord & Tenant Act 1987 having been met, the Leaseholders having been served with a copy of this application and no Leaseholder having objected, the Tribunal orders that the variations set out in Paragraph 2 below shall be made to each of the Leases of the aforesaid properties.

2. The leases shall be varied as follows:

(i) Clause 2 (2)(iii)(a) to be amended so as to read:

The structure of the Building including the main walls windows drains roofs foundations chimney stacks gutters and rainwater pipes

(ii) Clause 2 (2)(ix) to be amended so as to read:

The cost of cleaning the exterior of the windows in the Building

(iii) Clause 5(2)(a) to be amended so as to read:

The structure and in particular the main walls windows drains roofs foundations chimney stacks gutters and rainwater pipes of the building.

(iv) The First Schedule Part1 (a) shall be amended so as to read:

the internal plastered coverings and the plasterwork of the walls bounding the flat and the doors and door frames (other than the external surfaces of such door frames)