



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

Case reference : **LON/00AT/LVL/2024/0003**

Property : **116 Barrowgate Road, London W4 4QP**

Applicant : **Ms Aisling Walsh**

Representative : **In person**

Respondents : **(1) Mr Alexander Czajkowski & Mrs Ellen Czajkowski**
: **(2) Professor Peter Pilgrim & Ms Lorina Pilgrim**

Representative: : **In person**

Interested Party : **Viewmodern Limited**

Type of application : **Variation of leases pursuant to Part IV
Landlord and Tenant Act 1987**

Tribunal members : **Judge Robert Latham**
: **Stephen Mason FRICS**

Date and venue of hearing : **12 September 2024**

Date of decision : **16 September 2024**

DECISION

Consent Order agreed by the Parties

Upon Mr and Mrs Ellen Czajkowski agreeing to pay £2,533.77 to Professor Pilgrim within 14 days of today in full and final settlement of the outstanding arrears of £2,793.77;

And Upon the parties agreeing that this will result in a zero balance on all the service charge accounts;

And Upon the parties agreeing that the percentage contributions payable in respect of all service charges and insurance should be varied to be: Flat A – 43%; Flat B – 34%; and Flat C – 23%;

The Tribunal Orders that the leases be varied accordingly pursuant to section 37 of the Landlord and Tenant Act 1987 with effect from today's date.

Reasons for Order

1. On 14 April 2024, the Applicant applied to vary the leases of the three leaseholders at 116 Barrowgate Road, London W4 4QP (“the Property” pursuant to section 35 of the Landlord and Tenant Act 1987 (“the Act”). The Property is a three storey 1930's Art Deco block in Chiswick.
2. There are three flats:
 - (i) Flat A (Ground Floor Flat with garden). Leaseholders: Professor Peter Pilgrim & Ms Lorina Pilgrim (Flat A). The proposal is to increase the insurance contribution in Clause 1 and the service charge contribution from 37.5% to 43%.
 - (i) Flat B (First Floor Flat). Leaseholders: Mr Alexander Czajkowski & Mrs Ellen Czajkowski. The proposal is to reduce the insurance contribution in Clause 1 and the service charge contribution from 37.5% to 34%.
 - (i) Flat A (Top Floor Flat with Roof Space). Leaseholder: Ms Aisling Walsh. The proposal is to reduce the insurance contribution in Clause 1 and the service charge contribution from 25% to 23%.
3. On 30 May 2024, the Tribunal gave Directions. The Applicant has filed a bundle of 240 pages.
4. The following appeared before the tribunal this morning: (i) Ms Aisling Walsh; (ii) Professor Pilgrim & Ms Pilgrim; and (iii) Mrs Czajkowski who was accompanied by her mother. Mr Czajkowski was unable to join the hearing as he is in the Philippines. The Tribunal adjourned the case to

permit Mrs Czajkowski to speak to her husband and to confirm that he agreed to the Consent Order.

5. Each of the leaseholders has a one third share in Viewmodern Limited, the freehold owner. The Tribunal joined Viewmodern Limited as a party to the proceedings.
6. This application has arisen because Mr and Mrs Czajkowski consider that their service charge contribution are unfair and have withheld their service charges and insurance contributions since October 2022. Arrears of £2,793.77 have arisen. Some years ago, Flat A added a rear extension. This was rebuilt in 2017. Mr and Mrs Czajkowski contend that Flat A should now pay a larger contribution as it is now more expensive to insure the Property and the exterior of the Property is now more extensive. They also complain that Flat C has the benefit of a roof terrace. Flats A and C have had to meet the shortfall in the service charge and insurance contributions.
7. Ms Aisling is anxious to sell her flat and needs to resolve the impasse that has arisen. The legal position is quite clear. Flat B has been legally liable to pay a contribution of 37.5% towards the insurance (Clause 1 of their lease) and service charges (Clause 4(2)). It would have been open for the freehold company to sue them for these arrears.
8. The position of Flats A and B was that they were willing to agree to the proposed variations upon certain conditions. They were not willing to give their unconditional consent.
9. The Tribunal discussed the options open to the parties and Flats A and B have now agreed to the proposed variations. Flats A and C have agreed to make a 9.33% reduction in the arrears to be paid by Flat B to reflect their reduced service charge contribution. Mr and Mrs Czajkowski agreed to pay the sum of £2,533.77 to Professor Pilgrim within 14 days. This sum will be shared by Flats A and C who have covered the arrears to date. If this sum is not paid, the freehold company would be entitled to pursue Mr and Mrs Czajkowski for the full sum, including interest.
10. As a gesture of goodwill, Ms Walsh indicated that she was not seeking a refund of the tribunal fees of £300 which she had paid. Had she pursued this application, we would have been minded to make an order against Mr and Mrs Czajkowski who are responsible for the situation that has arisen.
11. The parties indicated that they would wish further variations to be made to their leases which were granted in 1977 and 1978. For example, there is no provision for a reserve fund. The Tribunal suggested that the parties should rather consider agreeing the terms of new modern leases to replace their existing outmoded leases.
12. The Tribunal was encouraged that the leaseholders now all seem willing to cooperate on the terms of new leases and the future management of the Property. However, the Tribunal records that Mrs Czajkowski did not seem to recognise the extent of the concessions that Flats A and C were willing to make in order to achieve this.

13. The Tribunal has made an order varying the leases pursuant to section 37 of the Act to give effect to the Consent Order agreed by the parties. Having checked that the particulars included in the Order are correct and added the Freehold title number, Ms Walsh must file the Order with the Land Registry and confirm to the Tribunal that she has done so.

Judge Robert Latham
16 September 2024

FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)

LON/00AT/LVT/2024/0003

IN THE MATTER OF PART IV, SECTION 37 OF THE LANDLORD AND
TENANT ACT 1987

AND IN THE MATTER OF 116 BARROWGATE ROAD, LONDON, W4 3QP

BETWEEN:

Ms Aisling Walsh

Applicant

- and -

Mr Alexander Czajkowski & Mrs Ellen Czajkowski

Professor Peter Pilgrim & Ms Lorina Pilgrim

Respondents

Viewmodern Limited

Interested Party

ORDER

UPON considering the Applicant's application, dated 14 February 2024;

IT IS ORDERED, pursuant to section 37 of the Landlord and Tenant Act 1987, that all the residential leases in respect of 116 Barrowgate Road, London, W4 3QP are varied as specified in the **Appendix**.

IT IS FURTHER ORDERED that the variations are to take effect from 12 September 2024.

The Tribunal **directs** the Applicants no later than 11 October 2024:

(i) file a copy of this Order together with a copy of the Tribunal's decision, at HM Land Registry.

(ii) confirm to the Tribunal that it has done so.

The Tribunal **directs** HM Land Registry to enter a note in the register of each of the leasehold titles of the residential leases in respect of 116 Barrowgate Road and in the register of the relevant reversionary Freehold Title, confirming that the terms of the registered lease has been varied by this Order, to file a copy of this Order under each affected title.

Judge Robert Latham

16 September 2024

Appendix

Freehold Title Number:
Current Freeholder: Viewmodern Limited

The percentage contributions that shall be payable by the leaseholders towards insurance and service charges shall be varied as follows:

Flat A

Title Number NGL333548
Current Leaseholder: Peter John Pilgrim & Lorina Mary Pilgrim
Original Lease: 19 June 1978
Deed of Surrender and Grant of New Lease: 27 January 2014
Variation:

The figure of “43%” shall be substituted for “37.5%” in Clause 1 and Clause 4(2).

Flat B

Title Number NGL29064
Current Leaseholder: Alexander Czajkowski & Ellen Czajkowski
Original Lease: 13 March 1978
Variation:

The figure of “34%” shall be substituted for “37.5%” in Clause 1 and Clause 4(2).

Flat C

Title Number NGL317181
Current Leaseholder: Aisling Walsh
Original Lease: 11 November 1977
Deed of Surrender and Grant of New Lease: 20 January 2014
Variation:

The figure of “Twenty Three per cent” shall be substituted for “Twenty Five per cent” in Clause 1 and Clause 4(2).