

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

**LEASEHOLD REFORM, HOUSING & URBAN DEVELOPMENT ACT 1993:
SECTION 24**

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

Case No: CHI/43UK/OCE/2004/0029

Property: Gladeside Court
Succombs Hill
Warlingham
Surrey CR6 9JG

Applicant: Gladeside Court Ltd

Respondent: Mrs A Worth

Members of the Tribunal: Mr P B Langford MA LLB (Chairman)

Date decision issued: 19th August 2004

BLOCKS 1, 2 & 3 GLADESIDE COURT, SUCCOMBS HILL,
WARLINGHAM

1. The Reference

Background

This is a case where Croydon County Court has made an Order pursuant to Section 24 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") that there should be a vesting order in favour of Gladeside Court Ltd of the freehold interest of the Respondent, Miss Audrey Worth, as registered at HM Land Registry under title SY318801. By that order the Leasehold Valuation Tribunal are to approve the form of the transfer document between Miss Worth and Gladeside Court Ltd. A form of transfer has been submitted to the Tribunal for approval. A copy of this was sent to Miss Worth on 6 April 2004 and she was invited to say what amendments she wished to be made. She suggested no amendments in response to that letter. On 18 June 2004 the Tribunal notified her that they would proceed to dispose of the matter on all the information provided by her on or before 25 June 2004. She has not given any information to the Tribunal since that time.

2. Consideration

The draft transfer submitted states in paragraph 10 that the transferor transfers with full title guarantee. In fact Section 34(9) and Schedule 7 (paragraph 2(2)(b)) of the Act requires the transfer to be with limited title guarantee.

3. Decision

The draft transfer submitted by Gladeside Court Ltd and attached to this order marked "A" is approved subject only to paragraph 10 being amended to show that the transfer is with limited title guarantee and not with the full title guarantee.



P B LANGFORD (Chairman)

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN LEASEHOLD VALUATION TRIBIBUNAL**

Case No. CHI/43UK/OCE/2004/0029

Property: Gladeside Court, Succombs Hill, Warlingham, Surrey CR6 9JG

Between:

Gladeside Court Limited

Applicant

and

Miss A. Worth

Respondent

Leasehold Reform, Housing and Urban Development Act 1993
Section 24

In the matter of an Application for Leave to Appeal a Decision of the
Tribunal dated 19th August 2004

Hearing: 21st March 2005

Tribunal: Mr J.B. Tarling MCMI (Chairman)
Mr M. G. Marshall FRICS

Date Decision issued: 31st March 2005

Background to the Application

1. The Respondent applied for leave to appeal a Decision made by the Tribunal on 19th August 2004 made under Section 24 of the Leasehold Reform, Housing and Urban Development Act 1993, in which the Tribunal approved the wording of the form of transfer document between the Respondent and the Applicant. Prior to that there had been a Vesting Order made by the Croydon County Court and the extent of the land and the price and other terms for the enfranchisement had already been decided by an Order of the Tribunal dated 14th August 2003.
2. There had been extensive correspondence between the Respondent and the Tribunal and in a letter from the Tribunal office dated 1st November 2004 a decision to allow the Respondent to make an application for leave to appeal the Decision dated 19th August 2004 out of time was allowed. All applications for appeal of other decisions of the Tribunal were out of time and were unable to be considered.
3. Directions had been given allowing a Preliminary Hearing at which the Respondent was permitted to make oral representations regarding her application for leave to Appeal out of time. Written representations were received by the Tribunal within the timescales allowed and a Hearing was set for her to make oral representations on 21st March 2005

Hearing

4. A Hearing took place at Oxted on 21st March 2005 when the Respondent attended with a Mr. Macarty. Gladeside Court Limited was represented by Mr Geoffrey Stagg, a Solicitor, from TWM Solicitors of Reigate. Also in attendance was Mr Roger D. Nelson who was the Manager who had been appointed by the Tribunal. A number of the Directors and Shareholders of Gladeside Court Limited also attended.
5. Miss Worth addressed the Tribunal and gave a long history of various court cases and disputes regarding the property going back over many years. Much of what she said had no relevance at all to the matter that was currently before the Tribunal, namely her wish to appeal out of time against the Tribunal's decision dated 19th August 2004. During her address to the Tribunal she did set out various reasons why she had failed to reply to the Tribunal's requests for details of her objections to the wording of the Transfer document. The Decision dated 19th August 2004 set out in detail the facts which had given Miss Worth an opportunity to set out her objections and her failure to respond. A copy of the transfer had been sent to Miss Worth on 6th April 2004, she had failed to reply and failed to let the Tribunal have a note of any objections she had to the wording of the transfer. She was further notified by the Tribunal on 18th June 2004 that if she failed to reply by 25th June 2004 the matter would be decided without further notice. Miss Worth told the Tribunal that at that time she had been taken ill and had been unable to deal with the matter. Those events took place in June 2004 but she had already had since shortly after 6th April to deal with the matter.
6. After Miss Worth had been speaking for some time, the Chairman clarified the details of exactly what the current Application was about as Miss Worth seemed to be speaking about events which had no bearing on the matter in hand. He explained clearly that the only matter to be decided that day was whether she should have leave to appeal the Tribunal's Decision dated 19th August 2004 which dealt solely with the wording of the Transfer document. Eventually she said that she objected to the wording on two respects. The first was that she did not agree the price of £130,000. The second was that she did not agree the extent of the land that was enfranchised. The Chairman explained to her that both these matters were ones which the Tribunal could not deal with that day. Those decisions had been made by the Tribunal in their Decision dated 14th August 2003 and the time for appeal of that Decision had long since passed. She was asked if there were any other matters to do with the wording of the Transfer document which she wished to raise, and she agreed there were none.
7. Mr Stagg was asked if he wanted to address the Tribunal. He said he wished to oppose the Application for Leave to Appeal out of time. He said that Miss Worth had had plenty of time to consider the wording of the Transfer. Indeed even before the Tribunal had given her an opportunity to comment on the wording of the Transfer, his firm had given her plenty of time to raise any objection to the wording and she had failed to do so.
8. The Tribunal then retired to consider the application.

Consideration

9. The Tribunal reviewed what it had read and heard. The time for appealing a Decision made by a Tribunal is set out in Section 175 of the Commonhold and Leasehold Reform Act 2002 and in Regulation 20 of the Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003. The time for the application to be made is 21 days from the date when the Decision was sent to the parties. The Tribunal's Decision was sent to the parties as long ago as 19th August 2004. The matter appeared to be quite simple in that Miss Worth was well out of time for lodging her Application to appeal. She had generously been given an opportunity to present clear and valid reasons why she wished to appeal the Tribunal's Decision dated 19th August 2004 at an oral hearing. The only factual matters which she had given regarding her application for leave to appeal out of time were that she had been ill during June 2004 and had had an operation in July 2004. Whilst the Tribunal was sympathetic with her illness, she could have taken other steps to instruct someone else, such as appointing someone to act as an Attorney or instructing a Solicitor to act on her behalf. She had clearly been given notice of the Application to approve the wording of the transfer in April 2004 and had plenty of time to take some action to object. The matter had not been finally determined until August 2004. She had failed to take any action at all to object to the wording.
10. In respect of her two objections regarding the price to be paid and the extent of the land transferred, these matters were no longer relevant to the actual wording of the Transfer which was the substantive matter currently before the Tribunal. Those matters had been decided by the Tribunal in its Decision dated 14th August 2003 and it was now far too late for them to be reviewed. No appeal against that Decision had been made.
11. Accordingly, for the reasons given above, the Tribunal had no difficulty in deciding to REFUSE the application for Leave to Appeal the Tribunal's Decision dated 19th August 2004 out of time.

Dated this 21st day of March 2005



J.B. Tarling

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Mr J.B. Tarling MCMI
(Chairman)