



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

Case Reference : **BIR/00CU/LVT/2015/0001**

Property : **Flats 2 – 18 (even numbers) Thornhill
Grange, Ryknild Drive, Streetly,
Sutton Coldfield, West Midlands B74
2AZ**

Applicant : **Sutton Lakes Limited**

Representative : **Adcock's Solicitors**

Respondents : **William Kendrick & Sons Ltd (1)
Phillip & Glenys Harris (2)
Willenhall Car Centre Co. Ltd (3)
Stuart Knight (4)
John & Doreen Russell (5)
David & Helen Jones (6)**

Representative : **None**

Type of Application : **Application for variation of leases
under the Landlord and Tenant Act
1987**

Tribunal Members : **Judge C Goodall
Mr P Hawksworth**

Date of Decision : **4 August 2015**

DECISION

Background

1. This application is for the variation of nine leases (“the Leases”) of residential flats at Thornhill Grange Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“Thornhill Grange”). It is made under section 37 of the Landlord and Tenant Act 1987 (“the Act”).
2. The Respondents are the respective owners of Flats 2 – 18 (even numbers only) of the flats as Thornhill Grange. In the application, the owner of flat 6 was given as Mr & Mrs D & J Job. According to the official copies of the title to the leasehold interest in Flat 6 however, that Flat is vested in Willenhall Car Centre Co. Ltd. The Tribunal orders that this company be substituted as the third respondent in these proceedings.
3. Thornhill Grange is a purpose built block of flats constructed in about 2008. It is set in its own grounds and is bounded by a fenced/walled perimeter. On the opposite side of the road is a similar development of another nine flats (“the Adjoining Flats”). Both developments were constructed together, and were initially managed together.
4. In 2013, the tenants of the Adjoining Flats acquired the Right to Manage their flats under the Commonhold and Leasehold Reform Act 2002. Therefore Thornhill Grange and the Adjoining Flats are now managed separately.
5. The Tribunal has not been provided with copies of all the Leases, but it is satisfied, relying on information provided by the Applicant’s solicitors, that the Leases are in similar form in so far as is material to this application. The Leases contain provisions that require the Landlord to provide certain services for the Flats for which the Respondents pay a service charge. The proportion of the costs each Respondent pays is defined in clause 1.21 of each lease (except for Flat 14 where the relevant clause is clause 1.23) as follows:

“the Service Charge means” [percentage figure] of the Particulars of the Total Expenditure ...”

6. The percentage contributions set out in clause 1.21 (Flat 14 – 1.23) for the Leases at Thornhill Grange are:

Flat number	Owner	Percentage
2	William Kendrick & Sons Limited	5.162
4	Phillip & Glenys Harris	5.162
6	Willenhall Car Centre Co. Ltd	6.079
8	William Kendrick & Sons Limited	5.67
10	William Kendrick & Sons Limited	5.162
12	Stuart Knight	5.162
14	John & Doreen Russell	6.079
16	William Kendrick & Sons Limited	5.67

18	David & Helen Jones	5.854
Total		50

7. The other 50% contribution towards the service cost came from the Adjoining Flats.
8. This application is to vary the Leases by doubling the percentage contribution each flat owner in Thornhill Grange is required to pay so that the total contribution is 100% of the cost of the services.

The Law

9. Section 37 of the Act allows an application for variation to be made where a majority of persons concerned wish for that variation to be made, and the object to be achieved by the variation can only be achieved if all the Leases are varied to the same effect. Where there are nine leases or more (as here), an application may only be made if it not opposed by more than 10% of the total number of parties concerned and at least 75% of that number consent. The landlord (here the Applicant) also constitutes a person concerned. Here therefore, the Applicant needs to establish that all, or all bar one of the Respondents' consent to the variation.

Deliberations and decision

10. The Tribunal is satisfied, having been supplied with written evidence of their consents, that the Applicant and the Respondents named in this application have consented to the proposed variation and that the variation should be made as the object of the variation cannot be achieved unless all the Leases are varied. Accordingly the Tribunal grants the Application.
11. The Tribunal has been informed that flat 14 has in fact been sold subsequently to the application being made. The new owner's consent to the variation has not been provided (though the previous owner's was). As all other persons concerned have consented, the Tribunal is satisfied that the application should still be granted as the new owner would represent an interest of 10% and therefore could not oppose the application in any event.
12. The Tribunal effects the decision by making the nine separate orders appearing in the Schedule to this decision so that each can be separately registered at H M Land Registry.

Appeal

13. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28

days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)

SCHEDULE

Orders made to effect this decision



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 2, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“the Property”)**
Title number : **WM938508**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.21 of the lease from the existing percentage figure of 5.162 to a new percentage figure of 10.324.

Judge C J Goodall

Date 4 August 2015



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 4, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“the Property”)**
Title number : **WM917637**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.21 of the lease from the existing percentage figure of 5.162 to a new percentage figure of 10.324.

Judge C J Goodall

Date 4 August 2015



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 6, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“the Property”)**
Title number : **WM920917**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.21 of the lease from the existing percentage figure of 6.079 to a new percentage figure of 12.158.

Judge C J Goodall

Date 4 August 2015



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 8, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“the Property”)**
Title number : **WM938499**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.21 of the lease from the existing percentage figure of 5.67 to a new percentage figure of 11.34.

Judge C J Goodall

Date 4 August 2015



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 10, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“the Property”)**
Title number : **WM938521**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.21 of the lease from the existing percentage figure of 5.162 to a new percentage figure of 10.324.

Judge C J Goodall

Date 4 August 2015



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 12, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“the Property”)**
Title number : **WM892357**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.21 of the lease from the existing percentage figure of 5.162 to a new percentage figure of 10.324.

Judge C J Goodall

Date 4 August 2015



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 14, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“the Property”)**
Title number : **WM896203**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.23 of the lease from the existing percentage figure of 6.079 to a new percentage figure of 12.158.

Judge C J Goodall

Date 4 August 2015



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 16, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ ("the Property")**
Title number : **WM938512**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.21 of the lease from the existing percentage figure of 5.67 to a new percentage figure of 11.34.

Judge C J Goodall

Date 4 August 2015



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

Case Reference : **BIR/00CU/LVT/2015/0001**
Property : **Flat 18, Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ (“the Property”)**
Title number : **WM919412**

ORDER

Upon reading an application for an order under section 37 of the Landlord and Tenant Act 1997 for a variation of the lease of the above property

And Upon the Tribunal being satisfied that the provisions of section 37 have been met and all lessees of the nine apartments at numbers 2, 4, 6, 8, 10, 12, 14, 16 and 18 Thornhill Grange, Ryknild Drive, Streetly, Sutton Coldfield, West Midlands B74 2AZ as at the date of the application have consented to or not objected to the application

IT IS ORDERED THAT

The lease of the Property, which is registered at H M Land Registry under the above title number, shall be varied by the alteration of the percentage figure appearing in clause 1.21 of the lease from the existing percentage figure of 5.854 to a new percentage figure of 11.708.

Judge C J Goodall

Date 4 August 2015