

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)

Variation of RSEO: Housing (Scotland) Act 2006 Section 25

Chamber Ref: FTS/HPC/RP/18/0510

**60 Leng Street, Dundee, DD3 6QY, which subjects form part of the larger subjects, 40¼ Poles of Ground, bounded on the north by Byron Street, Dundee and on the east by Leng Street, at Coldside, near Dundee, in the Barony of Hilltown of Dundee and Parish of Dundee, as more particularly described in the Feu Disposition by Governor and Company of Bank of Scotland to Jainti Dass Saggar and recorded in the General Register of Sasines on 17 October 1928
("The House")**

The Parties:-

**The successor in title to Dr Karam Dev Saggar, 27 Albany Terrace, Dundee c/o Mr Seng-Say Li, Balgay Property and Investment Services, 8 Westport, Dundee, DD1 5EP
("the Landlord")**

**Neena Saggar, Westridge House, Badgers' Hill, Evesham, Worcestershire, WR11 4SD
("the Landlord's representative")**

Tribunal members

**Susanne L M Tanner Q.C. (Legal Member)
David Godfrey (Ordinary Member)**

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having determined on 31 October 2018 that the **Repairing Standard Enforcement Order** relative to the house dated 15 August 2018, served on 16 August 2018, as varied, should be further varied, the said **Repairing Standard Enforcement Order** is

hereby varied with effect from the date of service of this Notice in the following respects:-

1. The period of 270 days from the date of service allowed for the completion of the work required by the order is extended by an additional period of 180 days, to give a total period for compliance of 450 days from the date of service of the RSEO.

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page(s) are executed by Susanne L M Tanner, Queen's Counsel, Legal Member and Chair of the tribunal

at Edinburgh (place)

on 26 April 2019 (date)

Y McDougall

Legal Member/Chair

before this witness:-

S Tanner

Witness

YVONNE MCDUGALL

Name in full

6 RATRAY WAY

Address

EDINBURGH

EH10 5TU

Housing and Property Chamber
First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

**DECISION WITH STATEMENT OF REASONS FOR VARIATION OF RSEO:
Housing (Scotland) Act 2006, Section 25**

Chamber Ref: FTS/HPC/RP/18/0510

60 Leng Street, Dundee, DD3 6QY, which subjects form part of the larger subjects, 40¼ Poles of Ground, bounded on the north by Byron Street, Dundee and on the east by Leng Street, at Coldside, near Dundee, in the Barony of Hilltown of Dundee and Parish of Dundee, as more particularly described in the Feu Disposition by Governor and Company of Bank of Scotland to Jainti Dass Sagggar and recorded in the General Register of Sasines on 17 October 1928 (“The House”)

The Parties:-

The successor in title to Dr Karam Dev Sagggar, 27 Albany Terrace, Dundee c/o Mr Seng-Say Li, Balgay Property and Investment Services, 8 Westport, Dundee, DD1 5EP (“the Landlord”)

Neena Sagggar, Westridge House, Badgers’ Hill, Evesham, Worcestershire, WR11 4SD (“the Landlord’s representative”)

Tribunal members

**Susanne L M Tanner Q.C. (Legal Member)
David Godfrey (Ordinary Member)**

DECISION

1. The tribunal, having taken account of the written submissions and documents submitted by solicitors acting for the Landlord’s representative dated 22 February 2019 and 24 April 2019 and previous written documentation submitted by the Landlord’s Representative, hereby further varies the Repairing Standard Enforcement Order (RSEO) dated 15 August 2018, in

terms of section 25 of the 2006 Act, to the effect of extending the period of time allowed for the works specified therein for an additional period of 180 days from the date of service of the RSEO, (making the total time for compliance 450 days from the date of service of the RSEO).

2. The decision of the tribunal was unanimous.

Reasons

3. Reference is made to the decision of the tribunal dated 15 August 2018 and the RSEO of the same date, ordering that the works specified therein had to be completed within 90 days of the date of service. The RSEO was served on 16 August 2018.
4. On 1 November 2018, the RSEO was varied on the Application of the agents for the Landlord's Representative, to allow an additional period of 180 days to complete the specified works. Reference is made to the tribunal's decision of 1 November 2018 and variation of the same date.
5. On 22 February 2019, Dallas McMillan, Solicitors, Glasgow, submitted further documentation in relation to the sale of the House, including concluded missives for sale of the House. The solicitors advised that the planning application would be lodged shortly and the intention was to demolish the House and a new development constructed thereon. The solicitors indicated that they understood that the proposal had been accepted in principle by the planning authority. The solicitors asked what further information would be required in respect of variation or discharge of the RSEO.
6. The tribunal considered the solicitor's submissions and documents and noted from the terms of the missives of sale that Clause 2.6 of the offer contains a suspensive condition relative to planning permission and also that the date of entry is based upon the date of purification of the suspensive condition. The tribunal responded to the Landlord's Representative's solicitors stating that the request for discharge of the RSEO therefore appeared to be premature, unless the factual situation has changed since they submitted the missives to the tribunal. The tribunal requested that the solicitors submit proof that planning permission has been granted, the suspensive condition has been purified and to confirm the date of entry by the purchasers. The tribunal stated that it would consider any further information submitted and confirm whether the RSEO could be discharged.
7. On 24 April 2019, Dallas McMillan sent an email to the tribunal to advise that an application for planning permission is about to be lodged. The planning

department has asked for an engineer's report to accompany the planning application and the engineer is in turn waiting to hear from Scottish Water in relation to drainage requirements. In light of that, the solicitors requested a variation of the RSEO to allow a further period of time to carry out the works ordered by the RSEO, requesting 6 months as a "long stop date", given that the Landlord and the purchasers are trying to progress matters as quickly as possible.

8. There are no other parties to the Application.
9. In light of the information and documentation submitted by and on behalf of the Landlord's Representative, the tribunal decided that it is prepared to accede to the Landlord's Representative's request and vary the RSEO to allow the time period for works to be extended by an additional 180 days, to give a total time period for compliance of 450 days from the date of service of the RSEO.

Right of Appeal

- 10. A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

Effect of section 63

11. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

S Tanner

Signed 

Susanne L M Tanner, Queen's Counsel, Legal Member and Chair of the tribunal

Date 25 April 2019