



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

Case Reference : **LON/00AP/HIN/2013/0016**

Property : **Ground Floor, First Floor and
Second Floor Flats, 69 Thetford
Close London N13 6AU**

Applicant : **Mr H Parmar**

Representative : **In person**

Respondent : **London Borough of Haringey**

Representative : **Ms E Griffith**

Type of Application : **Schedule 1 para 10(1) Housing Act
2004 (Appeal against improvement
notice)**

Tribunal Members : **Mrs F J Silverman Dip Fr LLM
Mr H Geddes FRICS
Ms J Dalal**

**Date and venue of
Hearing** : **23 September 2013 , Alfred Place
London WC1E 7LR**

Date of Decision : **23 September 2013**

DECISION

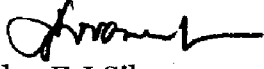
The Tribunal upholds the Applicant's appeal against the improvement notice served by the Respondent and declines to order the Applicant to pay the Respondent's costs of service of the notice.

REASONS

- 1 The Applicant is the owner and landlord of the property situated and known as 69 Thetford Close London N13 6AU which is currently divided into three self contained flats on the Ground First and Second floors of the building (the property) . Each flat in the property is let on a short term tenancy. He filed an application with the Tribunal on 21 June 2013 appealing against improvement notices served on him by the Respondent which purported to identify a category 1 hazard in the property and required the Applicant to remedy that defect within a specified time. The Applicant's appeal was only against the notices which related to the excess cold hazard , he had not challenged those relating to fire or to the creation of a new window; the latter work was currently being undertaken.
- 2 Directions were issued by the Tribunal on 18 June 2013 and the hearing of this matter took place before a Tribunal sitting in London on 23 September 2013 at which the Applicant represented himself and the Respondent was represented by Ms E Griffith.
- 3 At the hearing the Tribunal heard evidence from the Applicant and for the Respondent from Ms Griffith
- 4 The Tribunal did not consider it necessary to inspect the property. Photographs of the property supplied by the Respondent showed it to be a three story end of terrace house with a small hardstanding in front of the ground floor entrance door. The ground floor and side wall appeared to be of brick construction with cladding attached to the front exterior of the upper two floors.
- 5 The Applicant's case was that he maintained that the Respondent's requirement that a full gas central heating system should be installed at the property was excessive and not suitable for this property.
- 6 Ms Griffith for the Respondent was unable to produce to the Tribunal any note or record of her inspection of the property on 24 April 2013 except that, in support of the improvement notice, she relied on photographs which she took during that visit. None of these photographs assisted the Tribunal in their deliberations, several of them were photographs of fire extinguishers and fire blankets, which were not relevant to the application under discussion.
- 7 As a result of that visit in the company of the Applicant's handyman, Ms Griffith formed the opinion that there was an excess cold hazard present in all three flats and carried out a computer assessment which produced a conclusion justifying her decision. She had not taken any temperature readings during her inspection and in her evidence to the Tribunal said that she had reached her conclusion because the flats felt cold, there had been no central heating in the flats and in two out of the three flats (where the tenants had not been present at the inspection) free standing electric heaters were not switched on at the time of her visit.
- 8 The result of the hazard assessment was to classify the hazard as a Category 1 hazard obliging the Respondent to take enforcement action.

- 9 The Respondent then proceeded to serve improvement notices on the Applicant which required him to install separate individual gas fired central heating systems to each flat. No alternatives were given by the notices. Ms Griffith told the Tribunal that she had considered offering the alternative of an electric storage heating system to each flat but had dismissed this option on the grounds of costs and partly because she considered the existing wiring systems at the flat to be unsafe. Her photographs of the property did not show that wiring was patently unsafe. She was unable to demonstrate to the Tribunal that she had undertaken a cost benefit analysis in relation to the relative costs of a gas or electric heating system.
- 10 The Respondent also required the Applicant to pay the Respondent's costs of service of the notice but did not produce to the Tribunal a copy of the notice served on the Applicant requiring him to pay their costs.
- 11 Ms Griffith's unsigned and undated statement contained a number of inaccuracies (eg as to the ownership of the portable heaters at the flats), and some misleading statements (eg that the conversion of the flats was in breach of planning legislation). She relied heavily on hearsay and many of her contentions were unsupported by appropriate supplementary documentation. In particular, she failed to produce to the Tribunal the report in her notebook of her inspection which she said contained the factual information on which her computer analysis of the existence of a category 1 hazard was based.
- 12 The Tribunal is not therefore satisfied that the Respondent has demonstrated to the Tribunal that sufficient grounds existed to justify the service of an improvement notice nor that the remedial action required by the notice was either reasonable or proportionate. In response to a question from the Tribunal Ms Griffith accepted that she did not know of what materials the property was constructed and she had not considered issuing a notice relating to insulation rather than to heating. Ms Griffith also confirmed that she was by training an environmental health officer with no technical background of surveying or building control.
- 13 Similarly the Tribunal is not satisfied that the Respondent has either explained or justified its charges for service of the notice.
- 14 The Tribunal is not able to ascertain whether the flats in the property do have adequate heating and or insulation. The improvement notices under discussion cannot be upheld because the Respondent has failed to produce sufficient evidence to the Tribunal to support its contentions that there is a category 1 hazard at the property. The Tribunal suggested to the Applicant that he should procure a professional inspection of the property in relation to its insulation and heating requirements and discuss the results of those investigations with the Respondent.
- 15 For the above reasons the Tribunal declines to confirm the improvement notice and upholds the Applicant's appeal against it. It

also disallows the costs of service of the notice which are not recoverable from the Applicant.



Judge F J Silverman as Chairman
23 September 2013.