

Appendix Thirteen: Case Studies

Case Study 1 – Managing Agent

The Environmental Health and Trading Standards Service prosecuted a London-wide property management company for failure to provide documents under section 235 Housing Act 2004 relating to an HMO.

The property management company was fined £35 000 plus costs. The fine was upheld on appeal and reflected the large size of the company, how easy it would have been to provide the information (the company already possessed the requested documents) and how much time the Council had to spend in pursuing them.

The property concerned is requires a mandatory HMO licence but because of the conviction the Service had to consider whether the company is fit to manage licensed properties.

The company came to the view that their role was to educate their clients about their legal responsibilities and encourage them to comply with the law. They decided that where clients did not comply they would sever their relationship. As a result of this approach since the conviction we received more than 50 new licence applications from their clients.

These changes will benefit tenants and local authorities across London. It shows that licensing gives us the ability to look deeply into portfolio landlords processes when we are deciding on their fitness and competence to hold licences or manage licensed premises.

Case Study 2: Block Issues

This is a 6-storey brick building containing 116 privately rented flats. The property was converted from a warehouse to residential use (self-contained flats) in 2006, for which it received Building Regulations approval. It is a Grade 2 Listed Building. The original planning permission allowed for 85 x 1 bedroom and 29 x 2 bedrooms and 2 x 3 bedrooms.

About a year after the conversion alterations were made to the layout of most, if not all of the flats to create additional bedrooms. Accordingly the usage of many of the flats has changed from single dwellings into houses in multiple-occupation. It is assumed that the reason for this was that the greater the number of bedrooms, the greater the rental income that can be generated from each flat. There do not appear to be any of the original one bedroom flats left.

Officers have inspected a sample of ten flats, on all but the upper floors many of the new bedrooms lack windows and therefore have inadequate natural light or ventilation. The alterations have also increased the fire risks at the properties.

HHSRS assessments show significant ratings for the following hazards:

As many of the flats have similar or identical layouts we have been able to quantify the hazards as follows:

- 167 internal bedrooms lacking windows, natural light and means of ventilation
- 167 category one hazards for excess heat
- 167 category two hazards for lighting
- 154 category two hazards for fire where the means of escape, fire separation and/ or fire detection is not satisfactory.

Officers are working with planners to determine what action should be taken to deal with the hazards and any breaches of planning / conservation law. So far the building owners have failed to come up with proposals for improving the internal arrangements for the flats. We will shortly decide what kind of enforcement action we will be taking.

The owner has submitted licence applications for the 116 flats due to the potential of the breaches of planning law and building regulations it may be necessary to issue shorter “probationary” notices so that the licence-holder’s conduct can be monitored.

This is relatively “high-end” accommodation that is reasonably well-maintained, but nevertheless contains significant hazards. If it were not for the licensing scheme, which has enabled Council Officers to get into the block and get behind front doors, we would not expect to learn of the unauthorised redevelopment. As there is little disrepair in the building we would not expect to receive complaints from the tenants.

Case Study 3: Managing Agents

Licensing has given the Council’s Environmental Health and Trading Standards Service the opportunity to look in detail at the conduct of property companies operating locally and learn about new modes of renting that have cropped up in the local housing market. It also enables us to address poor practice and monitor poor performing landlords closely.

A large portfolio landlord operating across north and east London with 280 properties by joint working Trading Standards and the Housing Advice Service have raised concerns about their conduct, both in failing to follow the necessary legal processes before evicting tenants (for example when a tenant has fallen into rent arrears) and also in the manner which they market their properties.

The agent operates a “guaranteed rent” business model where they take on the tenancy of (usually) a flat. A great many of the properties they take on are leasehold

properties owned by the Council or social landlords that have been sold off under the “right to buy” scheme.

Once they gain control of a property the living room is converted into a bedroom and large rooms may be divided in two to increase the number of bedrooms and thereby maximising the rental income. In changing a single family dwelling into a heavily occupied, often overcrowded house in multiple occupation the fire risks increase significantly. However, in a number of these managed properties the necessary investment in upgrading fire precautions and protecting the means of escape from fire have not been made.

Our experience suggests that the guaranteed rent model is now very common, and could well be driving the conversion of many ex-council flats into HMOs. This is a relatively new mode of renting that was not seen 10 years ago and it is hoped that we will be able to share our experiences with Tower Hamlets Homes and other freeholders who may not be fully aware of what is happening in their stock.

We recently prosecuted this agent for failing to licence a property and for failing to properly address fire risks. The boiler was leaking and losing pressure so that it could not provide adequate hot water. Tenants had asked for repairs to be carried out but were ignored. Council HMO standards were breached because too many tenants were occupying the property for the amenities provided. Also one of the bedrooms created by dividing a larger room into two, did not meet space standards and lacked a radiator.

The company was fined £46 000 for failing to licence the property and for the health and safety breaches. The court was told that Landlord licensing is an important tool that ensures that the Council is made aware of rented properties so that they can make the necessary checks to protect the welfare and safety of tenants. Unlicensed properties that operate “under the radar” avoid such scrutiny.

This agency have been given a shorter two year “probationary” licences for the 22 properties they run in the selective licensing area. Every property is being inspected and additional conditions have been inserted into the licenses to ensure that tenants’ rights are respected.