

Rudi Simpson

Subject: FW: APPLICATION FOR DEED OF VARIATION: Roseway, Stoke Golding [GATELEY-GW.FID13333580]

From:

Sent: 09 March 2023 12:37

Subject: APPLICATION FOR DEED OF VARIATION: Roseway, Stoke Golding [GATELEY-GW.FID13333580]

Dear Tim

I write further to your email below. I am acting for Cora Homes and I have copied Gabor Taller of Browne Jacobson into this email. Browne Jacobson are acting for Midland Hearts. Please see below an extract of an email from Browne Jacobson explaining the requirement for the proposed deed of variation of the s.106 Agreement:-

“In relation to Stoke Golding and the mortgagee exemption clause - I agree with you that the body of the clause itself follows the National Housing Federation standard. The issue is, however, that clause 3.1.10 uses the unfortunate phrase of ‘provided that this clause shall not be binding on...’. There is concern that pedantic valuers/funders would interpret this as meaning that it is only the terms of clause 3.1.10 that are not binding rather than the whole of clause 3.1. As is usual, my client has sought separate advice from its treasury solicitors (Devonshires), who are of the view that a variation is needed in order to mitigate against this risk. It is also worth noting that the section 106 Agreement refers to social rented but there is no actual definition for that, so it makes sense to tidy this up as well as part of the variation.”

So, basically, the main variation required is that the words “this clause” must be deleted in clause 3.1.10 of the s.106 agreement and replaced with “clause 3.1”. It is a very simple variation. In the extract of the email referred to above, Browne Jacobson also referred to including a definition for social rented. Please find attached a copy of the s.106 Agreement dated 18th June 2021.

I have asked Browne Jacobson to prepare a draft Deed of Variation. Please provide contact details for the Borough Council's solicitors as soon as possible. We will need an estimate of their legal fees and the legal fees of the County Council so that Browne Jacobson will be able to provide an undertaking for costs.

I wait to hear from you.

Kind regards

Elaine