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15 March 2024

Our Ref: EKM/GL22172.0006

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Dear Hydepark Residents Association

Glasgow Kelvin College – Proposed Works

Thank you for your recent letter which I have now had the chance to discuss with my clients. The offer of the two separate options was appreciated. Having considered matters, my clients would make a slightly amended counter proposal:-

- The College dismantles the existing fence and re-instates this at the correct boundary line between the residents' land and the College. As you will appreciate, as a public body, the College is obliged to use its funds prudently. It also has sustainability obligations and so it makes sense to utilise the existing fence that it has already paid for.
- The College removes and dismantles the portacabin and light posts and disconnects and caps utility services. As per standard industry procedures, the underground cables and pipework will not be removed but will be disconnected.
- The College re-turfs the area the portacabin was situated on.
- The College fills in the frog pond.
- The College will deliver a timeline and outline plans of works. The aim would be to have these works completed within 3 months of the College being satisfied that there is approval to proceed from the owners of the common ground (see further comment below).
- The College will not be carrying out the works itself but will employ contractors to do the works. The College will ensure that the contractors have appropriate experience and have the appropriate insurances in place.
- Confirmation of the disconnection and capping of the utility supplies will be provided.

Dundee

Angus

Edinburgh

Fife

Glasgow

Midlothian

Perth

- A point of contact within the Estates Team at the College will be provided.

As mentioned above, my clients do require to be satisfied that the Association has the necessary authority to reach an agreement with my clients. Whilst it is clear that the Association has been created and exists as an organisation, I am equally clear that it cannot, on its own, bind the residents or give approval to the works. The titles set out how decisions in relation to common property are to be made, the voting procedures, the number to be quorate etc. None of the procedures of the Association match the provisions of the titles but the titles take precedence.

I obtained from the public records a copy of the title of a random property within the development, copy attached. The relevant provisions commence at Clause Tenth on page 10 of the pdf. These will need to be followed and evidenced prior to my clients commencing work. There is an alternative method of being able to give the necessary authorisation which is narrated on p11 where if a Factor has been appointed and authority to manage the common parts has been delegated to the Factor, the Factor can make decisions and bind the owners. If there is a Factor and they can give the necessary consents this may be an alternative solution.

Neither myself nor my clients wish to be pedantic over the question of consent from the owners. That being said, my clients are not prepared to incur cost only for an owner to challenge the position on the basis the Association did not have the power to bind them.

Assuming the above proposal is acceptable then I would suggest that the next stage is for the Association to obtain the consent from the owners in line with the title provisions and to evidence this. My clients will then obtain costings and make arrangements for the works to be done within the proposed timeline set out above.

I look forward to hearing from you in confirmation of the above.

Yours sincerely



Ewan K Miller
Partner
For Thorntons Law LLP

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