

REF/2016/0879

**IN THE PROPERTY CHAMBER (LAND REGISTRATION)
FIRST-TIER TRIBUNAL
(TITLE NUMBER SL147821)**

MICHAEL MOORE

Applicant

-and-

**(1) ANTHONY LIGHTFOOT
(2) HELEN LIGHTFOOT**

Respondents

IMPORTANT DOCUMENTS – F

This is Important Document “F” referred to in the Applicant’s Statement of Case.



Michael Moore
8 Phoenix Rise
Pipe Gate
Market Drayton
TF9 4HQ

Sent by email

Email sent to:
mike@moore.gb.com

Date
29 April 2016

Your ref
NONE

Our ref
SL147821/D/184/FC

Proprietor/Applicant **Anthony Lightfoot and Helen Lightfoot**

Title number **SL147821**

Property **Land at Pipe Gate, Pipe Gate, Market Drayton**

Dear Mr Moore

Thank you for your e mails of 29 March and 28 April.

I have considered the contents of your e mails and the further arguments that you have put forward in support of your application and as a result I have reconsidered my decision not to accept your application. In light of the decision of *Macloed v Gold Harp* [2015] 1 WLR 1249 I can confirm that we will accept an application to alter the register by noting the vendor's restrictive covenant contained within the transfer dated 1 October 2007. The next stage in the process is for me to serve notice of your application on Mr and Mrs Lightfoot. They will have the opportunity to object to your application. If they do, and the objection is not groundless and the matter cannot be resolved by agreement between the parties, the dispute will be referred to the Land Registration division of the Property Chamber First-tier Tribunal for resolution.

Before I proceed with service of notice however, can you please clarify the following points:

1. As mentioned in my letter of 22 February, the transfer dated 1 October 2002 contains three vendors covenants which are set out at paragraph 13.5 of the deed. I assume that your application is to make an entry in the register in respect of the covenant at paragraph 13.5(i) only. Can you confirm that that is the case?
2. Do you still wish to proceed with alteration of the entry in the Proprietorship register referred to in paragraph 7 of my letter?
3. In your e mails you have referred to paragraph 3(2)(b) of Schedule 4 of the Land Registration Act 2002. This provides

Land Registry
Wales Office
PO Box 6344
Coventry
CV3 9LL

DX 740900 Coventry 24

Tel 0300 006 0009
Fax NA
wales.office
@landregistry.gov.uk

www.gov.uk/land-registry

that the register cannot be rectified against a registered proprietor in possession unless:

- (a) He has by fraud or lack of proper care caused or substantially contributed to the mistake, or
- (b) It would be for any other reason be unjust not to rectify.

In your e mail of 29 March you advised that you felt the registered proprietors have substantially contributed to the mistake and its consequences by not informing the Land Registry of the existence of the mistake. Also, the extract from your barrister's opinion set out in your e mail of 28 April seems to state that it would be unjust not to rectify because Mr and Mrs Light foot had actual knowledge of the restrictive covenant as evidenced by their indemnity covenant in the transfer to them of 8 October 2013 and any indemnity will not be of any real value.

Can you please confirm that these are the arguments upon which you are relying as to why the register should be rectified without the registered proprietor's consent even though they are in possession of this land.

Finally, in your e mail of 29 March you have queried how an error such as this could have occurred. I can confirm that I have investigated our files to try to establish why the appropriate entry was not made in the register but unfortunately I can find no specific reason as to why it was omitted other than it seems to have been overlooked by the caseworker at the time of registration of the transfer. All of our internal guidance and instructions on registration of transfers that contain covenants of this nature are clear that an entry should be made in the register. I appreciate that the omission in this case has caused difficulty and distress and I apologise on behalf of Land Registry for this.

I look forward to receiving your reply as soon as possible.

Yours sincerely

F V CLOUGH
Assistant Land Registrar
Direct line 0300 006 8663