



Residential
Property
TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: CHI/45UG/LVT/2009/0004

**DECISION AND ORDER OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 37 OF THE
LANDLORD AND TENANT ACT 1987**

**Premises: Flats 31-44 Clerks Acre Fir Tree Way Hassocks West Sussex
BN6 8BE**

Applicants: Clerks Acre (Phase 2) Ltd (Landlord)

Respondent: The Tenants as identified on Schedule 1 annexed

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Date of paper Determination : ...2 February 2010

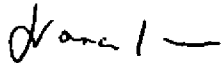
Leasehold Valuation Tribunal:

Mrs F J Silverman Dip FR LLM

- 1 The Applicant landlords are the freeholders of the premises known as Flats 31-44 Clerks Acre Fir Tree Way Hassocks West Sussex BN6 8BE.
- 2 The Premises are divided into 14 flats and the Respondent tenants shown on Schedule 1 are the lessees of those flats .
- 3 The current application, brought under s 37 Landlord and Tenant Act 1987, seeks to vary the service charge provisions in the various leases so that the tenants pay a proportion of the service charges in advance.
- 4 The leases as presently drafted do not allow the landlord to demand and collect service charge in advance nor to set up a sinking fund, both of which are considered to be necessary in the present economic climate.
- 5 The Applicant brought an application to the Tribunal (dated 3 November 2009) asking the Tribunal to vary the leases for the reasons cited above and in the manner set out in Schedule 2 annexed.
- 6 By consent of the parties this matter was dealt with by the Tribunal on a paper consideration (ie without a face to face hearing) .
- 7 The Tribunal did not consider it necessary in the circumstances of this case to inspect the property.
- 8 The Tribunal is satisfied that all the tenants in the block were informed by the Applicant of the proposals to change their leases.
- 9 The Tribunal has power to order such a variation where at least 75% of the tenants vote in favour of the variation and no more than 10% object.
- 10 As at the date of the Tribunal's consideration more than 75% of the tenants had consented to the variation. No objections had been received. Copies of the consent letters were placed before the Tribunal.
- 11 In the light of the above the Tribunal makes the order as requested by the Applicant and as set out below.

ORDER

Pursuant to s 37 Landlord and Tenant Act 1987 the Tribunal orders that the leases of the premises known as Flats 31-44 Clerks Acre Fir Tree Way Hassocks West Sussex BN6 8BE as shown on Schedule 1 annexed hereto shall, as from the date of this order be varied in the terms contained in Schedule 2 annexed hereto. The effect of this variation is to substitute the wording contained in Schedule 2 for the existing clause 3(18) of the leases.



Frances Silverman
Chairman
2 February 2010

1 October 2009

TENANCY SCHEDULE
CLERKS ACRE, HASSOCKS

PHASE II

Flat No.	Lessee (Respondent) and address for correspondence if elsewhere	Tel. No. (if known) (all 01273)	Lease dated	Term (years)	Start date	Expiry date
31	Mrs M E Hewison		28.06.2005	999	28.06.2005	27.06.3004
32	Ms B O Paterson		15.12.2008	999	15.12.2008	14.12.3007
33	Mrs T Bucknall as attorney for Mrs B Hilton 23 The Crescent Hassocks W Sussex BN6 8RB	845844	20.04.1965	To expiry	20.04.1965	29.09.2063
34	Miss L Muschamp		02.06.2006	999	02.06.2006	01.06.3005
35	Mr & Mrs R Snashall		22.08.2005	999	22.08.2005	21.08.3004
36	Mr & Mrs A E Gorringe		09.09.2005	999	09.09.2005	08.09.3004
37	Mr A Rayner and Miss S Saward 20a High Street Ditchling Hassocks W Sussex BN6 8TA		29.06.2005	999	29.06.2005	28.06.3004
38	Mrs D Watson		08.05.2006	999	08.05.2006	07.05.3005
39	Mrs E Smith		01.07.2005	999	01.07.2005	30.06.3004
40	Mrs E Jackson	846917	29.06.2005	999	29.06.2005	28.06.3004
41	Mrs P Eden		06.04.2001	To expiry	06.04.2000	24.03.2098
42	Mr K Furmedge		18.06.2008	999	18.06.2008	17.06.3007
43	Mrs H Saward		04.07.2005	999	04.07.2005	03.07.3004
44	Mrs D Boniche		08.12.2005	999	08.12.2005	07.12.3004

Proposed Clause 3 (18) to be inserted

3 (18) It being the intention that the expenses of maintaining and administering the Buildings shall be borne entirely by and shall be divided between the Lessees of the various flats comprising the Buildings and the Lessee hereby covenants with the Lessor to pay to the Lessor without any deduction by way of further and additional rent one fourteenth of the total expenses and outgoings incurred by the Lessor in or in connection with the discharge of its obligations and liabilities under sub-clauses (ii) (iii) (iv) (v) and (vi) of Clause 4 hereof and in or in connection with enforcing the performance observance and compliance by the Lessee and of all other Lessees of flats in the Buildings of their obligations and liabilities under their Leases (other than obligations and liability to pay ground rents) such further and additional rent (hereinafter called "the maintenance charge") being subject to the following terms and conditions

- (a) The amount of the maintenance charge shall be ascertained and certified by a certificate signed by the Lessor's Managing Agents acting as experts and not as arbitrators annually and so soon after the end of each year ending 24th March as practicable.
- (b) A copy of the certificate for each such financial year shall be supplied by the Lessor to the Lessee without charge to the Lessee.
- (c) The certificate shall contain a summary of the Lessor's said expenses and outgoings incurred by the Lessor during the financial year to which it relates together with a summary of the relevant details and figures forming the basis of the maintenance charge and the certificate (or a copy thereof duly certified by the person by whom it was given) shall be conclusive evidence for the purpose hereof of the matters which it purports to certify.
- (d) The expression (the expenses and outgoings incurred by the Lessor) as herein before used shall be deemed to include not only those expenses outgoings and other expenditure herein before described which have been actually disbursed incurred or made by the Lessor during the year in question but also such reasonable part of all such expenses outgoings and other expenditure herein before described which are of a periodically recurring nature (whether recurring by regular or irregular periods) whenever disbursed incurred or made and whether prior to the commencement of the said term or otherwise including a sum of sums of money by way of reasonable provision (if the Lessor deems fit) for anticipated expenditure in respect thereof as the Lessor or its Managing Agents (as the case may be) may in their direction allocate to the year in question as being fair and reasonable in the circumstances.
- (e) The Lessee shall if required by the Lessor with every half yearly payment of rent reserved hereunder pay to the Lessor such sum in advance and on account of the maintenance charge as the Lessor or its Accountants or Managing Agents (as the case may be) shall specify at their discretion to be a fair and reasonable interim payment.
- (f) As soon as practicable after the signature of the certificate the Lessor shall furnish to the Lessee an account of the maintenance charge payable by the Lessee for the year in question due credit being given therein for all interim payments made by the Lessee in respect of the said year and upon the furnishing of such an account showing such adjustment as may be appropriate as shall be paid by the Lessee to the Lessor the amount of the maintenance charge as aforesaid or any balance found payable.