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**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **LON/00AY/LVL/2014/0009**

**Property** : **89 Lyham Road, Brixton, London SW2  
5DD**

**Applicant** : **Lyham Properties Ltd.**

**Respondent** : **The leaseholders of the 16 flats in the  
property**

**Tribunal Members** : **Judge Dickie**

**Date of Order** : **7 October 2014**

**DECISION AND REASONS**

1. The landlord has applied under S.37 of the Landlord and Tenant Act 1987 for an order varying all of the leases of the 16 flats within the subject premises. I am satisfied that the application was served by the Applicant on each Respondent.
2. The application seeks to achieve the reduction of the service charge percentages for each of the flats such that the sum of all contributions is 100% of the landlord's expenditure. At present the sum of the contributions is 150.26% as a result of additional flats having been constructed after leases were granted for the flats originally planned and built.
3. The landlord has not sought to use the procedure in Part II of the Second Schedule to the leases for recalculation of the service charge proportions, but instead seeks an order varying the leases from 1 January 2015, the start of the new Maintenance Year. I note, however, that the overwhelming majority of the leaseholders consent to the landlord approaching the matter in this way.
4. The tribunal has received written consent to the application from the leaseholders of 13 of the flats, and no objection from any remaining leaseholders. I therefore find that at least 75% of the parties (who

number 17 in total including the landlord) have consented to the application and that the condition in section 37(5) is therefore satisfied.

5. I am satisfied that the ground in Section 37(3) is made out, in that the object to be achieved by the variation cannot be satisfactorily achieved unless all the leases are varied to the same effect.
6. The rationale for the revised proportions is not explained, but I note that it is to the advantage of each leaseholder since all service charge contributions will be reduced.
7. It does not appear that the variation would be likely substantially to prejudice any Respondent to the application or any person who is not a party to the application.
8. I therefore consider it is reasonable in the circumstances to make an order under section 38(3) varying each of the leases in such manner as is specified in the attached order from 1 January 2015.

**Name:** F Dickie

**Date:** 14 February 2014



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**Applicant** : **Lyham Properties Ltd.**

**Respondent** : **The leaseholders of the 16 flats in the  
property**

**Tribunal Members** : **Judge Dickie**

**Date of Order** : **17 October 2014**

**ORDER**

Upon an application under S.37 of the Landlord and Tenant Act 1987, and pursuant to S.38 of that Act, the Tribunal makes the following Order:

1. The terms of the subject leases of each of the 16 flats at 89 Lyham Road, Brixton, London SW2 5DD are varied from 1 January 2015 as follows:
2. The percentage specified in The Particulars for the Service Charge in Part 1 of each lease is varied according to the attached Schedule in the column headed "Service Charge Ordered".
3. Pursuant to subsection 38(9), a note of the variation shall be recorded in the schedule of notices of leases to freehold title number SGL18607 and in the property registers of all the individual flat leasehold titles.
4. No order as to compensation under Section 38(10).
5. No order as to costs or fees.

**Name:** F Dickie

**Date:** 7 October 2014

## Application for the variation of a lease or leases

Lyham Properties Limited, 89 Lyham Road, Brixton, London SW2 5DD

Flat No.	Name	Address	Contact	Status	Date of Lease	Location and No. of Bedrms	Service Charge % in as in current Lease	Service Charge Ordered
A	Sasha Miranda Bunch	Flat 1, 9 Milton Road Highgate London N6 5QD	<a href="mailto:sasha.bunch@gmail.com">sasha.bunch@gmail.com</a>	Tenant	14 March 2007	Basement 1 bed	4.8	3.20
B	Illius Properties Limited	1 Angel Sq Manchester M60 0AG	C/o Sequence Homes Tel: 0151 625 8691 Email: <a href="mailto:Emily.Williams@sequencehome.co.uk">Emily.Williams@sequencehome.co.uk</a>	Tenant	20 February 2007	Basement 1 bed	4.8	3.20
C	Peter John Killian	64 Park Hill Clapham London SW4 9PB	<a href="mailto:peterkillian@yahoo.com">peterkillian@yahoo.com</a>	Landlord	2 February 2007	Basement 2 bed	7.3	4.84
D	Derek Addai-Tabi	Flat D, 89 Lyham Road Brixton London SW2 5DD	<a href="mailto:derek.addai-tabi@carltonseniorappointments.com">derek.addai-tabi@carltonseniorappointments.com</a>	Landlord	11 January 2007	Ground. own front door. 2 bed	7.3	5.15
E	Liz Mary Mathurin	425 Baker Street Enfield Middlesex EN1 3QZ	<a href="mailto:lizmathurin@hotmail.co.uk">lizmathurin@hotmail.co.uk</a>	Landlord	9 February 2007	Ground. own front door. 1 bed	4.8	3.20
F	Alison Eheta Abu	67 Tremadoc Road Clapham North London SW4 7NA	<a href="mailto:Alison.abu@gmail.com">Alison.abu@gmail.com</a>	Landlord	22 January 2007	Ground. own front door. 2 bed	8	5.30
2	Sandra Joy Patricia Reid	6 Angel Hill Court Hallmead Road Sutton Surrey SM1 3EE	<a href="mailto:jazreid3@gmail.com">jazreid3@gmail.com</a>	Tenant	2 October 2006	Ground. 2 bed	13.3	8.83
3	Shanchari Guha Roy	Flat 3, 89 Lyham Road Brixton	<a href="mailto:tinni82@hotmail.com">tinni82@hotmail.com</a>	Landlord	25 November 2005	First floor 1 bed	10	6.63

		London SW2 5DD						
4	Samantha Louise Lewis	7 Maria Terrace, Stepney Green London E1 4NE.	<a href="mailto:samantha.l.lewis@gmail.com">samantha.l.lewis@gmail.com</a>	Landlord	15 December 2005	First floor 1 bed	10	6.62
5	Norris Augustus McLeod	55 Bridle Close Enfield EN3 6EB	<a href="mailto:normc1@hotmail.co.uk">normc1@hotmail.co.uk</a>  Mob: 07960307884	Landlord	12 July 2006	First floor 2 bed	13.3	8.84
6	Matthew Martin Farrell and Nicholas Walter Farrell	Flat 6, 89 Lyham Road Brixton London SW2 5DD	<a href="mailto:matt.farrell@grosvenor.com">matt.farrell@grosvenor.com</a>	Landlord	15 November 2005	Second floor 1 bed	10	6.63
7	Samantha Alison Barzey	131B Devonshire Road Forest Hill SE23 3LZ	<a href="mailto:s.barzey@virgin.net">s.barzey@virgin.net</a>	Landlord	22 December 2005	Second floor 1 bed	10	6.63
8	Philip Julian Lloyd Davies	Flat 10, 13a Albion Street Brighton BN2 9NE	<a href="mailto:pldavies_1@msn.com">pldavies_1@msn.com</a>	Landlord	16 August 2005	Second floor 2 bed	13.33	8.83
9	Fiona Alinda Donaldson	75 Forest Road Leytonstone London E11 1JS	<a href="mailto:fiona_donaldson@hotmail.com">fiona_donaldson@hotmail.com</a>	Landlord	25 November 2005	Third floor 1 bed	10	6.63
10	Martha May Morgan Reynolds	12 St Catherine's Close Upper Tooting Wandsworth SW17 7UA	<a href="mailto:martha@marthareynolds.co.uk">martha@marthareynolds.co.uk</a>	Landlord	2 December 2005	Third floor 1 bed	10	6.63
11	Hannah Claire Lawson-West	Flat 8, 4 Windmill Road, Croydon CR0 2XN	<a href="mailto:hannah.lawson-west@mnsCorp.net">hannah.lawson-west@mnsCorp.net</a>	Landlord	31 March 2006	Third floor 2 bed	13.33	8.84
Total Service Charge Percentage							150.26	100.00

The term of all the Leases is 125 years from 25 December 2004