

Ref: LON/OOAH/LBC/2008/0046

**LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT  
ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON  
APPLICATION UNDER SECTION 168(4) OF THE COMMONHOLD AND  
LEASEHOLD REFORM ACT 2002**

**Applicant:** Lakeside Developments Limited

**Respondents:** Mr McInerney & Ms Emery Flat 13  
Ms Karimi Flat 17  
Mr G Lawlor Flat 34  
Mrs P Davies Flat 37

**Premises:** 13, 17, 34 and 37 Sorrel Bank, Linton Glade, Croydon CRO 9LX

**Hearing date:** 1 December 2008

**Appearances:** Paper Track: No attendance

**Members of the Leasehold Valuation Tribunal:** Mrs F R Burton LLB LLM MA  
Mr J C Avery BSc FRICS

**Date of Tribunal's decision:** 1 December 2008

**13,17, 34 AND 37 SORREL BANK, LINTON GLADE,  
CROYDON, SURREY CR0 9LX**

**BACKGROUND**

1. This was an application dated 11 September 2008 by the freeholder of the subject property for determination of breach of the Lease pursuant to s 168(4) of the Commonhold and Leasehold Reform Act 2002, in relation to non-payment of insurance. A previous application in relation to the same issue had been made by the Tribunal in regard to 88 Sorrel Bank under reference LON/00AH/LBC/2006/0065 on 14 November 2006. In the present case a Director of the Freeholder Company, Mr David Glass, had earlier written to each of the Lessees of the 4 flats concerned on 12 July 2007 reminding them of their obligation to pay their insurance premiums in accordance with the terms of their Leases and warning them of the Freeholder Company's intention to make application to the LVT if the breach continued, and also stating that where the Managing Agents had advised that the Lessee of any flat lived other than at Sorrel Bank, a further copy of that letter would be sent to the address obtained from the Managing Agents. A copy of a sample Lease was on the file, demising each flat for a term of 99 years from 25 December 1977, and containing covenants by the Lessee to effect buildings insurance through an agency of the Lessor's choice and to pay the premiums.

2. A Pre Trial Review in relation to the present application was held on 15 October 2008 at which Mr Glass was unable to attend for the freeholder owing to illness and none of the Lessees attended or were represented. Directions were issued requiring the Respondent Lessees to send their response to the application to the Applicant Freeholder on or before 31 October 2008, detailing the insurance that they had effected in accordance with the terms of the Lease and providing a copy of the insurance certificate. The Applicant freeholder was directed to prepare a hearing bundle and the case was then set down for determination on the Tribunal's Paper Track without an oral hearing during the week commencing 1 December 2008.

3. Following notification to the Tribunal that nothing had been heard from

the Respondents or any of them, the clerk wrote to each Lessee on 11 November 2008 and on 27 November 2008 bringing to their attention the terms of the Directions and sending to them copies of the hearing bundle prepared by the Applicant freeholder. This letter contained the warning that “the matter will be determined the week commencing 1 December 2008 and the Tribunal will make a determination on the basis of the papers that have been received.”

4. The case reached a Tribunal for determination on the Paper Track on 1 December 2008.

### **THE PAPER TRACK DETERMINATION**

5. The terms of the Lease in each case provided an insurance obligation on the Lessee in Clause 7(xiv) (a) (b) and (d) as follows:

“Forthwith to insure the premises and henceforth during the said term to keep them insured as provided in this sub-clause against all usual risks contained in a comprehensive policy of insurance...”

“Such insurance shall be effected through such Agency as the Lessor may require in the Cornhill Insurance Company Limited or such other office as the Lessor shall from time to time specify in writing and shall be in the joint names of the Lessor and the Lessee”.

And further:

“Each and every premium in respect of such insurance shall be paid by the Lessee forthwith upon the date when it becomes due. If it is not paid the Lessor may pay the same and recover the amount paid from the Lessee by action or otherwise as if the sum were part of the annual rents hereby reserved”.

6. The Tribunal noted that the Freeholder Company had had to effect

insurance for two succeeding years, by means of a policy with Axa Insurance UK PLC, through their brokers Towergate ghbc. These policies were effective from 1 August 2007 to 31 July 2008 and 1 August 2008 to 31 July 2009. In the first of these years the premium for buildings cover had been £220.50 in each case and in the second £229.32 in each case. Terrorism cover was extra in each year, respectively £42 and £43.68. However, despite the various items of correspondence from both the freeholders and the Tribunal no communication whatever had been received from the Lessees explaining their failure to insure in accordance with the terms of their Leases nor had the Tribunal received any application under s 27A of the Landlord and Tenant Act 1985 from the Lessees disputing either the amount or reasonableness of incurring these insurance premiums.

7. In all the circumstances **the Tribunal determines that the Respondent Lessees are in breach of the covenants expressed in Clause 7 (xiv) (a)(b) and (d).**

Chairman.....*Francis Butcher*  
Date.....*1.12.08*