



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

Case Reference : CHI/29UN/LVL/2013/0010

Property : Northumberland Court
Northumberland Avenue
Cliftonville
Margate
Kent
CT9 3BS

Applicant : Northumberland Court Residents
(Cliftonville) Limited

Representative : Brethertons, Solicitors

Respondents : The leaseholders of flats at the property

Representative : None

Type of Application : Variation of leases
Sections 35 and 37
Landlord & Tenant Act 1987

Tribunal Members : Judge R. Norman

Date of Decision : 26th March 2014

DECISION

Decision

1. All the residential leases of flats at Northumberland Court, Northumberland Avenue, Cliftonville, Margate, Kent CT9 3BS ("the subject property") are to be varied as directed in the Order annexed to this decision.

Background

2. An application has been made by Northumberland Court Residents (Cliftonville) Limited ("the Applicant") for an order to vary all the residential leases of flats at the subject property.

3. It was stated in the application that the freehold title of the subject property is currently owned by Northumberland Court (2008) Limited (which company is owned by some of the current leaseholders of the subject property). There is also a head lease dated 9th February 1951 ("the Head Lease") which was acquired on 3rd September 1970 by the Applicant. Prior to the acquisition, the Applicant was party to an underlease dated 11th July 1961 which merged with the Head Lease and was extinguished when the Applicant acquired the Head Lease.

4. On 23rd October 2013 directions were issued and with those directions the Tribunal gave notice to the parties under Rule 31 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 that the Tribunal intended to proceed to determine the matter on the basis only of written representations and without a hearing if all parties consented. Also that:

(a) If the matter were dealt with in that fashion it might be considered by a Chairman sitting alone, or alternatively with another Member of the Tribunal, rather than by a full Tribunal of three members.

(b) If any party wished to consent to the Tribunal disposing of the case in that way, he/she should notify the Tribunal of his/her consent in writing.

(c) Under Rule 31(3) of those Rules, a party should be taken to have consented if the Tribunal had given not less than 28 days notice of its intention (as above) to dispose of the proceedings without a hearing and no objection had been received from that party or other person within that time.

5. No written objection was received within that time and the matter is being deal with on the basis only of written representations and without an oral hearing.

6. The Directions also provided that any Respondent who wished to contest the application should by 15th January 2014 send to the Applicant and to the Tribunal a statement and supporting documents giving full reasons for contesting the application.

7. One such statement has been received from Mr. P. Kelleher, the lessee of Flat 21 at the subject property. Following that statement the Tribunal has received further statements and documents from Mr. Kelleher and statements and documents on behalf of the Applicant. I have considered those

statements and documents in addition to the documents submitted with the application, the Applicant's bundle of documents, a letter from Mr. and Mrs. Pritchard of Flat 11 and an email from Mr. Porter of Flat 2 both of which consented to the application.

8. A letter was received from Ms Barnett, the lessee of Flat 36 at the subject property. The letter and her statement contained a number of comments but Ms Barnett ended her statement by stating that she was not going to contest the application and therefore her letter and statement cannot be considered.

9. Included in the Applicant's bundle of documents were consents to the variation of the lease signed by 34 of the lessees of flats at the subject property and therefore with the addition of the letter and email received from Mr. and Mrs. Pritchard and Mr. Porter, 36 of the 42 lessees have consented to the variation of the leases. The objection by Mr. Kelleher is the only objection which has been received.

Consideration and reasons

10. I have considered the statements and documents produced by Mr. Kelleher as his objection to the application.

11. Mr. Kelleher, in his statements and documents objects to a change in the percentage of the service charges which he has to pay but his objection is based on figures which are not substantiated by him. He seems to accept that his figures may not be based on the provisions in the leases as he seeks to argue that the leases have been varied by an adoption of different figures. I am not satisfied on the evidence before me that there has been such a variation.

12. Mr. Kelleher states that he agrees that there are deficiencies in the leases which need to be addressed but considers that the proposed amendments do not address all the deficiencies. I can only deal with the application which is before me.

13. Mr. Kelleher's statements and documents also include complaints about the money spent on seeking legal advice, the failure by the Applicant to provide a copy of the legal advice received, the way in which the subject property has been managed, the description of an earlier management regime as very informal and the auditing of accounts. Those matters are not relevant to the application which I have to consider.

14. I am satisfied by the evidence produced that:

(a) There are deficiencies in the leases as stated in the application which require to be remedied by a variation of the leases.

(b) The object to be achieved by the variation cannot be satisfactorily achieved unless all the leases are varied to the same effect.

- (c) The variation as requested is in the interests of the Respondents.
- (d) There are no reasons for not ordering the leases to be varied as requested.
- (e) The provisions of Section 37 of the Landlord and Tenant Act 1987 ("the 1987 Act") have been satisfied in that at least 75% of the lessees have consented to the variation and it has not been opposed by more than 10%.
- (f) It follows that the variation can be accomplished without going on to consider the provisions of Section 35 of the 1987 Act.

Appeals

15. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

16. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

17. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

18. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.



Judge R. Norman (Chairman)

IN THE MATTER OF PART IV, SECTIONS 35 & 37 OF THE LANDLORD AND
TENANT ACT 1987

IN THE MATTER OF NORTHUMBERLAND COURT, NORTHUMBERLAND
AVENUE, CLIFTONVILLE, MARGATE, KENT ("NORTHUMBERLAND COURT")

BETWEEN:

NORTHUMBERLAND COURT RESIDENTS' (CLIFTONVILLE) LIMITED

Applicant

And

THE LEASEHOLDERS OF NORTHUMBERLAND COURT

Respondents

ORDER

UPON considering the Applicants' Application dated *8 November* day of
October 2013.

IT IS ORDERED that the Respondents' leases (the particulars of which are set out in the First Schedule to this Order) be varied in such a way so as to provide that the

service charge proportion payable by each of the Respondents be as set out in the Second Schedule to this Order

IT IS FURTHER ORDERED that the Respondents' leases be varied in the manner set out below (and such variations shall apply equally to the provisions of any previous leases, which have been incorporated into existing leases following an extension of the term of such leases, or otherwise):

1. Paragraph 19 of the Sixth schedule shall be deleted and replaced with the following:

"The lessee shall subject to clause 20 hereof pay to the Lessor a contribution being [insert relevant proportion, as set out in the Second Schedule to this Order] of all costs charges and expenses incurred by the Lessor in carrying out its obligations under the Seventh schedule hereto"

2. Paragraph 20 of the Sixth Schedule shall be deleted and replaced with the following:

"Without prejudice to the immediately preceding Clause hereof the Lessee shall on the execution hereof and on the twenty fifth day of March and the twenty ninth day of September in each year during the continuance of this demise pay to the Lessor on account of the Lessee's obligations under the immediately preceding Clause hereof an amount at and after the following rate namely (a) during the period from the execution hereof until the tenth of May [insert year specified in lease] [insert initial interim payment specified in lease] per annum and (b) during each successive year ending on 30th June in each year ("Accounting Year") (or such other accounting year as the Lessor shall in its absolute discretion determine) such other annual amount as shall be certified in writing by the Lessor immediately prior to the commencement of such Accounting Year as the proper amount payable in accordance with Clause 11 of the Seventh Schedule hereto any such payment being credited to the liabilities under the immediately preceding Clause hereof the earliest being satisfied in priority to the later liabilities and any excess of such payments over such liabilities being taken into account in accordance with the said Clause 11 of the Seventh Schedule hereto"

3. Paragraph 9 of the Seventh Schedule shall be deleted and replaced with the following:

"the Lessor shall keep proper books and accounts of all costs charges and expenses incurred by it in carrying out its obligations under this Schedule and an account shall be taken on the tenth day of May [insert year specified in paragraph 20(a) of the Sixth Schedule, as modified above] and on the 30th June in every subsequent year during the continuance of this demise and at the termination of this demise the amount of the said costs charges and expenses incurred since the commencement of this demise or the date of the last preceding account as the case may be"

4. Paragraph 11 of the Seventh Schedule shall be deleted and replaced with the following:

"(1) The Lessor shall within two months of every account provided for in Clause 9 of this Schedule thereafter serve upon the Lessee a notice in writing stating the amount payable by the Lessee pursuant to Clause 20 of the Sixth Schedule hereto during the Accounting Year next ensuing in substitution of the amount paid by the Lessee in the immediately preceding Accounting Year

(2) The amount to be fixed by the Lessor for the purpose of this Clause shall be the amount which in the opinion of the Lessor on the basis of the Preceding annual accounts under Clause 9 of this Schedule will be necessary to cover the indemnity of the Lessee given under Clause 19 of the Sixth Schedule hereto during the next Accounting Period and the preceding Accounting Period (any excess or deficiency of payments previously made by the Lessee under Clause 19 and 20 of the Sixth Schedule hereto being taken into account)"

5. The following new paragraph 12 shall be inserted after paragraph 11 of the Seventh Schedule:

"In the event that the property or any part thereof is developed in such a way so as to increase the number of flats in the property, the Lessor acting fairly and equitably may decrease the proportion payable by the Lessee pursuant to paragraph 19 of the Sixth Schedule so long as the total proportion payable by all of the lessees in the property remains at 100%"

The **APPLICANT** shall ensure that this order is registered at HM Land Registry together with a certified copy of the Leasehold Valuation Tribunal's written decision.

THE FIRST SCHEDULE

Title Number: K855688
Property: Flat 1, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 29 April 2003
Term: 999 years (less 1 day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Quitebeam Limited.

Title Number: K814928
Property: Flat 2, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Alan John Clark and Anne Catherine Clark.

Title Number: K814931
Property: Flat 3, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Andrew Alfred Barlow and Philip Peter Barlow.

Title Number: K814932
Property: Flat 4, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Joan Emily Hawkes

Title Number: K814933
Property: 5, Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Thelma Maud Ali

Title Number: K866649
Property: Flat 6, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 30 January 2004
Term: 999 years (less 1 day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Ideal Investments Limited.

Title Number: K839042
Property: Flat 7, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 30 August 2001
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Alfred Charles Rowse

Title Number: K814935
Property: 8, Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Miriam Plank

Title Number: K814936
Property: 9, Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Martha Lillian Bushell

Title Number: K845219

Property: Flat 10, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 30 August 2002

Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Roy George Croft and Helen Croft

Title Number: K977762

Property: Flat 11, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 17 February 2011

Term: 999 years (less 1 day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Barry Charles Pritchard and Sylvia Jeanne Pritchard

Title Number: K253473

Property: Flat 12, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 7 September 1965

Term: 99 years (less 1 day) from 21 May 1961

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Catherine Mary Cannon

Title Number: K814937

Property: Flat 14, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 3 December 1999

Term: 999 years (less 1 day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Winifred Maud Marron

Title Number: K840888
Property: Flat 15, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 25 March 2002
Term: 999 years less 1 day from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Charles Foley

Title Number: K827785
Property: 16, Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 20 June 2001
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Jacob Mally Keene

Title Number: K814938
Property: 17 Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less 1 day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Peter Varley Barr and Marian Barr

Title Number: K814939
Property: Flat 18, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Eugene Malcolm Side

Title Number: K951201
Property: Flat 19, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 9 December 2008
Term: 999 years (less 1 day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Jette Elva Tournay

Title Number: K942834

Property: Flat 20, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 7 July 2008

Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Richard James Ash

Title Number: K259243

Property: Flat 21, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 23 November 1965

Term: 99 (less one day) years from 31 May 1961

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Clifford Henry Neal

Title Number: K814940

Property: Flat 22, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 3 December 1999

Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Anthony Desmond Cass

Title Number: K857416

Property: Flat 23, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 7 June 2003

Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Anne-Marie Goldhawk

Title Number: K844010
Property: Flat 24, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 31 July 2002
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Arthur Alfred Reeves and Rose Doreen Reeves

Title Number: K814941
Property: 25 Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Norman Derrick Pike

Title Number: K907596
Property: Flat 26, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 26 July 2006
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Nigel David Mather

Title Number: K821952
Property: Flat 27, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 11 December 2000
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) John Simmons

Title Number: K814942
Property: Flat 28, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Grace Morley Heard

Title Number: K823938

Property: Flat 29, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 22 February 2001

Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Annette Parish

Title Number: K847416

Property: Flat 30, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 25 September 2002

Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Elsie Josephine Smith

Title Number: K847414

Property: Flat 31, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 25 September 2002

Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Elsie Josephine Smith

Title Number: K814945

Property: Flat 32, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS

Lease Date: 3 September 1999

Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) John Francis Hippisley

Title Number: K250426
Property: Flat 33, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 24 June 1965
Term: 99 years (less 1 day) from 31 May 1961
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Jack Marks

Title Number: K814947
Property: 34 Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 3 September 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Elizabeth Marshall

Title Number: K814948
Property: 35 Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Neil Alan Shilling

Title Number: K922010
Property: 36 Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 14 May 2007
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Irene Alice Davidson

Title Number: K814949
Property: 37 Northumberland Court, Northumberland Avenue, Margate,
CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950

Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Christobel Ann Sloan

Title Number: K814951
Property: 1 Penthouse, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less 1 day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Robert Leighton Steidle

Title Number: K814951
Property: Penthouse 2, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less 1 day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Derek Arthur Hann and Doreen Mary Hann

Title Number: K875517
Property: Flat A, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 24 August 2004
Term: 999 years (less 1 day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Ideal Investments Limited

Title Number: K875518
Property: Flat B, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 3 December 1999
Term: 999 years (less one day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Ideal Investments Limited

Title Number: K875519
Property: Flat C, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 24 August 2004
Term: 999 years (less 1 day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Ideal Investments Limited

Title Number: K875520
Property: Flat D, Northumberland Court, Northumberland Avenue,
Margate, CT9 3BS
Lease Date: 24 August 2004
Term: 999 years (less 1 day) from 25 December 1950
Parties: (1) Northumberland Court Residents (Cliftonville) Limited
(2) Ideal Investments Limited

THE SECOND SCHEDULE

Flat Number	Service Charge Percentage
Flat 1	1.71292%
Flat 2	1.98698%
Flat 3	2.60363%
Flat 4	2.46660%
Flat 5	1.84995%
Flat 6	2.74066%
Flat 7	1.78143%
Flat 8	2.26105%
Flat 9	3.08325%
Flat 10	2.29531%
Flat 11	2.60363%
Flat 12	2.46660%
Flat 14	2.19253%
Flat 15	2.26105%
Flat 16	2.46660%
Flat 17	1.78143%
Flat 18	1.57588%
Flat 19	3.08325%
Flat 20	2.60363%
Flat 21	2.60363%
Flat 22	2.46660%
Flat 23	2.46660%
Flat 24	2.26105%

Flat 25	2.46660%
Flat 26	1.78143%
Flat 27	1.78143%
Flat 28	3.08325%
Flat 29	2.60363%
Flat 30	2.60363%
Flat 31	2.46660%
Flat 32	2.46660%
Flat 33	2.26105%
Flat 34	2.46660%
Flat 35	2.26105%
Flat 36	2.19253%
Flat 37	1.57588%
Penthouse 1	3.42583%
Penthouse 2	3.42583%
Flat A	2.38095%
Flat B	2.38095%
Flat C	2.38095%
Flat D	2.38095%

Dated this *26th* day of *March* *2014* ~~2013~~