12862

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**MAN/00BN/LSC/2017/0089**
Property	:	**Various apartments at Trinity Riverside, off Silk Street, Salford, M3 6JG**
Applicant	:	**Contour Property Services Limited**
Representative	:	**Mr L. McLean, solicitor**
Respondents	:	**All the long leaseholders of the various apartments as listed in the annex.**
Type of Application	:	**Service charges, Section 27A of the Landlord and Tenant Act 1985.**
Tribunal Members	:	**Judge C. P. Tonge, LLB, BA.** **Ms S. D. Latham, BSc, MRICS.**
Date of hearing	:	**16 July 2018**
Date of Decision	:	**7 August 2018**

DECISION

The background to the application

1. This case comes before the Tribunal by way of an application received by the Tribunal on 31 October 2017. It is an unusual case in that the Applicant management company do not ask the Tribunal to determine liability to pay and reasonableness of a service charge actually demanded, but seeks a determination as to how it should deal with wooden window frames in the apartment blocks on the estate, some of which are said to be suffering from wood rot. The Applicant posed five questions that it hoped the Tribunal would assist him by answering. The Tribunal makes it clear from the outset that this case does not in any way involve the houses on estate.

2. The freeholder is Taylor Wimpey U.K. Limited.

3. The Respondents are the long leaseholders of 213 apartments on the estate and are listed in an annex to this decision. They all hold apartments on the remainder of a lease granted for a term of 125 years. All the parts of the leases that are relevant to this case are drafted in the same terms. As such the Tribunal will consider one such lease in determination of what the terms of all the leases mean.

4. The apartments are contained within 22 purpose built blocks on the estate. These blocks have 38 communal entrance ways.

5. Various Directions were issued but by the time of the final hearing the Applicant and the active Respondents had all served evidence in the case and there were no remaining issues as to non compliance with the Directions. Unfortunately, none of the evidence served has been properly paginated, making reference to written evidence more complicated than it otherwise would have been.

The inspection

6. The Tribunal inspected ten of the apartment blocks, the inspection commencing at 10.30 am on 16 July 2018. The Applicant was represented by three employees, Mr Daniel Baker, Mr Mark Haywood and Ms Michelle Howard, accompanied by their solicitor, Mr L McLean of Forbes Solicitors. Three Respondents were present, Ms Angela Bush, Mr David Johnson and Mr Andrew Royton. It was not possible to inspect all twenty two blocks because this would have taken a disproportionately long period of time. However, the Applicants representatives and the Respondents that were present were content that the Tribunal had inspected sufficient of the estate to be able deal with the case. Inspection of windows above ground level had to be carried out by looking up from ground level up, with no opportunity to touch the exterior frames.

7. The Applicants representatives asked the Tribunal to inspect block 1 to 11 Angora Drive, this being an apartment block particularly effected by wood rot. This block has a communal wooden entry door with wooden frames and above them, three sets of wooden windows at a common landing area. The Tribunal noted that when looking up from the ground floor at the common windows these were formed by three window frames having been placed one on top of the other. A measure of what appeared to be wood rot could be seen at the joints between frames on these common windows. The entry doors appeared to be sound. There were four windows to apartments that appeared to be effected by wood rot and a fifth that upon testing had softer than normal wood, indicating that it too was also affected. There were many windows that were not affected by wood rot. Some windows had already been replaced by uPVC framed windows. The barge boards under the rain water gutters were, in places, affected by rot.

8. The Tribunal also inspected eight other blocks on Blackburn Street, namely blocks, 41 to 51, 53 to 63, 65 to 75, 77 to 87, 89 to 99, 101 to 111, 113 to 123, and 125 to 135. The Tribunal also inspected block 1 to 5 Chiffon Way.

9. During the inspection of block 125 to 135 Blackburn Street the Tribunal saw that a French window had recently been replaced by a long leaseholder and the now disused French window was standing against the wall of the block. As such the Tribunal was able to inspect this French window and was able to see that it was not affected by wood rot, even though it had been replaced.

10. The Tribunal is able to make the following comments. The common entry doors inspected by the Tribunal did not appear to be affected by wood rot. Some of the common window frames may be affected by wood rot to a greater or lesser degree, some did not appear to be affected at all. Some of the windows to the apartments appeared to be affected by wood rot to a greater or lesser degree, but a much larger proportion did not appear to be affected. In particular the bottom of some French windows appeared to be affected by wood rot which may have been exacerbated over the years by failure to design the bottom of the window frames in such a way as to encourage rain water to flow off the windows. Failure to paint the windows generally will have contributed to their present condition. Some of the apartment windows had already been replaced by uPVC windows and one had been replaced with a wooden window. Barge boards under gutters were from time to time visibly affected by wood rot, although these are not part of the application before the Tribunal.

THE LAW

Landlord and Tenant Act 1985 "the Act"

Section 18, meaning of service charge and relevant costs.

Briefly this defines a service charge and associated costs as the variable cost of providing the service, which, subject to section 19, would then be charged to all persons liable to pay a service charge.

Section 27A, Liability to pay service charges: jurisdiction

(1) an application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -

(a) the person by whom it is payable

(b) the person to whom it is payable

(c) the amount which is payable

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—

(a) the person by whom it would be payable,

(b) the person to whom it would be payable,

(c) the amount which would be payable,

(d) the date at or by which it would be payable, and

(e) the manner in which it would be payable.

Section 19, Limitation of service charges: reasonableness.

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—

(a) only to the extent that they are reasonably incurred, and

(b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;

and the amount payable shall be limited accordingly.

Relevant provisions of the lease

11. Each long leaseholder holds the remainder of a lease on an apartment with a 125 year term and henceforth any reference to the lease is a reference to all such leases.

12. Clause 1 of the lease has a definitions section.

13. "Property" is defined as being the flat (that is being made subject to the lease) as such it is an unnecessary inclusion in the lease, any reference to property could simply have been a reference to the flat.

14. "Flat" is defined and clearly includes the doors and windows in the external walls of each flat as being part of the demised flat.

15. "Common parts" are defined and clearly includes the common entrance doors and windows, excluding the windows and doors of the demised flats. It also includes the barge boards under the gutters.

16. "Maintenance charge" includes sums payable by the long leaseholder of the flat to the Applicant in accordance with Part I and II of the Sixth Schedule of the lease.

17. The Third Schedule contains a covenant that the purchaser keep the flat in good repair and condition. Clause 13 (a) provides that the Applicant may serve a notice upon the purchaser of the flat requiring the purchaser to effect necessary repairs. Clause 13 (b) provides that if the purchaser fails to effect the required repair under 13 (a) within one month of the service of that notice, then the Applicant can make the repair and the cost will be a debt due from the purchaser to the Applicant.

18. The Fifth Schedule establishes a covenant from the Applicant to paint all the external wood in the apartment blocks at least once in every four years.

19. The Sixth Schedule requires that the purchaser to pay a maintenance charge that will include a proportion of reasonable service charges for repairs to the common parts and painting of all the exterior wood on the blocks. It does not include the debt that might become payable under the Third Schedule clause 13 (b).

20. The word "improve" does not appear anywhere in the lease. It is therefore clear that the lease does not provide for any improvements to be made by the Applicant.

Summary of the written case on behalf of the Applicant

21. There follows a brief summary of the relevant parts of the Applicant's written case.

22. The Applicant accepts that he has not served any service charge demand in respect of the work being considered in this case and is seeking a determination from the Tribunal as to the terms of the lease before it decides how it should proceed. As such there is presently nothing yet owed by any Respondents in relation to the work that will be required as a result of the Decision in this case. When such work is charged it must be as permitted by the lease and reasonable.

23. The Applicant also accepts that consultation pursuant to section 20 of the Landlord and Tenant Act 1985 will be necessary.

24. The Applicant has served a copy of a specimen lease, land registry documents, a copy of the Court of Appeal judgement, The Sutton (Hastoe) Housing Association v Williams (1988) 20 H. L. R. 321, various copies of correspondence, extensive survey reports as to the condition of the windows on the estate, a copy of the application and accompanying particulars of the application, a statement of case, supplementary statement of case, documents relating to a meeting of apartment leaseholders and two witness statements from Mike Johnston who is no longer employed by the Applicant. The Applicants exhibit MJ 1 states that as of 8 May 2017, 171 apartment windows had already been replaced by uPVC windows.

25. The Applicant in his statement of case seeks to extend the application to include the common doors and frames and to include light fittings on the internal walls of the common areas of the apartment blocks.

26. The Applicant submits that he is not responsible for repairs that may be necessary to the windows of the flats. These were demised to the purchaser of the long lease for each flat. Further, he contends that in the circumstances where repairs to such windows are necessary he can utilise the Third Schedule clause 13 (a) and 13 (b) and if necessary undertake such repairs himself with a debt being owed for the cost to the Applicant by the purchaser of the flat.

27. The Applicant accepts that he is under a duty to paint exterior wood work at least once every four years. He accepts responsibility to repair wood work in common areas.

28. The Applicant is unsure as to whether or not replacement of wooden window frames with uPVC would be a repair or an improvement.

29. The principle witness on behalf of the Applicant Mike Johnston in his second witness statement points out that the Respondents who have actively responded to the application appear to agree with the Applicant in most matters.

Summary of the written case on behalf of the five Respondents who actively responded

31. Mathew Gray, a solicitor acting as Respondent in person takes the role of lead Respondent on behalf of Angela Bush, David Johnson and Professor Pettifer. Each has submitted a statement in support of a statement of case and they agree with the Applicant that it is the Respondents that have responsibility for repairs to the windows in their apartments. They have all in fact replaced theirs with uPVC frames.

32. These Respondents contend that the Applicant is in breach of his covenant to paint the wooden windows on the estate, whilst they were still wooden, once in every four years. As a result that will have an effect upon any action by the Applicant under the Third Schedule clause 13 (a) and 13 (b). They also contend that the correct forum for a "debt" under clause 13 (b) to be dealt with is the County Court.

33. They suggest that it is appropriate for the Applicant to replace wooden frames, where necessary, with uPVC frames. This being what many long leaseholders have already done. These Respondents serve exhibit MG3 a report on the condition of the estate windows dated 14 July 2009, in which the expert author of the report under the heading replacement states, "The need for wholesale replacement was in our opinion overstated in the initial instruction. With the cost of timber repairs we do not believe that any windows need replacing".

34. Mr Royton who Responds separately has submitted his own witness statement and supporting evidential bundle, including an earlier Decision of a Residential Property Tribunal dealing with this estate. That earlier Decision making it clear that although certain common parts on the estate are shared by all long leaseholders, flats and houses must be dealt with separately.

35. Mr Royton agrees with the other Respondents, but also points out that any confusion as to the terms of the lease has been created by the Applicant, who for many years managed the estate on the assumption that the windows in the exterior walls of the apartments had not been demised to the purchaser of each long lease and that service charge demands were made on this incorrect basis. He is confused in that the Applicant is now telling the Respondents that the management company got this wrong. Further, Mr Royton is concerned that the Applicant may ignore security

concerns and has failed to pass on such concerns to the Respondents generally, security advice having been given in reports commissioned by the Applicant. These concerns may affect the proper choice of replacement frame to be used.

36. All the Respondents referred to in paragraphs 31 and 34 above seek an order under section 20 C of the Act.

The hearing

37. In addition to the persons who were present at the inspection, two additional Respondents attended at the hearing, Mr Mathew Gray and Professor Pettifer. The Tribunal, upon being informed that Mr Gray had gone to the wrong hearing building by mistake, decided to wait for Mr Gray to arrive. The hearing therefore commenced at about 12.30 pm in the Employment Tribunal building at Alexandra House, Manchester.

38. The Tribunal dealt with the Applicants application to extend the ambit of the application as preliminary issues.

39. First the extension of the application to include the wooden common entrance doors. All parties present were asked for their views on this. The Respondents raised no real opposition to the application and the Tribunal agreed to extend the case to include consideration of the wooden communal doors on the basis that any programme of painting and repairs would clearly involve them.

40. The Tribunal then heard from all parties present as to extension of the case to include lighting on the interior walls of the common parts of the apartment blocks. This met with some resistance from the Respondents.

41. The only link that the Applicant relied upon in seeking the extension was that if the lights were to be changed then the Applicant would seek to redecorate and would wish to do so after any windows or doors had been replaced, therefore wishing to link the two works together.

42. The Tribunal did not agree to this extension, the link between the windows and doors on one hand and internal lighting on the other being too tenuous. Further, there is no evidence in the evidential bundles about these lights and it is far too late to extend the case into this new area.

43. Where the Tribunal records in this Decision a reference to oral evidence given at the hearing, it only records a summary of evidence that is relevant to the Tribunals determination of the issues. Written statements were all permitted to stand as evidence of their content.

The agreed position document.

44. The Applicant and the Respondents lead by Mr Gray served upon the Tribunal a document making it clear that they agree upon the meaning of the terms of the lease.

Oral evidence on behalf of the Applicant

45. The Applicants representatives dealt with the lease and the interpretation that they sought to put upon the parts of the lease that are relevant to this hearing.

46. On behalf of the Applicant it was stated that a programme of replacing wooden windows or repairing and painting them would cost a great deal of money and they did not want to take the risk of embarking on work that should not be carried out with the result that the cost could then not be recovered as a service charge, that would be an unreasonable risk. They sought guidance as to whether wood could be replaced with uPVC.

47. On behalf of the Applicant the relevant provisions of the lease were dealt with in detail. Evidence was given that the Applicant is an experienced management company, presently managing 75 different estates containing over 4,000 units of property.

48. Irrespective of the Applicants experience submissions were made that the lease is poorly drafted with interlocking provisions that make the lease difficult to understand. The Applicant asks that once the Tribunal has determined what the provisions of the lease actually mean, the Tribunal will then deal with the five questions that are drafted in such a way as to assist the Applicant in managing the estate. The Tribunal will record these questions in this document when it deals with them in the determination of issues.

49. On behalf of the Applicant submissions were made to the effect that an order pursuant to section 20 C of the Act should not be made. Neither would it be appropriate to make a wasted costs order against the Applicant. It was necessary to bring this case before the Tribunal. On 20 January 2016 there had been a meeting of leaseholders to discuss these issues but only 5.7% of long leaseholders had attended. It was after this that the decision was taken to bring this case before the Tribunal.

50. The Applicant's solicitor also brought the Tribunals attention to a letter dated 11 August 2017, written on behalf of the Applicant by Mike Johnston that deals with these issues. However, on page 4 of the letter it is made clear in the section "Reasoning of CPS" that a decision had already made to "present this situation to the First Tier Tribunal".

Oral evidence on behalf of the Respondents

51. Mr Gray as lead Respondent indicated that his group all agreed with the interpretation of the Applicant as to the terms of the lease. Further, they put forward the view that covenants to keep windows in good repair and condition could properly be interpreted to mean that modern materials could be used to replace wood with uPVC or possibly some other readily available alternative. The word "good" importing a modern day view of what is required. Mr Gray submitted that he and the other Respondents all want the property to be kept up to date. They did not consider replacing wood with uPVC to be an improvement.

52. Mr Royton added that he considered it to be acceptable to replace wooden frames uPVC, in fact in terms of security he added that uPVC might be considered to be a down grade rather than an improvement. It is Mr Royton's view that the uPVC replacements already installed may not be sufficiently secure as a result of a failure on the part of the Applicant to give proper advice to the long leaseholders regarding security issues.

53. Mr Johnson stated that the windows had last been painted in 2010. As such they should have been painted again by 2014 and a second time by this year.

54. Mr Gray submitted that the terms of the lease are clearly drafted and that there is no need for this to be put before the Tribunal. He submitted that the Applicant had not attempted to resolve these issues with the long leaseholders before taking the decision to put the case before the Tribunal.

55. Mr Gray suggested that the Applicant should have written to all the Respondents, setting out the Applicants interpretation of the lease and asking for comments from the Respondents, in effect asking if the Respondents agreed.

56. Mr Gray, Professor Pettifer, Ms Bush, Mr Johnson and Mr Royton all seek an order under section 20C of the Landlord and Tenant Act 1985 to prevent the landlord from taking the costs incurred in connection with these proceedings into account when calculating any future service charge in respect of these long leaseholders. In this regard Mr Gray reiterated the points already made above.

57. Mr Royton added that he had been confused by the actions of the Applicant, who for some time had claimed that the apartment windows were retained by the landlord, charging service charges on that basis. The Applicant had then changed its view claiming that the apartment windows had been demised to the long leaseholder purchasers.

58. Mr Gray further seeks to persuade the Tribunal to make a wasted costs order under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (SI 2013/1169). He puts before the Tribunal a statement of costs calculated at £19 per hour in accordance with Civil Procedure Rule 45.39(5) (b). This application is made on the basis that the Applicant was unreasonable in bringing this case to the Tribunal.

The deliberations

59. In relation to the lease, the Tribunal agrees with the Applicant that reference to "property" and "flat" in the same document is not helpful, but since the word "property", then adopts the word "flat", it should not cause any confusion in determination as to the effect of the lease for present purposes. The Tribunal notes that the Applicant is an experienced management company and wonders how it is that such an experienced company could miss interpret the terms of the lease in the way that it clearly did in the past.

60. The Tribunal determines that the lease is in fact very clear in that when a long lease on a flat came into effect, the windows in the walls of that flat were demised with the lease. From that point onwards the Applicant remains bound to paint wooden window frames in the walls of each flat at least once in every four years (a service charge may be levied for this work), but the long leaseholder of each flat is responsible for repair or replacement of his flat windows.

61. The Tribunal determines that the procedure pursuant to the lease, clause 13 (a) and 13 (b) is clearly a procedure that can only be used on an individual flat, it does not come within the service charge regime and creates a civil debt which would require an action in the County Court, not this Tribunal.

62. The Applicant remains responsible for painting the wooden windows and doors in the common areas of the blocks of flats at least once in every four years (a service charge may be levied for this work). The Applicant is also responsible for repairs and if necessary replacement of these common doors and windows (a service charge may be levied for this work).

63. The Parties will note that the Tribunal determines that common doors and windows in common areas can only be replaced where it is necessary to do so. This is an issue to be decided separately in regard to each door and window being considered, with the Applicant considering the question, "is it more cost effective to replace than repair?" As such this will prevent any wholesale scheme of replacement in common areas being commenced. Due to the requirement that wooden doors and windows be painted at least once in every four years, there should be a wholesale painting scheme, with repairs to common wooden doors and windows if needed, replacement only being possible if this is the most cost effective approach.

64. In an attempt to assist the Parties further as to how the Tribunal will approach the above question, the Tribunal has today inspected a number of communal doorways and determines that none of them require replacement.

65. The lease does not permit improvements to be made. The issue arises as to whether or not replacement of a wooden windows or doors with uPVC amounts to an improvement? The Tribunal notes the decision of the Court of Appeal in The Sutton (Hastoe) Housing Association v Williams (1988) 20 H. L. R. 321. In that case, decided 30 years ago, it had been found as a fact that such a replacement was an improvement and as such that case is distinguished from the present case, this Tribunal not making that finding of fact.

66. In this case the Tribunal notes that during the inspection it observed that a great many long leaseholders have replaced wooden windows and French doors with uPVC. Further, the Tribunal notes that the Applicants exhibit MJ 1 states that as of 8 May 2017, 171 apartment windows had already been replaced by uPVC windows. The Tribunal observed during the inspection that this is continuing so that number will now be larger. the Tribunal has also been assisted by the evidence of the Respondents to the effect that they have replaced their windows in this manner as being the natural form of replacement, not an improvement. Mr Royton suggesting that uPVC might actually not be as good from a security point of view as the wooden items replaced, therefore not being an improvement at all, but a down grade. Mr Gray adding that the word "good" imports into the lease a modern day view of what is required.

67. The Tribunal determines that replacement of wooden window frames and doors with uPVC is permissible under the terms of the lease, relying upon the evidence referred to in the above paragraphs, replacement of wood with uPVC is a replacement and not an upgrade.

68. The Tribunal now turns to the five questions asked by the Applicant.

69. First question: "If the Applicant were to carry out works of repair or replacement (as the case may be) to the window frames in the respective demised premises, would the cost of the same be recoverable from the respective Respondents as a service charge?" Answer: no, these are demised with each flat and the long leaseholder of each flat has responsibility to repair and if not repairable replace them.

70. The second question is redundant because of the answer given to the first question.

71. Third question: "Alternatively, if the answer to the first question is no because it is in fact the duty of each leaseholder to keep his or her own frames in good repair, and the Applicant were instead to avail itself of the procedure set out in each lease to carry out works in default [a reference to clause 13 (a) and 13 (b)], would the Applicant be able (in principle) to recover from the respective Respondents the cost of replacing the window frames with uPVC in lieu of the current wooden frames?" Answer: Wooden frames can only be replaced with uPVC if that is more cost effective than repairing them. The cost can only be recovered subject to the clause 13 (a) and 13 (b) procedure and an action in the County Court would then be required, at which a breach of the covenant to paint the wooden frame can be raised.

72. The fourth question involves the repainting covenant, which is not an issue which is before the Tribunal. The question is not repeated here because the Tribunal considers this question to be a management issue, best left to the Applicant to decide on a case by case issue using common sense and acting reasonably.

73. Fifth question: "If the Applicant were to carry out works of repair or replacement (as the case may be) to the window frames in the common parts of the buildings in which the respective demised premises are situated, then do the provisions of the respective leases allow the Applicant (in principle)to recover from the respective Respondents by way of service charge the cost of replacing the communal window frames with uPVC in lieu of the current wooden frames as an alternative to carrying out repairs to them?" Answer: Only when it is reasonable to do so in that it is cost effective to replace rather than repair.

74. Turning then to the application by the Respondents, Mathew Gray, Angela Bush, David Johnson, Professor Pettifer and Andrew Royton for the Tribunal to make an order under section 20C of the Landlord and Tenant Act 1985 to prevent the landlord from taking the costs incurred in connection with these proceedings into account when calculating any future service charge in respect of these long leaseholders.

75. The Tribunal considers the question as to whether or not it is just and equitable to make such an order and considers all the evidence and submissions made on the point. The Tribunal determines that it is just and equitable to make this order and in particular relies upon two facts found in the case. Firstly, that the lease is very clear in the way that it sets out the respective responsibilities that the Parties have in this case, there being no dispute between the Parties at the hearing (see the Agreed Position Document), as to the meaning of the relevant terms. An experienced management company like the Applicant should have been able to determine what the relevant parts of the lease mean without assistance from the Tribunal. Secondly, that for some years the Applicant has miss interpreted the terms of the lease in so far as the windows to the flats are

concerned and represented that the demised windows were not demised, rendering service charge demands on that basis and then changed its view causing confusion to Mr Royton and probably to other long leaseholders.

76. The Tribunal then considers the issue of a wasted costs order on behalf of Mr Gray under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (SI 2013/1169)(the rules). He puts before the Tribunal a statement of costs calculated at £19 per hour in accordance with Civil Procedure Rule 45.39(5) (b). This application is made on the basis that the Applicant was unreasonable in bringing this case to the Tribunal.

77. The Tribunal reminds itself that its overriding objective is to deal with cases fairly and justly, rule 3 of the rules. The Tribunal determines that it would not be acting in this way if it were to make a wasted costs order, the Applicants conduct in bringing this case before the Tribunal falls short of unreasonable conduct within the terms of Rule 13 of the rules.

The Decision

78. The Tribunal decides that at the date of this decision none of the Parties in the case can be ordered to pay any sum by way of service charge or refund of service charge.

79. The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 to prevent the landlord from taking the costs incurred in connection with these proceedings into account when calculating any future service charge in respect of the long leaseholders, Mathew Gray, Angela Bush, David Johnson, Steve Pettifer and Andrew Royton.

80. No other orders are made as to costs.

81. Should any Party wish to appeal against this decision, he or she has 28 days from the date that this decision is sent in which to deliver to the Tribunal an application for permission to appeal.

Judge C. P. Tonge
Tribunal Judge
7 August 2018

Annex

List of Respondents

Mr & Mrs Ashworth
Mr Johnson
Mr Ahmed
Mr Doyle
Miss Knight
Mr Jones
Mr Alkurtaj
Ms Hassan
Mr Philpott
Mr Horsfield
Mr R A Styles
Ms Eghobamien
Mr Malik
Mr Moore
Mrs Jackson
Mr Wingate
Mr & Mrs Gregory
Mr Kemsley
Ms Keogh
Europack :Ltd
Miss Lays
Miss Javadzadeh
Mssrs Bradbury
Mr Stott & Mr Grady
Ms Fernandez
Mrs McGoohan
Mr Maguire
Miss Turner
Miss Lukes
Mr Mollinson
Mr Bohra
Miss Drumm
Mr W Xue
Europack Limited
Mr A Hall
Mr & Mrs Gray
Miss K Raynor
Mr B Weisberg
Mr Mills
Mr Holden
Mr Lee
Mr & Mrs Johnson
Miss Houghton
Miss McNulty
Mr & Mrs Tan
Mr Bratt
Mr & Mrs Westwell
Mr Gray
Mr & Mrs Fiddler
Mr Papazoglakis
Mr Bai
Mr & Mrs Taylor
Mr & Mrs Fong
Mr K Poulton
Mr Leung
Mr A Nicol
Mr S Wong
Mr J J Gormally
Ms M Metcalf
Mr & Mrs A Malik
Mrs P Quayle
Mr M Santhouse
Mr G R Evans
Miss A J Evans
Ms S Bevan
Mr M M Ibrahim
Miss K L Chaytow
Mrs H Ball
Mr S Haslam
Mr N Singh
Mr Heatman
Mr T M Hassan
Mr E Sarkar
Mrs J Farrimond
Mr G Hanks
Mr P A Tresadern
Mr A Hopkins
Mr I Randell
Mr J Fraser
Dr A Ghazanfar
Mr & Mrs N James
Mr J Agar
Mrs G Mcalpin
Miss K McNulty
Mr P Thomason
Mr Westley
Mr C Sweeney
Dr & Mrs Yannopapas
Mr Cirriello
Mr Toro

List of Respondents (cont'd)

Miss Li
JRP Enterprises Ltd
Ms Kaputalamba
Mr Wilson
Mrs Ware
Mr M Relf
Miss Stanley
Ms S Bottomley
RD Property Investment
Mr Sanchez
Ms Johns
Mr Hanley
Mr Goodring
Mr Hunter
Mr Cullen
Mr Johnson
Miss Toohig
Mr Foster
Mr & Mrs O Neill
Mr Wall
Dr Ball
Miss Billington
Dr Lawson
Mr & Mrs Ball
Mr & Mrs Collins
Mr & Mrs Kapadia
Mr Panichi
Mr Maharaj
Miss Bush
Lifecycle Property Management
Mr Macrae
Mr Dixon & Mr Coker
Mr Khan
Mrs Moulson
Mr M Law
Mr Chudasama
Mr Johnson
Ms Petralia
Mr Moore Beecroft
Dr Feng & Ms Gao
Mr Zeneli
Mr Mosley
Nada Properties Ltd
Miss Pugsley
Mr Royton
Miss Jedrak

Mr Bailey & Miss Hodkinson
Ms Roberts & Ms McNamee
Manchester Property Limited
Mr T Y Mirza & Mrs N I Khan
Ms E M Loftus & Mr P R S Kerr
Mr S Yasin & Mr G Sohaib
Mr P H Reiss & Mr D S Reiss
Mr Wilcock & Ms Roberts
Mr Clarke & Ms Bowlay-Williams
Dr Sulton & Dr Nabiala
Mr M H & Miss B Gundry
Mrs Chan
Miss Mallinson
Ms Dursun
Mssrs Fiddler
Miss Hall
Mr Fung & Mr Liu
Ms Yagci
Mr Feldman
Mr Meadowcroft
Mr Benadikt
Mr & Mrs Takiar
Mr Sandwick
Mr Lafferty
Mr & Mrs Duckett
Cornish Residential
Mr Gunendron
Ms M. N. Connor
Welbeck Homes
Mr Robinson
Mr Pettifer & Miss Plant
Mr Tartaglione
Mr & Mrs Murcott
Mr & Mrs Mollinson
Mr P Newhouse
Mr S Yasin
Ms A Apostol
Mr & Mrs Tam
Mrs WBH Tam
Mr & Mrs Wright
Mssrr Walsh
Mr Lauryssen
Mr & Mrs Chotai
Ms Bridge & Mr Wallace
The McIntyre Estates Ltd

First-tier Tribunal, Property Chamber
Residential Property

GUIDANCE ON APPEAL

1) An appeal to the Upper Tribunal against a decision of a First-tier Tribunal (Property Chamber) can be pursued only if **permission to appeal** has been given. Permission must initially be sought from the First-tier Tribunal. If you are refused permission to appeal by the First-tier Tribunal then you may go on to ask for permission from the Upper Tribunal (Lands Chamber).

2) An application to the First-Tier Tribunal for permission to appeal must be made **so that it is received by the Tribunal within 28 days after the date on which the Tribunal sends its reasons for the decision.**

3) If made after the 28 days, the application for permission may include a request for an extension of time with the reason why it was not made within time. Unless the application is made in time or within granted extended time, the tribunal must reject the application and refuse permission.

4) You must apply for the permission **in writing**, and you must:
   - identify the case by giving the address of the property concerned and the Tribunal's reference number;
   - give the name and address of the applicant and any representative;
   - give the name and address of every respondent and any representative
   - identify the decision or the part of the decision that you want to appeal;
   - state the grounds of appeal and state the result that you are seeking;
   - sign and date the application
   - send a copy of the application to the other party/parties and in the application record that this has been done

The tribunal may give permission on limited grounds.

5) When the tribunal receives the application for permission, the tribunal will first consider whether to review the decision. In doing so, it will take into account the overriding objective of dealing with cases fairly and justly; but it cannot review the decision unless it is satisfied that a ground of appeal is likely to be successful.

6) On a review the tribunal can
   - correct accidental errors in the decision or in a record of the decision;
   - amend the reasons given for the decision;
   - set aside and re-decide the decision or refer the matter to the Upper Tribunal;
   - decide to take no action in relation to the decision.

   If it decides not to review the decision or, upon review, to take no action, the tribunal will then decide whether to give permission to appeal.

7) The Tribunal will give the parties written notification of its decision. **If permission to appeal to the Upper Tribunal (Lands Chamber) is granted**, the applicant's notice of intention to appeal must be sent to the registrar of the Upper Tribunal (Lands Chamber) so that it is received by the registrar within **28 days** of the date on which notice of the grant of permission was sent to the parties.

8) **If the application to the Property Chamber for permission to appeal is refused**, an application for permission to appeal may be made to the Upper Tribunal. An application to the Upper Tribunal (Lands Chamber) for permission must be made within **14 days** of the date on which you were sent the refusal of permission by the First-tier Tribunal.

9) The tribunal can **suspend the effect of its own decision**. If you want to apply for a stay of the implementation of the whole or part of a decision pending the outcome of an appeal, you must make the application for the stay at the same time as applying for permission to appeal and must include reasons for the stay. You must give notice of the application to stay to the other parties.

These notes are for guidance only. Full details of the relevant procedural provisions are mainly in:

- the Tribunals, Courts and Enforcement Act 2007;
- the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013;
- The Tribunal Procedure (Upper Tribunal)(Lands Chamber) Rules 2010.

You can get these from the Property Chamber or Lands Chamber web pages or from the Government's official website for legislation or you can buy them from HMSO.

The Upper Tribunal (Lands Chamber) may be contacted at:

5th Floor, Rolls Building, 7 Rolls Buildings
Fetter Lane, London EC4A 1NL

Tel: *0207 612 9710*
Goldfax: *0870 761 7751*

Email: *lands@hmcts.gsi.gov.uk*

The Upper Tribunal (Lands Chamber) form (T601 or T602), Explanatory leaflet and information regarding fees can be found on www.justice.gov.uk/trbunals/lands.