

LON/00AH/LSC/2004/0023

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTION 27A OF THE LANDLORD AND
TENANT ACT 1985 (AS AMENDED)**

Applicant: Hillview Court Limited.

Represented by: Rayners

Respondents: Conifer Court Limited

Re: Flats 1-60 Treetops, Hillside Road, Whyteleafe, Surrey
CR3 0BY

Inspection date: 19 May 2004

Hearing dates: 19 and 20 May 2004

Appearances: Mr C Battersby
Mr R Sawyer

For Applicants

Mr V Rubbino

For Respondents

Members of the Residential Property Tribunal Service:

Mrs C A Lewis FCI Arb
Mr C Kane FRICS
Mrs M B Colville JP LLB

THE TRIBUNALS DETERMINATION

Preliminary

1. The Tribunal was dealing with an application under section 27A of the Landlord and Tenant Act 1985, "the Act", on behalf of the Management Company, Hillview Court Ltd, for a determination of the liability of the lessees to pay service charges in respect of major works and/or redecorations to be carried out in the service charge year 2004.
2. The works involved a scheme of window replacement with UPVC double glazed units, or for repair and redecoration of the existing windows. The Tribunal was asked to determine whether either scheme would be reasonable in terms of specification and cost prior to works being undertaken.
3. A pre-trial review had been held on 1 April 2004 which had been attended by Mr C Battersby and Mr R Sawyer of Rayners Ltd, who managed the property, and Mr V Rubbino, the lessee of flat 43.
4. Mr Rubbino holds flat 43 on the terms of an underlease dated 1986. The Lessor is shown as Hillview Court Ltd, and the superior lessee as Conifer Court Ltd.
5. Hillview Court is a company in which each of the 60 lessees has a share. Directors of the company are themselves shareholders and are elected by their fellow lessees. Hillview Court has the responsibility for the management of the property as defined in the 8th Schedule of the lease and has the power to appoint a Managing Agent under Part II of the 8th Schedule. Messrs Rayners were appointed as Managing Agent from 1st February 1997.

Inspection

6. The subject property comprises sixty flats in three blocks, each of three storeys, in a quiet private estate set in an elevated position with landscaped grounds and extensive lawns and with ample parking spaces.

The blocks are constructed in brickwork with some painted rendering panels, and tile hanging. The roofs are tiled and the windows are double glazed with painted softwood frames. Doors and fascias are in softwood and are painted. Concrete balconies to the flats have painted softwood sliding patio doors and painted metal balustrades. Rainwater goods are in UPVC. There are separate brick built dustbin sheds, with painted softwood doors.

Generally the external condition is fair but there are signs of timber decay in some of the softwood window frames, and many double glazed window units show signs of deterioration. The grounds and parking areas are well maintained.

The Hearing

7. The Applicant Lessor was represented at the hearing by Mr C Battersby and Mr R Sawyer. They told the Tribunal that redecoration was overdue, and that under the provisions of the 8th Schedule of the lease the lessor was obliged to "keep the reserved property in a good and substantial state of repair decoration and condition including the renewal and replacement of all worn and damaged parts".
8. Correspondence provided at the hearing showed that there had been discussions about the possible replacement of the window frames with UPVC units going back to before the appointment of Rayners in 1997.
9. External re-decoration and repairs were due to be carried out in 2002, and in September of that year, Rayner had obtained estimates for this work.

10. The costs were so high that the Directors of Hillview Court Ltd had asked Rayners to obtain estimates for the replacement of the windows with UPVC units. These estimates had been obtained and submitted to the Directors in February 2003. The lessees had been kept informed, and the proposed replacement works discussed with them at the AGM on 22nd October 2003.
11. At the AGM it was agreed that further estimates should be obtained for the replacement of the timber windows, but that the balconies would be excluded. This would reduce the cost of the overall project. At this stage the membership was asked for any objections to the replacement works, but none were received.
12. On 6 February 2004 a letter setting out the estimated cost of the proposed works was sent to all the lessees, and the lessees were requested to provide a deposit. Mr Robbino was among those who declined, and following a reminder sent in April 2004, one further lessee sent their deposit.
13. The Directors were in favour of replacement windows rather than repair, which would be for the financial long term benefit of all the lessees, avoiding the need for future re-decoration and scaffolding costs. They confirmed that 52 out of the total 60 lessees remained in favour of replacement rather than repair and re-decoration.
14. Following the AGM in March 2004 a further letter had been sent to all lessees by the Directors of the Management Co. which had clarified the extent of the works which were to include:-
 - a) Staining of the front doors
 - b) Staining of the balcony doors and repainting of the balcony railings
 - c) Replacement of the soffits, guttering, fascias and down pipes with UPVC.
 - d) Painting of the white brickwork
 - e) Jet washing of the stained brickwork.

The Lessees would remain responsible for the cost of replacing the double glazed units within the frames under the Second Schedule of the lease.

15. Mr Rubbino, the Respondent Lessee declined to recognise the authority of Rayners to represent the Directors of the company at the hearing.

16. He also rejected the proposal to replace the existing timber windows with UPVC. He pointed that his timber windows were in very good condition because of his careful supervision of the workmen when the re-decoration had last been carried out. He claimed that the Managing Agents had failed to provide preventative maintenance as outlined in their letter of 3 March 1998, which would have avoided the need to replace the timber windows which he preferred.

Determination

17. The relevant lessors obligations are contained in the Second and Eighth Schedule of the lease, and the lessees obligations in the Third and Sixth Schedule (Appendix A attached).

18. It was clear to the Tribunal that Mr Rubbino believed that the lessees obligations under the lease extended beyond the interior of the windows of their own flats.

19. The lessors had provided full information and consultation with all the lessees about comparative costs of repair and replacement of windows and had received overwhelming support from almost 90% of the lessees.

In the view of the Tribunal the replacement of the windows with UPVC units could be said to fall within Clause 3 of Part I of the Eighth Schedule of the Lease, and taken together with the majority support of the Shareholder Lessees leads the Tribunal to find that the proposed replacement of the windows with UPVC units is reasonable and that the costs of such replacement should fall within the service charge, subject to compliance with the appropriate statutory procedure.

Tribunal: Mrs C A Lewis FCI Arb
Mr C Kane FRICS
Mrs M B Colville JP LLB

Chairman

Date

Cheryl Lewis
2 July 2004

Appendix A.

performing and observing the covenants on the part of the Lessee herein contained shall peaceably hold and enjoy the premises for the term hereby created without any interruption by the Lessor or any person lawfully claiming under or in trust for the Lessor

8. IF the rent hereby reserved or any part thereof is unpaid for twenty-one days after becoming payable (whether formally demanded or not) or if any of the covenants on the part of the Lessee herein contained are not observed and performed then and in any such case it shall be lawful for the Lessor or any person or persons authorised by it in that behalf at any time thereafter to re-enter the premises or any part thereof in the name of the whole and thereupon the term hereby created shall absolutely determine but without prejudice to any right of action or remedy of the Lessor in respect of any breach of the covenants stipulations obligations or restrictions on the part of the Lessee herein contained
9. THE rights and obligations of the Superior Lessor and the Lessor respectively under the Head Lease shall in no wise be diminished or altered by the joining of the Superior Lessor in this Lease or the terms and provisions in this Lease contained
10. WHERE any notice requires to be served under this Lease Section 196 of the Law of Property Act 1925 as amended by the Recorded Delivery Service Act 1962 shall apply

IN WITNESS whereof the Lessor and the Superior Lessor have caused their respective Common Seals to be hereunto affixed and the Lessee has to a Counterpart hereof set his hand and seal the day and year first before written

THE FIRST SCHEDULE

ALL THAT piece or parcel of land being land at Whyteleafe Surrey TOGETHER WITH the blocks of flats and the garages erected or in course of erection thereon by the Superior Lessor ALL WHICH said property is registered at H M Land Registry with Absolute Title under Title Number SY 93292

THE SECOND SCHEDULE

The Reserved Property

FIRST ALL THOSE the gardens roads drives paths forecourts grounds boundary walls fences and hedges forming part of the property and the halls staircases landings and other parts of the buildings forming part of the property and which are used in common by or are for the benefit of the owners or occupiers of any two

or more of the flats and others authorised to do so AND
SECONDLY ALL THOSE the main structural parts of the
buildings (including the garages) forming part of the
property including the roofs foundations and external
parts thereof (but not balconies or patios forming part
of any flat nor the glass of the windows or doors of
the flats nor the interior faces of such of the
external walls as bound the flats and garages) and the
land on which the said flats and garages stand all
cisterns tanks sewers drains pipes wires ducts and
conduits not used solely for the purposes of one flat
and the joists or beams to which are attached any
ceilings except where the said joists or beams also
support the floor of a flat or flats

THE THIRD SCHEDULE

The Premises

ALL THAT flat forming part of the property and being
one of the flats on the Floor of the premises
known as Number Hillview Court Hillside Road
Whyteleafe TOGETHER WITH the parking space on the
property allocated to and intended to be enjoyed with
the flat ALL WHICH flat and parking space are for the
purpose of identification only delineated on the plan
and thereon edged with red TOGETHER WITH the ceilings
and floors of the said flat and the joists and beams on
which the floors are laid AND TOGETHER WITH all
cisterns tanks sewers drains pipes wires ducts and
conduits used solely for the purpose of the said flat
but no others EXCEPT AND RESERVING from this demise the
land included in the reserved property the main
structural parts of the building of which the said flat
and parking space form part including the roof
foundations and external parts thereof but not the
glass of the windows and doors nor the interior faces
of the external walls bounding the demised premises

THE FOURTH SCHEDULE

Rights included in this demise

1. The right in common with the Lessor and the owner
and occupiers of all other flats comprised in the
property and all others entitled to do so to use
the gardens drives paths forecourts and grounds
forming part of the reserved property subject to
such reasonable rules and regulations for the
common enjoyment thereof as the Lessor may from
time to time prescribe in common also with and
subject to any rights granted or to be granted to
the Electricity Authority to access ways and cable
ways leading to the adjoining electricity
sub-station site (if any) or to any other person or
body
2. The right in common as aforesaid to use for the
purposes only of access to and egress from the
premises all such other parts of the reserved

flats and similar to those herein contained the person or persons entering making good all damage thereby caused

3. The right for the Lessor to enter upon the premises for the purpose of examining the state and condition thereof and executing any repairs and decorations requiring to be done in accordance with the Lessee's covenants in that behalf contained in the Sixth Schedule hereto
4. The right for the Lessor and the owners of the other flats to take leads through or over the premises for the purpose of connecting radio or television sets in any other part of the property to any aerial provided by the Lessor for the general use of the owners of the flats
5. All rights of support and other easements and all quasi easements rights and privileges now enjoyed or intended to be enjoyed by any other part of the property in over or in respect of the premises
6. The burden of any covenants entered into by the Lessor with the owners of other flats so far as such covenants are intended to bind the premises

THE SIXTH SCHEDULE

Stipulations obligations and restrictions on the part of the Lessee

1. The Lessee shall pay the reserved rent on the days and in the manner above-mentioned
2. The Lessee shall pay and discharge all existing and future rates taxes duties charges assessments impositions and outgoings whatsoever (whether imposed by statute or otherwise and whether of a national or local character) now or at any time during the term payable in respect of the premises or any part thereof
3. The Lessee shall to the satisfaction in all respects of the Lessor's surveyors keep the premises and all parts thereof and all fixtures and fittings therein and all additions thereto in a good and substantial state of repair decoration and condition throughout the continuance of this demise including the renewal and replacement of all worn or damaged parts and shall maintain and uphold and wherever necessary for whatever reason rebuild reconstruct and replace the same and shall yield up the same at the determination of this demise in such good and substantial state of repair decoration and condition as aforesaid and in all respects in accordance with the terms of this covenant

4. All internal walls separating the premises from any other part of the property shall be party walls and shall be used repaired and maintained as such
5. The Lessee shall before repairing any joist or beam to which is attached the ceiling of any other part of the property and before carrying out any repairs or works which the Lessee is required to carry out hereunder and for the carrying out of which the Lessee requires access to any part of the property give reasonable notice (and except in cases of extreme urgency at least forty-eight hours' notice) in writing to the occupier of the part of the property the ceiling of which is attached to the said joist or beam or to which the Lessee requires access as the case may be and the Lessee shall on giving such notice be entitled to repair the said joist or beam or carry out the said repairs or works and in doing so to have any required access to such other part of the property but shall act carefully and reasonably doing as little damage as possible to the property and forthwith making good all damage done
6. The Lessee shall so often as occasion requires and in any case in every seventh year of this demise and also in the last three months thereof (howsoever determined) paint with two coats of good quality paint in a workmanlike manner all the wood iron and other parts of the premises usually or which ought to be painted and shall in addition grain varnish distemper wash stop whiten and colour all such parts as are usually or as ought to be so treated and repaper the parts now or usually papered with good quality paper
7. The Lessee shall clean the windows of the premises as often as may be necessary
8. a) That it shall be lawful for the Lessor and its servants and agents with or without workmen at reasonable times to enter upon the premises to examine the state and condition thereof and thereupon the Lessor may serve upon the Lessee notice in writing specifying any repairs or redecoration necessary to be done and the Lessee shall within two months after service of any such notice or sooner if requisite execute the repairs therein specified according to the covenant in that behalf hereinbefore contained and if the Lessee shall at any time make default in the performance of any of the covenants hereinbefore contained relating to the repair or redecoration of the premises it shall be lawful for the Lessor to enter upon the premises or any part thereof and to execute any repairs and decorations as to which default has been made and the cost thereof

shall be a debt due from the Lessee to the Lessor and be forthwith recoverable by action

- b) That it shall be lawful for the Lessor its servants or agents to enter upon the premises at reasonable times to take inventories of the Lessor's fixtures and fittings to be yielded up at the expiration of the said demise
9. The Lessee shall not make or permit or suffer to be made any additions or alterations to the premises except with the prior consent in writing of the Lessor and in accordance with plans elevations sections and specifications previously approved in writing by the architects for the time being of the Lessor and the Lessee shall on demand pay all the fees of such architects in relation to giving or withholding any such approval and in executing any such works for which the consent of the Lessor shall have been obtained the Lessee shall conform to and compel the observance of the provisions of any statute or order applicable thereto and to the building regulations and planning regulations and requirements of every authority having powers in that behalf in the district where the property is situate
10. The Lessee shall pay all expenses (including Solicitors' costs and Surveyors' fees) properly incurred by the Lessor incidental to the preparation and service of a notice under Sections 146 or 147 of the Law of Property Act 1925 notwithstanding forfeiture is avoided otherwise than by relief granted by the Court
11. The Lessee shall not do or permit or suffer to be done in or upon the premises anything which may be or become a nuisance or annoyance or cause damage or inconvenience to the Lessor or to the owner or occupier of any other flat or to neighbouring owners or whereby any insurance for the time being effected on the property or any part thereof (including the premises) may be rendered void or voidable or whereby the premium may be increased and shall pay all costs charges and expenses incurred by the Lessor in abating a nuisance in obedience to a notice served by a competent authority
12. The Lessee shall from time to time during the said term execute all such works as are or may be under or in pursuance of any Act or Acts of Parliament already or hereafter to be passed be directed or required by any competent authority to be executed upon or in respect of the premises whether by the landlord tenant or occupier thereof and shall conform in all respects with the provisions of any regulations under any general or local Act of

Parliament which may be applicable to the premises or any part thereof and shall keep the Lessor indemnified against all claims demands and liabilities in respect thereof

13. The Lessee shall not do or permit or suffer to be done any act or thing on or in respect of the premises which contravene the provisions of the Town and Country Planning Act 1962 or any enactment amending or replacing it and shall keep the Lessor indemnified against all claims demands and liabilities in respect thereof
14. The Lessee shall permit the Lessor and the owners of the other flats to have access to and enter upon the premises as often as it may be reasonably necessary for them to do so in fulfilment of their obligations hereunder or under covenants relating to other flats and similar to those herein contained
15. That neither the premises nor any part thereof shall be used for any illegal or immoral purpose
16. The Lessee shall perform and observe the covenants on the part of the Lessor and the conditions contained in the Head Lease so far as the same relate to the premises and shall keep the Lessor indemnified against all claims damages costs and expenses relating thereto PROVIDED THAT the covenants by and obligations of the Lessor contained in the Head Lease for insurance and for the payment of rent shall for the purposes of this Clause be deemed not to relate to the premises
17. The Lessee shall comply with and observe any reasonable regulations which the Lessor may consistently with the provisions of this Deed make to govern the use of the flats and the reserved property detrimental to its character or amenities
18. The Lessee shall within twenty-one days of every assignment underlease grant of probate or administration assent transfer mortgage charge discharge order of Court or other event or document relating to the term give notice thereof in writing to the Lessor and in the case of a document send it (or in the case of a document requiring registration at H.M. Land Registry a certified copy) to the Lessor's Solicitors with a registration fee of TEN POUNDS (£10) plus Value Added Tax
19. The Lessee shall keep all sinks baths showers lavatories and waste and soil pipes on the premises clean and open and shall not use detergents in any manner which may be a nuisance or be objectionable to the Lessor or the owners or occupiers of the other flats and shall not suffer refuse to be

thrown therein and shall keep all water pipes within the premises reasonably protected from frost and shall be responsible for such damage to the property through the bursting or overflowing or stopping up of such pipes fixtures and fittings or of the pipes and services used in common by the Lessee and the Lessor or the owners or occupiers of any of the other flats or other injury thereto as may be occasioned by the negligence of the Lessee

20. a) The Lessee shall at all times maintain adequate close carpeting with underfelt throughout the premises or take such other steps in relation to the composition or covering of the floors of the premises as the Lessor may having regard to the peace and quiet of occupants of other flats deem adequate and authorise in writing
- b) The Lessee shall not permit any singing or instrumental music (howsoever produced) or the operation of radio or television sets in the premises so as to be audible outside the premises between the hours of 11 p.m. and 7 a.m. or so as to be a nuisance annoyance or disturbance to any other flat owner at any time
21. The Lessee shall not permit or suffer any auction to be held on the premises
22. The Lessee shall not use the flat or suffer or permit the same to be used for any purpose whatsoever other than as a single private residential flat for the occupation of one family or household only and shall not use any garage space included in the premises other than as a private garage for the use only of occupiers for the time being of any of the flats but so that the first part of this restriction shall not prevent the entertainment of occasional guests the engagement by the owner of a flat of a resident companion nor the subletting of a flat when the owner of the same is not resident therein
23. The Lessee shall not without the consent in writing of the Lessor (which consent may be withdrawn) bring or keep upon the premises or the property any dog or other animal bird or pet whatsoever and shall forthwith upon demand remove from the premises any such dog or other animal bird or pet in respect of which there shall not be a subsisting consent
24. The Lessee shall not paint or decorate the exterior walls and paintwork of the buildings comprising the premises or any other part of the property except the interior parts of the premises

25. The Lessee shall not effect any insurance on the premises or any part thereof without the consent in writing of the Lessor
26. The Lessee shall not :-
- a) Allow clothes or other articles to be hung from the window balconies or patios of the premises or allow clothes or other articles to be hung out on any part of the property except in such drying area (if any) as the Lessor may allocate for the purpose
 - b) Beat any carpet mat or cloth from the windows doors balconies or patios of the premises nor cause any damage to the lawns or gardens nor pick nor damage any flowers trees shrubs or plants upon any part of the reserved property
27. The Lessee shall not park keep or leave nor allow to be kept any vehicle trailer or chattel on any part of the reserved property in such a way as to cause obstruction to the entrances driveways or paths of the property or to any of the said garages or parking spaces so as to hinder the use thereof by any other person having the right to use the same
28. The Lessee shall not place or display on the outside walls doors or windows of the premises any advertisement or notice of any description without the approval of the Lessor first having been obtained and shall comply strictly with any conditions subject to which any such approval may be given and any regulations for the time being applicable thereto
29. The Lessee shall not without approval of the Lessor first having been obtained place or erect on the premises or the reserved property any wire aerial or pole for use in connection with radio or television or any other purpose whatsoever
30. The Lessee shall not during the last seven years of the term hereby granted assign underlet charge or part with the possession or occupation of the premises or any part thereof without the previous written consent of the Lessor such consent not to be unreasonably withheld
31. a) The Lessee shall upon any transaction or disposition to which the Lessee is a party or over which the Lessee has any control involving a change or a contract for a change in the ownership of the premises ensure that the person becoming or contracting to become as a result of such transaction or disposition the owner of the premises applies in writing for membership of the Lessor

Company and if required at the expense and cost of the Lessee enters into a direct covenant with the Lessor to observe and perform the obligations on the part of the Lessee contained in this Lease and in particular this Clause

- b) The Lessee shall upon any devolution or transmission of the ownership of the premises to which the Lessee is not a party and over which the Lessee has no control use the Lessee's best endeavours to ensure that the person becoming the owner of the premises as a result of such devolution or transmission applies in writing for membership of the Lessor Company and at such expense and cost as aforesaid enters into a direct covenant with the Lessor to observe and perform the obligations on the part of the Lessee contained in this Lease including this Clause
- c) The Lessee (if and so long as the Lessee is not an owner member of the Lessor) shall carry out the obligations attaching to owner membership in the Lessor to the same extent as if he were an owner member

32. That the Lessee shall at all times observe and perform all covenants conditions and restrictions affecting the freehold of the property at the date hereof and shall keep the Lessor indemnified against any future breach non-observance or non-performance thereof

THE SEVENTH SCHEDULE

PART I

Definitions

In this Schedule except where the context otherwise requires :-

"ACCOUNTING PERIOD" means a period of time in respect of which maintenance expenses have been paid or become due. The first accounting period shall run from the first day of the month in respect of which the Lessor shall have begun to incur maintenance expenses charged to the maintenance fund and shall end on such date as the Lessor shall select. Subsequent accounting periods shall end on the Twenty-fifth day of March next after the end of the preceding accounting period or such other date as the Lessor may for special reasons from time to time select

"MAINTENANCE EXPENSES" means the costs charges and expenses incurred by the Lessor in respect of the property in carrying out all or any of its obligations under Part I of the Eighth Schedule to this Lease and

accounting period current at the date of execution of the lease of that flat

- ii) Where a lease of any flat has been executed and the Superior Lessor's liability to contribute has ceased the Superior Lessor's liability shall not be revived in respect of that flat in any circumstances such as forfeiture or surrender of a lease or any other means by which there shall cease to be a lease of that flat

2. The Superior Lessor shall until all the flats comprised in the property have been leased in similar terms to this Lease and shall have been so leased for the whole of an accounting period contribute and pay the difference between all insurance contributions due from the Lessee under Part II of this Schedule added to all other insurance contributions payable by other owners under similar provisions and the full amount of the insurance premium or premiums payable under Clause 2 or Part I of the Eighth Schedule hereto
3. It being contemplated that the Superior Lessor may (though not so bound) from time to time during the original sale of the flats pay amounts by way of loan to the maintenance fund the Lessor shall as soon as calculations permit refund to the Superior Lessor any amount by which the Lessor's total payments exceed the contributions for which it is hereinbefore made liable whether in respect of maintenance expenses or insurance expenses

THE EIGHTH SCHEDULE

PART I

Obligations of the Lessor

1. The Lessor shall pay all existing and future rates taxes assessments and outgoings now or hereafter imposed or payable in respect of the reserved property
2. The Lessor shall insure the property in the joint names of all persons having any interest therein against loss or damage by fire storm or tempest or aircraft or such other risks as the Lessor may deem desirable or may be required by the Superior Lessor in accordance with the Head Lease in the full rebuilding value thereof at least and also if the Lessor shall so require against not more than three years' loss of rent in some insurance office of repute and shall pay all premiums for the keeping in force of such insurance immediately upon the

same becoming due and in case the property or any part thereof shall be destroyed or damaged by any of the insured risks with all convenient speed rebuild or reinstate the property so that the same may be as commodious and convenient in all respects as it was before the destruction or damage in respect of which such moneys shall have been received and whenever required shall produce to the Lessee the policy of insurance and the receipt for the last premium thereof

3. The Lessor shall keep the reserved property the drains sewers pipes wires and cables therein and all fixtures and fittings therein and additions thereto the drives paths garden grounds and the boundary walls fences and hedges thereof in a good and substantial state of repair decoration and condition including the renewal and replacement of all worn or damaged parts PROVIDED THAT nothing herein contained shall prejudice the Lessor's right to recover from the Lessee or any other person the amount or value of any loss or damage suffered by or caused to the Lessor or the reserved property by the negligence or other wrongful act or default of the Lessee or such other person PROVIDED ALSO THAT nothing in this Clause shall operate to require the Lessor to lay out grounds and driveways on the property so long as the same may reasonably be left unmade during the course of building operations
4. The Lessor shall before repairing any joist or beam to which is attached any ceiling of the premises and before carrying out any repairs or works to the reserved property for the carrying out of which it requires access to the premises give reasonable notice (and except in case of urgency at least forty-eight hours' notice) in writing to the Lessee and the Lessor shall on giving such notice be entitled to repair the said joist or beam or carry out the said repairs or works and in doing so to have any required access to the premises but shall act carefully and reasonably doing as little damage as possible to the premises and making good all damage done
5. The Lessor shall keep the halls stairs landings and passages forming part of the reserved property cleaned and in good order and repair and (if and where deemed appropriate) properly carpeted and shall keep adequately lighted all such parts of the reserved property as are normally lighted or should in the opinion of the Lessor be lighted provided that the Lessor shall be under no liability for any accident or damage caused to person or property (save to the extent if any to which the Lessor may for the time being be insured against the same) by reason of any failure disrepair or inadequacy in the lighting system or any part thereof

6. The Lessor shall by hire of the Local Authority or otherwise provide one or more refuse containers for the use of the Lessee with or without other owners and shall arrange for the disposal of rubbish deposited therein by the Lessee
7. The Lessor shall maintain an effective aerial system whereby the owners of the flats shall have provision for operating their own radio and television receivers
8. The Lessor shall (if deemed appropriate) maintain a door telephone system
9. The Lessor shall pay the rent reserved by the Head Lease and shall perform and observe all the covenants on its behalf therein contained so far as neither the Lessee nor any other owner of a flat is liable for such performance under the covenants on his part contained in this or a similar Lease
10. The Lessor will if so required by the Lessee enforce any covenants the breach whereof adversely affects the Lessee or the premises entered into by the other lessees of the flats on the Lessee indemnifying the Lessor against all costs and expenses in respect of such enforcement and providing such security in respect of all costs and expenses as the Lessor may reasonably require

PART II

Powers of the Lessor

- a) Power to create such sinking fund or reserve account as the Lessor may from time to time consider reasonably necessary for the purpose of making provision for future costs charges and expenses within Parts I and II of this Schedule and to allocate to or pay into such fund or account such sum or sums available out of the maintenance fund as the Lessor may consider reasonable and such additional sums (if any) as the Lessor may consider reasonably necessary. All moneys paid or allocated under this Clause to be held on behalf of the owners until actually expended
- b) Power for the Lessor to take out in the joint names of all persons interested therein a policy of insurance in an insurance office of repute covering liability for injury of persons on the property and to pay all premiums for the keeping in force of such insurances the policy or policies of insurance and the receipt for the last premium thereof to be produced to the Lessee on demand
- c) Power to employ or engage caretakers porters gardeners and others for the proper maintenance and running of the property

- d) Power to enter into contracts and engagements for inspection repair maintenance and insurance of the garden grounds lifts and all other parts of the reserved property appropriate to be so treated
- e) Power to enforce or seek to enforce all covenants stipulations obligations and restrictions express or implied in any lease or leases of any flat or flats comprised in the property and to pursue whether by action or otherwise any complaint breach of covenant or other wrongdoing made or alleged against any lessee of any flat
- f) Power to publish and display regulations made under this Lease and to affix notices in respect thereof on the reserved property
- g) Power to engage as Managing Agents a member of any recognised body of Estate Agents
- h) Power to charge all expenses fees and costs incurred in or connected with the exercise of the powers herein referred to and all legal accountancy and other fees incurred in the operation of the Lessor Company (including fees for matters which an officer of the Lessor Company could have performed personally) to the maintenance fund
- i) Power by notice in writing from time to time to increase the advance payment referred to in the Seventh Schedule hereto whenever the same shall reasonably appear to the Lessor to be insufficient. And also power to require supplementary advance payments to be paid during the course of an accounting year
- j) Power so long as no Management Agents shall be engaged to charge and pay to any person or company (including any member or director of the Lessor Company) management fees not exceeding ten per centum of the total expenditure by way of maintenance of the relevant accounting period and proportionately for any part of such period

THE NINTH SCHEDULE

Where more than one person is comprised in the expression "the Lessee" the premises are hereby declared to be vested in such persons as beneficial joint tenants/beneficial tenants in common in equal shares