



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

Case Reference : **CHI/29UL/LVL/2014/0005**

Property : **Various properties at La Rocco, La Galamina & La Tausco, Romney Sands Holiday Village, Greatstone, Kent TN28 8RN**

Applicant : **Park Resorts Limited**

Representative : **Simon Atkinson, counsel
Dean Robson, Clarke Wilmott
Mr. N. Fenn, Company
Secretary**

Respondent : **Various leaseholders as list attached**

Representative : **Mr. Eastham (11 La Rocco)
Mr and Mrs Paice (12 La Rocco)
Mr Cutler (17 La Rocco)
Mr Temple for his father James Temple (12 La Galamina)**

Type of Application : **Section 35 Landlord and Tenant Act 1987**

Tribunal Members : **Judge D. R. Whitney
Mr. R. Athow FRICS MIRPM**

Date and venue of Hearing : **18th March 2015, Folkestone Magistrates Court**

Date of Decision : **10th April 2015**

DECISION

DECISION

1. The tribunal directs that within 14 days of this decision being received by the Applicant they shall serve a copy of the same and all attachments upon each of the listed Respondents.
2. The tribunal determines the issues as follows:
 - Subject to the conditions set out below the leases between the Applicants and the Respondents to this application do be varied in the form of the attached Order marked Annex A.
 - Prior to the variation taking effect the Applicants will prepare and serve a management plan containing a budget and detail how the sums will be apportioned between the Respondents. 28 days after service of such management plan by the Applicant upon the Respondents the variation shall take effect.
3. The tribunal makes an order pursuant to Section 20C that no costs incurred by the Applicant in bringing this application may be recovered from the Respondents as a service charge.

BACKGROUND

4. The Applicants are now the owners of Romney Sands Holiday Village. The Applicants interest is by way of a Headlease of the whole site.
5. The Respondents each own a long residential lease in similar format. An example of such lease being that for 1 La Rocco is attached marked Annex B. There are three forms of lease but the fundamental mechanisms are the same in each type.
6. Under the Respondents lease they were required to pay various sums. These included what is called the "Holiday Estate Service Charge" which is payable to the competent landlord, being the Applicant and also a "maintenance charge" which was payable to a company Romney Bay Estate (1973) Limited ("the Company") in consideration of the Company undertaking certain works (see Fifth Schedule of the lease).
7. The tribunal was told that the Company was dissolved in 1994 and no party has replaced it.
8. The Applicant has applied to vary the leases so that, in simple terms, it will accept the burdens imposed on the Company to maintain etc. provided the Respondents contribute to the "maintenance charge" in the same way as provided in their respective leases.

THE LAW

9. To vary the leases the relevant sections are sections 35 & 38 of the Landlord and Tenant Act 1987 which are set out in full in Annex C to this decision.

HEARING

10. At the start of the hearing counsel for the Applicant submitted a re-amended draft Order and also a skeleton argument and bundle of authorities. A hearing bundle had previously been filed and served.
11. Certain Respondents were in attendance although it was noted with sadness that Mrs Hopper of 10 La Rocco who had intended to attend passed away the day before the hearing. The tribunal offers its condolences to her friends and family.
12. Counsel submitted that the Applicant was the competent landlord. Each of the Respondents' leases referred to the Company and imposed an obligation upon the Company to undertake certain works subject to each of the Respondents contributing to the costs. The Applicant looked to vary the lease relying on Section 35(2)(a)-(e).
13. Counsel explained the Company had been dissolved over 20 years ago. The Company was responsible for maintaining the common parts of the buildings containing the Respondents properties. He suggested that the Respondents should have been paying a maintenance charge and the purpose of the Application is to place the Applicant in the shoes of the Company, including allowing them to recover the costs.
14. Counsel for the Applicant confirmed no representations had been received from the Freeholder, Scottish American Investment Company plc.
15. Counsel confirmed that 3 owners were not contesting the claim. The claim itself involves 32 flats on the development (which also has chalets, other flats and caravan pitches) in three distinct blocks. The flats involved were all let in the 70's and early 80's.
16. Counsel then went through the form of the draft re-amended Order which took account of the 3 style of leases. Essentially the variations sought were to replace the reference to the Company with the Applicant so that they accepted the benefits and burdens imposed by the

Company but the Respondents would then need to pay a “maintenance charge” to the Applicant for works they undertook.

17. Mr Nicolas Fenn then gave evidence for the Applicant. He relied upon a statement at page 38 of the bundle filed.
18. Mr Fenn confirmed he had been involved with the development prior to the Applicants acquisition. He had been acquainted with the development as company secretary of predecessors in title to the Applicant since August 1997. Mr Fenn on being questioned said he was not aware of any defects to flats, including those owned by the Applicant, but that it made sense for any works to all being undertaken at the same time. He said that works had been undertaken to the property even though the Applicant could not recover costs and he personally had dealt with a flat owner over an issue concerning a balcony at one of the flats although he could not recall which flat.
19. Mr Fenn on being questioned said that the Applicant had never charged a maintenance charge, they had levied estate charges as the Applicant was entitled to under the lease. Mr Fenn confirmed some very preliminary consideration had been given as to works but if the tribunal did not vary the lease then the Applicant would not undertake any works. He told the tribunal the Applicant was a business and have to make a profit. He did however state that he was not aware that it was in contemplation to charge in advance for works being undertaken. He thought it was likely that the Applicant would only look to recover costs actually incurred.
20. Mr Fenn candidly admitted he was not aware why the dissolution of the Company had not been picked up in various due diligence exercises undertaken. When he became aware in about 2009/2010 he took advice and was advised that restoring the Company would be difficult. He accepted that some time had passed before the application was made.
21. Counsel submitted that currently the Applicant does insure the site as they are required to do so under the Headlease they have. This is purely reliant on the Headlease and it is reasonable to expect the flat owners to contribute to this.
22. Counsel suggested that section 35 applied and it was just and equitable to vary the lease as sought given the service charge provisions within the lease currently are defective as there is no one required to step into the Company’s shoes. The Applicant are prepared to do this. Further he contends there is no prejudice to the respondents as the variation will only regularise the lease and in effect put the Respondents back in the position they would be in but for the dissolution of the Company. Counsel suggested that any delay in making the application itself and

the length of term of the leases was not a bar to the application particularly given he was not seeking any form of retrospective variation.

23. After the Applicants had presented their case the tribunal adjourned for a short period to allow the Respondents to digest and consider their response.
24. It was explained by Mr Cutler that he had always paid insurance to the resort which he believed covered building and contents. Further it would have been better if the Applicant had made this application some time ago rather than leaving until the leases were so short in terms of length remaining. Mr Cutler handed to the tribunal a brief statement which he read.
25. Mr Paice then explained that he believed he would be prejudiced if the variation was granted due to his short lease.
26. Mr Temple explained that he was concerned over who would actually undertake the works and what checks and balances would exist. In his opinion the application should be adjourned until the Applicant have a plan as to what works they wish to undertake.
27. Mrs Paice explained they had only recently received papers as it appeared a previous address for them had been used. She also raised the question of an application under Section 20C. Counsel for the Applicant confirmed the Applicants had no intention of looking to claim the costs and so would not object to the making of such an order.
28. She was concerned that all of the Respondents already have to demonstrate they have insurance to the Applicants. She believes that the Respondents look after their flats and it is other flats which are in poor repair. She does not see how this will improve matters. She remains concerned that there has been little proper consultation or attempts to consult with the Respondents.
29. At this point in the proceedings it was explained by Mr Fenn that the Applicant did require leaseholders to insure via a policy they sourced through an independent broker not linked to the Applicant or the freeholder or produce evidence that they had an equivalent policy. This was applied to the Respondents. He was not sure on what basis this was required.
30. Mr Fenn explained the intention was only to maintain and repair and not undertake improvements so there would be no prejudice to the Respondents.
31. The matter then adjourned for lunch.

32. After the adjournment counsel for the Applicant made submissions relying upon the skeleton argument and bundle of authorities filed with the tribunal.
33. Counsel submitted that currently no party was obliged to maintain the building in which the Respondents' flats were situated or to insure the same. The Applicant did effect insurance but only because it was required to under its Headlease. Similarly the Applicant had undertaken certain works of repair but it was not obliged to and the situation was in counsel's submission wholly unsatisfactory both for the Applicant and the Respondents.
34. The Applicant was concerned that they faced a risk of claims including for personal injury of the property was not repaired and the position will only get worse with time.
35. The situation had been dealt with within the lease which when granted provided a satisfactory mechanism. By the Applicant stepping into the Company's shoes this provides a simple mechanism to remedy the dissolution of the Company. This would satisfy Sections 35(2)(a)-(e) and provides a suitable remedy having regard to Section 38.
36. Counsel accepts there has been delay by the Applicant in bringing this application from when they first learned of the defect. However he submitted that this was not a bar to the tribunal varying the lease and relies on Brickfield Properties Limited v. Botten [2013] UKUT 0133 (LC). Counsel suggests that in this instance delay plainly cannot be a bar as in this instance the Applicant is not seeking any retrospective variation and so there can be no prejudice to the respondents following from any delay.
37. He submits that the leaseholders under these leases all agreed to pay a maintenance charge. The application is simply to restore the status quo and there is no prejudice. Further he submitted even if there is any prejudice the payment of any money is not appropriate in this case.
38. Further he suggested that if not varied the freeholder and the Applicant will be prejudiced by the risk of the building falling into disrepair or the costs not being recoverable of any repairs which was not the original intention when the leases were granted. As a result he submits that the lease should be varied as per the draft.
39. Counsel was questioned as to whether the Applicant was only seeking to recover the charges in arrears. The tribunal was concerned that there appeared to be a risk of ambiguity in Clause 3(d) of the lease and the Fifth Schedule as to whether this allowed recovery of potential costs in advance.
40. Counsel accepted that Mr Fenn had given evidence on this but the Applicant wished to reserve its position as to whether it may look to

recover costs in advance. Counsel suggested he was not seeking to vary this and it should be left to another occasion.

41. Mr Temple submitted that he was concerned that this application was the only way the Applicants had come up with for remedying the problem. He suggested this was an error on the Applicants part and did not understand why the Respondents should pay for their mistake.
42. Mrs Paice raised concerns over the cost of likely works and how these will be overseen.
43. The tribunal reminded the Respondents that the purpose of this application was simply to deal with the question of the variation. Other matters were outside the jurisdiction of this tribunal and the tribunal recommended to all that it may be prudent for them to look to take advice as to the form of lease and the implications moving forward. The tribunal reminded the parties that it cannot offer advice to parties.

DETERMINATION

44. The tribunal in reaching its decision had regard to the submissions made during the hearing both by the Applicant and the various Respondents who spoke and put forward their position and the tribunal thanks all for their assistance. The tribunal was provided with, considered and read hearing bundles, skeleton argument, bundle of authorities, typed statement provided by Mr Cutler and hand written note from Mr Temple.
45. In reaching a decision it appeared to the panel unfortunate that in the five years which had passed since the Applicants had become aware of the dissolution of the Company greater attempts had not been made to interact with the Respondents. The Respondents from whom the tribunal heard were in this tribunals determination understandably concerned about the extent of any works, the quality and the costs to them of the same. Most, from whom we heard, candidly accepted that repairs might be required but are concerned that the Applicants may look to improve the building for the Applicants benefit given the short nature of the leases.
46. The tribunal was also somewhat concerned to note that it seemed the Applicants without any authority that was drawn to the tribunal's attention required the Respondents to insure their properties. They had been requiring this despite now seeking this variation which we were advised was partly to deal with inadequacies in the insurance position.
47. All of the above being said the starting point must be to consider the leases in question. All when granted provided a mechanism for both requiring a party to undertake repairs, maintenance and insurance to

- the building and recovery of the costs of the same. This was to be undertaken by the Company.
48. The tribunal was surprised that it had taken so many years (about 15 years) since the dissolution of the Company for the Applicant or its predecessors to become aware of this. Mr Fenn candidly admitted in evidence that he was surprised as well. No evidence as to the reason for the dissolution was provided save for Companies House print outs confirming the same.
 49. As to the delay the tribunal accepts counsel's submission and in particular his reliance on Brickfield v. Botten that delay is not a bar to a variation.
 50. As to whether it is appropriate to vary the tribunal is satisfied that the leases currently due to the dissolution of the Company fail to make satisfactory provision for repairs, maintenance and insurance of the buildings in which the flats are situated. Further the leases do not make adequate provision for the recovery of the costs of any works the Applicants may undertake of this nature. It follows therefore that the tribunal is satisfied that section 35(2)(a)-(e) are made out.
 51. The tribunal then needs to consider Section 38.
 52. Whilst having considerable sympathy with the Respondents, all of whom now have leases with only a short term remaining, it is correct to note that all ought to have expected to have to pay for repairs, maintenance and insurance for the building in which there flats are situated. It appeared clear that some felt they had paid towards this under the estate charge raised by the Applicant but this was a separate charge allowed under the lease.
 53. In simple terms the variation whereby the Applicant accepts the burdens imposed on the Company conditional upon their being able to recover the costs does appear to this tribunal reasonable.
 54. We are concerned however that even after five years of being aware of this defect no indications have been offered as to the likely costs to be incurred by the Respondents. We accept Mr Fenns evidence that no fully worked up plans have been made as the Applicant decided to await the outcome of this application. We do believe it is only right and proper that the Respondents have some indication as to the likely costs.
 55. Further this tribunal believes it is incumbent upon it in considering such an application wherever possible to remove any ambiguity within the relevant leases. This tribunal does not accept counsel for the Applicants submission that the question of whether the charges can be levied in advance is for another day.
 56. Having regard to the above the tribunal is satisfied that there is not such prejudice to the Respondents that either the leases should not be

varied or that compensation should be offered. The tribunal does take the view that the Respondents are entitled to have an indication of the likely expenditure so that they can plan accordingly. To that end the tribunal directs that the variation will be conditional upon the Applicant serving on each and every Respondent a fully budgeted management plan with an indication of how this will be apportioned between the Respondents. This tribunal believes that this condition is reasonable to allow the respondents to understand their future obligations and is something which this tribunal believes the Applicant ought to be able to readily provide if it is minded to undertake works.

57. Upon the Applicant complying with the condition as set out in paragraph 56 above the leases do be varied in the form of the order annexed hereto marked A. The form of the Order is as proposed by counsel for the Applicant save that the tribunal has also directed that clause 3(d) of the leases do be amended to provide that all monies to be claimed by the Applicants from the Respondents will only be payable on monies actually spent by the Applicant. In making this variation, whilst the tribunal noted that counsel for the Applicant indicated that the Applicant wished to reserve its position, Mr Fenn in evidence plainly stated that it was not contemplated to charge in advance. Given the circumstances as a whole and to ensure clarity the tribunal makes this variation.

58. Finally the tribunal considers whether or not to make an order under section 20C restricting the Applicant from recovering its costs. Counsel suggested that the Applicant would not look to recover its costs and so did not object to the making of an order. In light of this indication the tribunal therefore makes an order pursuant to section 20C that the Applicants are not able to recover the costs of this application from the Respondents.

Judge D. R. Whitney

Appeals

1. 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.
2. 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.

3. 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.

4. 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.

ANNEX A

APPENDIX 1

Building	Flat	Date	Term	Title No.	Name of Respondent(s)	
La Rocco	1	09/12/1975	50 years from 01/01/1975	K437677	Mrs J R Digges	
	2	11/12/1973	50 years from 01/01/1973	K409307	Mr S J Anderton and Mr P Anderton	
	3	08/04/1974	50 years from 01/01/1973	K413852	Mrs N O Tinker	
	5	01/01/1977	50 years from 01/01/1976	K652767	Mrs W Hogg	
	6	09/01/1976	50 years from 01/01/1976	K438344	MR J E Stevens & A M Stevens	
	7	15/04/1976	50 years from 01/01/1976	K441770	Mr K M Yarnley & A J Yarnley	
	8	17/04/1974	50 years from 01/01/1973	K414165	Mr N S Hutchings & Mrs T Hutchings	
	9	03/04/1974	50 years from 01/01/1974	K413155	Mr G Edwards & Mrs M E Edwards	
	10	07/02/1974	50 years from 01/01/1973	K790314	Mrs R Hopper	
	11	14/01/1974	50 years from 01/01/1973	K412049	Mr R E Eastham & Mrs R A Eastham	
	12	17/12/1973	50 years from 01/01/1973	K410573	Mr A J Paice & Mrs J A Paice	
	15	12/09/1974	50 years from 01/01/1974	K419330	Mr J W Norris & Mrs J A Norris	
	17	31/05/1974	50 years from 01/01/1973	K415409	Mr P Cutler	
	18	31/05/1974	50 years from 01/01/1973	K415410	Ms L J Hutchings	
	19	12/03/1974	50 years from 01/01/1973	K412923	Mr T H Archer & Mrs S L S Harrison	
	20	31/12/1973	50 years from 01/01/1973	K617962	Mr D H Jones & Ms D Clayton	
	21	28/05/1976	50 years from 01/01/1976	K443106	Mr G Edwards & Mrs M E Edwards	
	22	04/04/1973	50 years from 01/01/1973	K413595	Mr K E Nicholls & Mrs I P Nicholls	
	23	05/06/1974	50 years from 01/01/1974	K415833	Mr R W Hawes	
	24	07/06/1973	50 years from 01/01/1973	K416335	Ms J Winton	
	La Galamina	7	26/03/1976	50 years from 01/01/1976	K440823	Mr R A Grant & Mrs S G Grant
		8	25/11/1975	50 years from 01/01/1975	K437580	Ms C Eves
		9	23/02/1976	50 years from 01/01/1976	K440191	Ms J M Chapman
		10	04/11/1975	50 years from 01/01/1974	K435916	Mr T G Hindmarsh
11		26/02/1976	50 years from 01/01/1976	K440738	Ms S C Lockyer	
12		05/02/1976	50 years from 01/01/1976	K439318	Mr J M Temple	
15		02/01/1976	50 years from 01/01/1976	K437793	Mr J F Archer & Mrs C V Archer	
16		21/01/1976	50 years from 01/01/1976	K438920	Mr N S Hutchings & Mrs T Hutchings	
17		08/07/1976	50 years from 01/01/1976	K445963	Ms S C Lockyer	
18	09/08/1974	50 years from 01/01/1974	K766613	Ms P A Wickens		
La Tausco	24	08/02/1980	50 years from 01/01/1973	K508293	Mr D A Thomas	
	26	07/01/1980	50 years from 01/01/1976	K498365	Mr D E S Curtin	

ANNEX B

50
69



H.M. LAND REGISTRY TITLE NO. K 41290

is made the *Ninth* day of *December*
 One ~~thousand~~ and nine hundred and seventy-five BETWEEN
MADDISON'S HOLIDAYS LIMITED who registered office
 is at 6 South Quay Great Yarmouth Norfolk (hereinafter
 called "the Landlord") which expression shall where
 the context so admits include the estate owner for
 the time being of the reversion immediately expectant
 on the term hereby created) of the first part ROMNEY
BAY DEVELOPMENT COMPANY LIMITED whose registered
 office is at 6 South Quay Great Yarmouth Norfolk;
 (hereinafter called "the Developer") of the second
 part ROMNEY BAY ESTATE (1973) LIMITED whose
 registered office is at 6 South Quay Great Yarmouth
 Norfolk (hereinafter called "the Company") of the
 third part and ARTHUR EDWARD COOPER and ELLA MARY
COOPER of 38 Melford Court, Melford Road, London S.E.22.
 (hereinafter called "the Tenant" which expression shall
 include the persons deriving title under the Tenant) of
 the fourth part WHEREAS

(1) The Landlord is registered at H.M. Land Registry
 as proprietor with absolute title of the freehold
 land comprised in the title above referred to
 consisting of a holiday estate known as the
 Littlestone Holiday Centre Littlestone in the County
 of Kent and has provided the Centre with roads and
 drainage means of obtaining water and electricity
 to serve sites formed for buildings designed as
 holiday dwellings and various amenities for holiday-
 makers

(2) The Developer has erected blocks of flats on the
 said holiday estate

(3) The Company has agreed to provide certain maintenance services on the terms hereinafter appearing

(4) The Landlord has agreed with the Tenant for the grant to the Tenant of the Lease of the flat hereinafter described for the consideration and the rents and on the terms and conditions hereinafter appearing

(5) The Tenant has agreed with the Company to enter into the covenants with the Company and on the tenants part to be performed and observed and in consideration thereof the Company has agreed to enter into the covenants with the Tenant and on the Company's part to be performed and observed as hereinafter appearing

NOW THIS DEED WITNESSETH as follows

1. IN CONSIDERATION of the rents and covenants hereinafter reserved and contained and on the part of the tenant to be paid performed and observed and of the sum of FOUR THOUSAND NINE HUNDRED AND FIFTY POUNDS, (14,950) paid by the Tenant to the Developer the receipt whereof the Developer hereby acknowledges the Landlord HEREBY DEMISES unto the Tenant ALL THAT flat details of which are set out in the First Part of the First Schedule hereto (hereinafter called "the said flat") TOGETHER WITH the rights mentioned in the second Schedule TO HOLD the same unto the Tenant for the term of fifty years from the first day of January 1975 yielding and paying therefor unto the Landlord the rent specified

in the second part of the First Schedule hereto which rent shall be paid yearly in advance on the first day of January in each year the first payment to be made on the signing hereof for the period from the date hereof until the 1st January 1976

2. THE TENANT hereby covenants with the

Landlord:

(a) to pay the said rent on the day fixed for its payment

(b) to pay and discharge and keep the Landlord and Company indemnified from and against all existing and future general water and drainage rates taxes duties charges assessments impositions and outgoings whatsoever now or at any time during the said term payable in respect of the said flat or any part thereof by the Landlord or the Tenant or the owner or occupier for the time being thereof

(c) Not to injure cut or maim any of the walls ceilings floors or partitions of the said flat and not to make any structural alterations or structural additions to the said flat or the internal arrangements thereof or remove any of the Landlord's fixtures without the previous consent in writing of the Landlord such consent not to be unreasonably withheld

(d) Once in every five years of the said term and also during the last three months or at the sooner determination thereof to paint all the inside wood and ironwork usually painted of the said flat with two coats of good quality paint in a proper and workmanlike manner and also whitewash and paint or paper all ceilings and walls as the same are now painted or papered

(e) To pay all costs charges and expenses including Solicitors costs and Surveyors fees incurred by the Landlord for the purpose of or incidental to the preparation and service of a Notice under Sections 146 and 147 of the Law of Property Act 1925 notwithstanding forfeiture may be avoided otherwise than by relief granted by the Court

(f) (i) Not to assign underlet or part with possession of the said flat or any part thereof without first offering in writing to sell the said flat to the Landlord and assign the demise premises to the Landlord for all the unexpired residue of the term at the then current market value and in default of agreement at the value to be assessed by the President for the time being of the Chartered Surveyors Institution whose fees shall be paid by the Tenant

(ii) The Landlord shall within 21 days of the receipt of any such offer notify the Tenant in writing of its desire to accept or refuse such offer and in default shall be deemed to have refused such offer

(iii) Subject to the foregoing provisions the Tenant shall not assign underlet or part with possession of part only of the flatlet and shall not assign underlet or part with possession of the whole (other than as an assignment or underletting by way of mortgage only or an underletting for a term certain not exceeding one month) without the consent in writing of the Landlord Provided that as a condition of any such consent the Landlord may require payment of a reasonable sum in respect of his expenses in connection therewith

(g) To give the Landlord notice in writing of any Assignment underletting mortgage or charge and of the discharge of any mortgage or charge of the flatlet or of any part thereof within 30 days of the date of the same being executed and to pay the Landlords Solicitors reasonable charges for registering such assignment

(h) to pay the Landlord a Holiday Estate service charge of SIXTY POUNDS per annum or such sums as the Landlord will require from time to time based on the actual current cost of providing the amenities of the Holiday centre and in the event of any dispute of any such sums payable by the Tenant under this Clause the Certificate of the auditors for the time being of the Company as to the amount thereof shall be conclusive and binding on all parties payable on the 1st day of January in each year in advance for the provision of the amenities of the holiday centre

3. IN ACCORDANCE with the general scheme and for the benefit of the tenants of the other flats on the Holiday Estate (other than Tenants at rack rents) the Tenant HEREBY COVENANTS WITH THE Landlord and the Company and the Tenants for the time being of the other flats comprised on the estate other than tenants at rack rent and with each of them that the Tenant will from time to time and at all times hereafter during the said term (a) keep the said flat throughout the term hereby granted (other than the parts thereof to be maintained by the Company pursuant to the Fifth Schedule hereto) and all walls party walls sewers drains pipes and wires cables timbers floors and ceilings

windows glass doors locks fastenings hinges sanitary water gas electrical and heating apparatus and any appurtenances thereto belonging in good substantial and tenable repair and condition (b) Execute and do at the expense of the Tenant all such works and things whatever as may now or at any time during the said term be directed or required by any national or local or other public authority to be executed or done upon in or in respect of the said flat by the owner or occupier thereof (c) Perform and observe all and singular the regulations and obligations set forth in the Fourth Schedule hereto (d) Pay to the Company from time to time on demand as a contribution towards the costs charges expenses and management fees from time to time incurred by the Company in carrying out its obligations under the Fifth Schedule hereto (hereinafter called "the maintenance charges") the part of the maintenance charges apportioned in respect of the said flat (which shall be in the entire discretion of the Landlord) but in the event of any dispute as to the amount of any sum payable by the Tenant under this clause the certificate of the auditors for the time being of the Company as to the amount thereof shall be conclusive and binding on all parties (e) Upon any transaction or disposition to which the Tenant is a party or over which he has any control involving a change or a contract for a change in the ownership of the said flat to procure that the person becoming or contracting to become as a result of such transaction the owner of the said flat (which expression shall be deemed to include any assignee of the Lease and any person holding as undertenant for substantially the whole of the

unexpired part of the term hereby granted but excluding any mortgage) enters into covenants with the Company to observe and perform all the covenants by the Tenant with the Company contained in this Lease (f) Permit the Landlord and the Company and their respective Surveyors and Agents with or without workmen and others at all reasonable times during the said term to enter upon and examine the condition of the said flat and thereupon the Landlord or the Company may serve upon the Tenant Notice in writing specifying the repairs necessary to be done and for which the Tenant is liable under his covenants hereinbefore contained and requiring the tenant forthwith to execute the same and if the Tenant shall not within six weeks after the service of such notice commence and proceed diligently with the execution of such works then to permit the Landlord and/or the Company and their respective agents to enter upon the said flat and execute such repairs and the cost thereof and of the preparation and service of the said notice shall be a debt immediately due from the Tenant to the Landlord or the Company as the case may be and be forthwith recoverable —

(g) To permit the Landlord and the Company and their respective Surveyors and agents with or without workmen and others at all reasonable times on notice (save in case of emergency) to enter into and upon the said flat or any part thereof for the purpose of altering or amending any part of the building, hereinafter called "the Building" of which the said flat forms part in order to comply with any statutory or bye-law requirement and repairing any

part of the Building and for the purpose of making installing repairing maintaining rebuilding cleansing lighting and keeping in order and good condition all sewers drains pipes vent pipes cables watercourses gutters wires party structures or other conveniences and services common to the flats or belonging to or serving or used for the Building or necessary to comply with any such requirement for the time being in force and also for the purpose of laying down maintaining repairing and testing drainage gas and water pipes and electric wires and cables and for similar purposes and also for the purpose of cutting off the supply of water to the said flat or any other flat in the building in respect whereof the Tenant or the occupier of such other flat as the case may be shall have made default in paying his share of the water rate the person exercising any of such rights in each case making good any damage occasioned thereby to the said flat.

4. THE LANDLORD hereby covenants with the Tenant as follows:

- (a) That the Tenant paying the rents reserved and performing and observing the several covenants conditions and agreements herein contained and on the Tenant's part to be performed and observed shall and may peaceably and quietly hold and enjoy the said flat during the said term without any lawful interruption or disturbance from or by the Landlord or any person or persons rightfully claiming under or in trust for the Landlord and shall be a member of the Littlestone Holiday Social and Sports Club.
- (b) That the Landlord will allow the Company and persons authorised by the Company to have such

access to the Building and other parts of the Landlords land as may be necessary and proper for enabling the Company to carry out its obligations hereunder—

5. THE COMPANY hereby covenants with the Tenant to carry out the obligations as set out in the Fifth Schedule hereof on the terms as therein appearing—

6. PROVIDED THAT:

(1) If any part of the rent or other monies payable hereunder shall be unpaid for twenty-one days after becoming payable (whether formally demanded or not) or if any covenant on the Tenant's part herein contained shall not be performed or observed the Landlord may at any time thereafter re-enter upon the flatlet and thereupon this demise shall absolutely determine—

(2) The Landlord reserves the right at any time to vary the layout of the estate on which the flatlet is situated and to permit the erection of such types of flatlet on the other sites as it may think fit and to vary the terms of the Lease so far as such Lease relates to other flatlets without reference to the Tenant—

7. THE TENANT shall pay the Landlord's Solicitors' costs of and incidental to the preparation and execution of this Lease and of the Counterpart thereof and the stamp duties of the Lease and Counterpart—

8. THE TERMS "Landlord" and "Tenant" shall include the plural where the circumstances so require—

9. THE REGULATIONS as to the service of notices contained in Section 196 of the Law of Property Act 1925 are deemed to be incorporated in this Lease

10. IT IS HEREBY CERTIFIED that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration other than rent exceeds (£15,000) FIFTEEN THOUSAND POUNDS.

IN WITNESS whereof the Common Seal of the Landlord is affixed hereto and the Tenant has hereunto set his hand and seal the day and year first above written

THE FIRST SCHEDULE above referred to

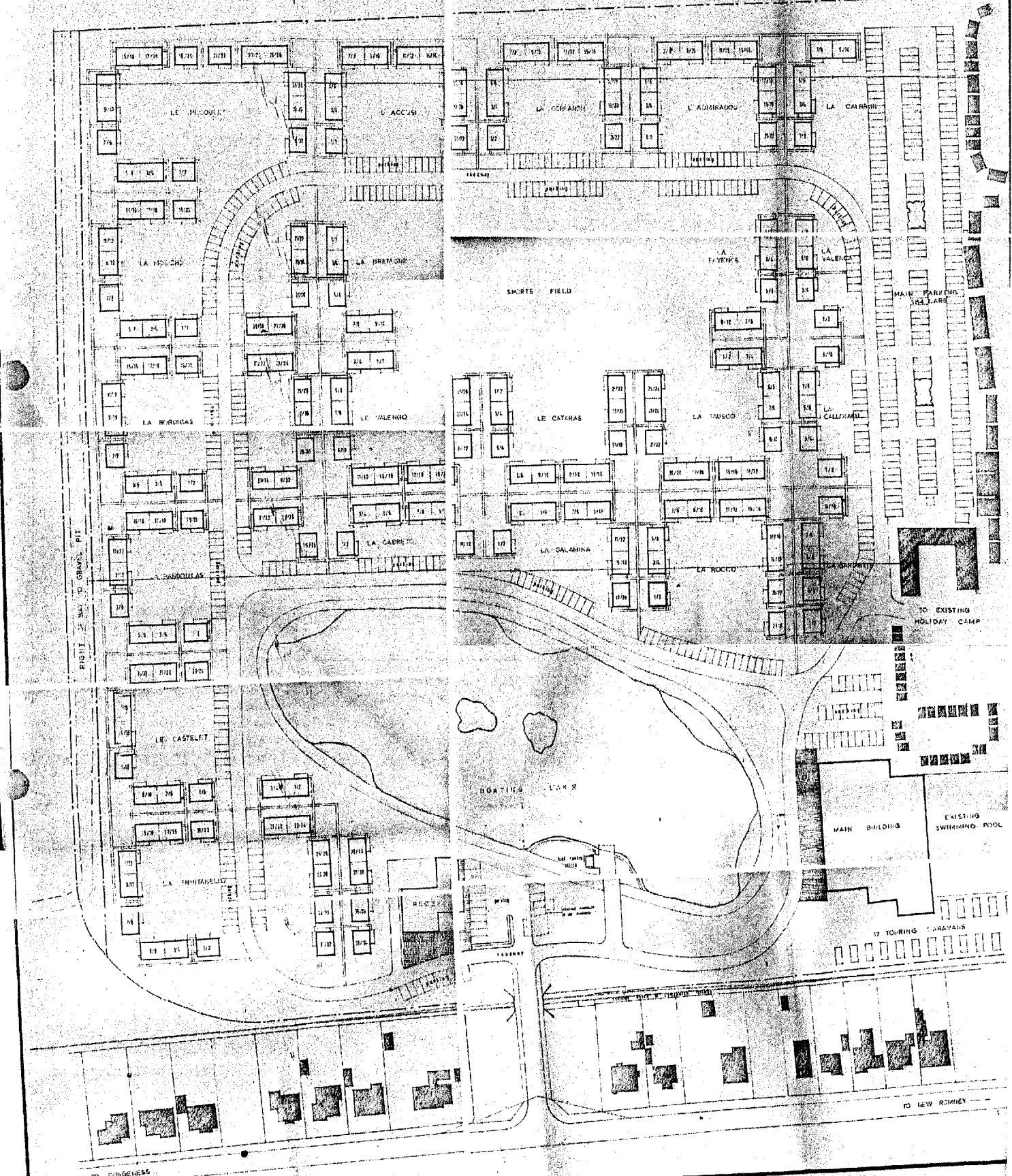
PART I

ALL THAT suite of rooms known as Flat No. 1 La Pocco situate on the ground floor at Littlestone Holiday Centre Littlestone in the County of Kent up to and including the ceiling plaster and including the floor covering and floors (but excluding the ceiling plaster (if any) of the flat below) and including the inner half of the external walls severed vertically and the internal walls dividing the rooms and parts of the flat all which premises are shown edged red on the plan annexed hereto

PART II

The yearly rent payable hereunder in accordance with Clause 2 (a) of this Lease shall be £50 or such figure that shall be 10p less than two-thirds of the first net rateable value of the flatlet whichever figure shall be the lower FOURTEEN POUNDS that by

By the Surveyor
of 1952



Maddieson Holiday Camps Ltd.

PROPOSED HOLIDAY DEVELOPMENT AT LITTLESTONE.

Ramsden & Allen.

Surveyors.

79a High St. Battle, Sussex.

Tel. 3285.

drw. no. 2050

Scale: 1/4" = 100' (approximate) Date: February 1952 Drawn by: S. Jones Checked by:

giving not less than two months notice in writing before the end of the first two years of the said term and before the end of every succeeding two yearly period of the term the Landlord may require that the said sum of FIFTY POUNDS (£50) shall be increased to such higher figure as he considers to be equivalent to the current rental value of the flatlet site having regard to any variation in the cost of living since the commencement of the term or the last current rental value review as the case may be as shown by a Government Index or any similar information available publicly or privately.

THE SECOND SCHEDULE above referred to
EASEMENTS RIGHTS AND PRIVILEGES GRANTED

1. Full right and liberty for the Tenant and all persons authorised by him (in common with the Lessors and all other persons entitled to the like right) at all times by day or by night and for all purposes of domestic use and convenience incidental to the occupation of the said flat to go pass and repass over and along the driveway pathways and main entrances of the building and the common passages landings and staircases leading to the said flat together with the right in common with the Lessors and other persons having a like right to use the communal gardens for the time being of the Lessors' land but not as to cause a nuisance or annoyance to the Lessors or such other persons.

2. The right to subjacent and lateral support and shelter and protection from the elements for the said flat from the other parts of the building and from the site.

3. The free and uninterrupted passage and running of water and soil gas and electricity from and to the said flat through and along the sewers drains and watercourses chimneys cables pipes and wires which now are or may at any time during the period commencing on the date hereof and enduring for eighty years being under or passing through the Estate or any part thereof

THE THIRD SCHEDULE above referred to
EXCEPTIONS AND RESERVATIONS

1. There are excepted and reserved out of this Lease to the Lessors and the Company and the Tenants and occupiers for the time being of the other flats comprised in the building and all others now or hereafter during the said term entitled thereto:-

(1) Easements rights and privileges over and along through and in respect of the said flat similar in all respects mutatis mutandis to those set forth in paragraphs 2 and 3 of the Second Schedule hereto

(2) Power for the Lessors and the Company and their respective Surveyors and Agents with or without workmen and others at all reasonable times on notice (except in the case of emergency) to enter the said flat for the purposes mentioned in or performing and observing their respective covenants and obligations under this Lease

THE FOURTH SCHEDULE above referred to

(1) To use and occupy the flat only for the period the 7th February to the 7th January in each year only as a holiday dwelling

(2) Not to use the flatlet or permit it to be used for sleeping more than 5 persons or more than such number of persons as may from time to time be permitted

by the Local Authority—

(3) Not to bring or permit to be brought into the flatlet any gun airgun firearm or explosive—

(4) Not to keep or permit to suffer to be kept in the said flat any bird dog or other animal which shall cause annoyance to any other Tenant or after the keeping thereof shall have been objected to by the Landlord and not to keep or permit or suffer to be kept any flower box or window box in the window of or outside the said flat after the same shall have been objected to by the Landlord—

(5) Not to hang out or display or permit to be hung out or displayed any washing garment in any position other than on the clothes dryer approved by the Landlord and in any event not on Saturdays or Sundays with the exception of bathing garments—

(6) Not to use or permit to be used any musical or other instrument causing or producing sound audible to other persons on the Holiday Estate between the hours of 11 p.m. and 2 a.m. and to use the Tenant's best endeavours to ensure that at all times during the term all who use the flatlet conduct themselves with due regard to the comfort and convenience of others—

(7) Not to use the flatlet or permit or suffer the same to be used for any illegal or immoral purpose nor to do or permit or suffer to be done therein anything which may be or become a nuisance annoyance or cause damage or inconvenience to the Landlord or to the other tenants or to the Local Authority—

by the Local Authority

(3) NOT to bring or permit to be brought into the flatlet any gun airgun firearm or explosive

(4) Not to keep or permit to suffer to be kept in the said flat any bird dog or other animal which shall cause annoyance to any other Tenant or after the keeping thereof shall have been objected to by the Landlord and not to keep or permit or suffer to be kept any flower box or window box in the window of or outside the said flat after the same shall have been objected to by the Landlord

(5) NOT to hang out or display or permit to be hung out or displayed any washing garment in any position other than on the clothes dryer approved by the Landlord and in any event not on Saturdays or Sundays with the exception of bathing garments

(6) Not to use or permit to be used any musical or other instrument causing or producing sound audible to other persons on the Holiday Estate between the hours of 11 p.m. and 9 a.m. and to use the Tenant's best endeavours to ensure that at all times during the term all who use the flatlet conduct themselves with due regard to the comfort and convenience of others

(7) NOT to use the flatlet or permit or suffer the same to be used for any illegal or immoral purpose nor to do or permit or suffer to be done therein anything which may be or become a nuisance annoyance or cause damage or inconvenience to the Landlord or to the other tenants or to the Local Authority

(8) Not to affix or exhibit or permit to be affixed or exhibited to or upon any part of the flatlet any placard poster or sign or any notice or other advertisement—

(9) Not to place maintain or store or permit to be placed maintained or stored in the flatlet any dangerous noxious or inflammable fluid or substance—

(10) Not to park vehicles and boats except in the car park provided and then only for the duration of the Tenant's stay at the flatlet—

(11) To permit the Landlord or its Agents to enter the flatlet with a master key to empty meters or in case of emergency—

(12) Not to erect on any part of the outside of the said flat any television or radio aerial—

THE FIFTH SCHEDULE above referred to

1. Subject to the due performance by the Lessee of his obligations to contribute to the maintenance charges as herein provided the Company will during the said term—

(1) Whenever reasonably necessary maintain repair redecorate and renew—

(a) The external walls and structure and in particular the roof gutters and rainwater pipes of the Building—

(b) The gas and water pipes sewers drains vent pipes and electric cables and wires in and upon the Building and enjoyed or used by the Tenant in common with the Lessees of other flats in the Building—

(c) The main entrances common passages landings and staircases and other parts of the Building to be enjoyed or used by the Tenant in common with the Lessees of other flats—

(2) So far as practicable keep clean and reasonably lighted the main entrances common passages landings staircases and other parts of the Building so enjoyed or used by the Tenant in common as aforesaid and will so far as practicable keep the communal parts of the Lessors' land tidy and well cared for—

(3) When occasion shall require decorate the external parts of the Building and in particular will paint the external parts of the Building usually painted with two coats of good paint in a proper and workmanlike manner at least once in every five years or such other period as in the opinion of the Company's Surveyors for the time being shall be necessary—

(4) Unless such insurance shall be vitiated by any act or default of the Tenant or of the Tenant or occupier of any other flat in the Building to keep insured or procure to be kept insured the Building on a comprehensive basis including loss or damage by fire and such other risks (if any) as the Company think fit with such well-established insurance company or underwriters of repute as the Lessors may from time to time prescribe in the full replacement value thereof or such greater sum as the Company shall from time to time think fit and whenever required (but not more than once in any year) produce to the Tenant the policy or policies of such insurance or copies thereof and the receipt for the last premium for the same and will in the event of the Building or any part thereof being damaged or destroyed by fire or other insured risk as soon as reasonably practicable apply the insurance moneys payable in respect thereof in the repair and rebuilding

or reinstatement of the Building

(5) Keep insured or procure to be kept insured with such well-established insurance company or underwriters of repute as the Lessors may from time to time prescribe the Lessors the Company and the Tenant against all third party claims resulting from the use of the common parts of the Building and every other building and outbuilding on the Lessors' land by the Tenant his friends servants and employees and other Tenant or person whomsoever

(6) Install and maintain and replace such fire extinguishers as the Company may from time to time consider necessary and pay all charges in connection therewith

(7) Without prejudice to the foregoing do or cause to be done all such works installations acts matters and things as in the discretion of the Company shall be deemed necessary or advisable for the proper maintenance safety and administration of the Building

SIGNED SEALED and DELIVERED)
by the said ARTHUR EDWARD)
COOPER in the presence of:)

B. Hayward
99 High Street
London
Wander 529

A. E. Cooper

SIGNED SEALED and DELIVERED)
by the said ELLA MARY)
COOPER in the presence of:)

B. Hayward
99 High Street
London
Wander 529

E. M. Cooper

Dated 9th December 1975

MADDIESON'S HOLIDAYS LTD.,

- and -

ROMNEY BAY ESTATE (1973)
LIMITED

- and -

A.E. AND E.M. COOPER

/Counterpart

LEASE

of ALL THAT suite of rooms
known as flatlet No. 1
La Rocco situate at
Littlestone Holiday Centre,
Littlestone, in the County
of Kent

ROOTES & ALLIOTT
FOLKESTONE, KENT

ANNEX C

Section 35 of the Landlord and Tenant Act 1987

35 Application by party to lease for variation of lease.

(1) Any party to a long lease of a flat may make an application to the court for an order varying the lease in such manner as is specified in the application.

(2) The grounds on which any such application may be made are that the lease fails to make satisfactory provision with respect to one or more of the following matters, namely—

(a) the repair or maintenance of—

(i) the flat in question, or

(ii) the building containing the flat, or

(iii) any land or building which is let to the tenant under the lease or in respect of which rights are conferred on him under it;

(b) the insurance of the building containing the flat or of any such land or building as is mentioned in paragraph (a)(iii);

(c) the repair or maintenance of any installations (whether they are in the same building as the flat or not) which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation;

(d) the provision or maintenance of any services which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation (whether they are services connected with any such installations or not, and whether they are services provided for the benefit of those occupiers or services provided for the benefit of the occupiers of a number of flats including that flat);

(e) the recovery by one party to the lease from another party to it of expenditure incurred or to be incurred by him, or on his behalf, for the benefit of that other party or of a number of persons who include that other party;

(f) the computation of a service charge payable under the lease.

(g) such other matters as may be prescribed by regulations made by the Secretary of State.

(3) For the purposes of subsection (2)(c) and (d) the factors for determining, in relation to the occupiers of a flat, what is a reasonable standard of accommodation may include—

(a) factors relating to the safety and security of the flat and its occupiers and of any common parts of the building containing the flat; and

(b) other factors relating to the condition of any such common parts.

(3A) For the purposes of subsection (2)(e) the factors for determining, in relation to a service charge payable under a lease, whether the lease makes satisfactory provision include whether it makes provision for an amount to be payable (by way of interest or otherwise) in respect of a failure to pay the service charge by the due date.

(4) For the purposes of subsection (2)(f) a lease fails to make satisfactory provision with respect to the computation of a service charge payable under it if—

(a) it provides for any such charge to be a proportion of expenditure incurred, or to be incurred, by or on behalf of the landlord or a superior landlord; and

(b) other tenants of the landlord are also liable under their leases to pay by way of service charges proportions of any such expenditure; and

(c) the aggregate of the amounts that would, in any particular case, be payable by reference to the proportions referred to in paragraphs (a) and (b) would either exceed or be less than the whole of any such expenditure.

(5) Rules of court shall make provision—

(a) for requiring notice of any application under this Part to be served by the person making the application, and by any respondent to the application, on any person who the applicant, or (as the case may be) the respondent, knows or has reason to believe is likely to be affected by any variation specified in the application, and

(b) for enabling persons served with any such notice to be joined as parties to the proceedings.

(6) For the purposes of this Part a long lease shall not be regarded as a long lease of a flat if—

(a) the demised premises consist of or include three or more flats contained in the same building; or

(b) the lease constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.

(8) In this section “service charge” has the meaning given by section 18(1) of the 1985 Act.

38

Orders by the court varying leases.

(1)

If, on an application under section 35, the grounds on which the application was made are established to the satisfaction of the court, the court may (subject to subsections (6) and (7)) make an order varying the lease specified in the application in such manner as is specified in the order.

(2)

If—

(a)

an application under section 36 was made in connection with that application, and

(b)

the grounds set out in subsection (3) of that section are established to the satisfaction of the court with respect to the leases specified in the application under section 36,

the court may (subject to subsections (6) and (7)) also make an order varying each of those leases in such manner as is specified in the order.

(3)

If, on an application under section 37, the grounds set out in subsection (3) of that section are established to the satisfaction of the court with respect to the leases specified in the application, the court may (subject to subsections (6) and (7)) make an order varying each of those leases in such manner as is specified in the order.

.

(4)

The variation specified in an order under subsection (1) or (2) may be either the variation specified in the relevant application under section 35 or 36 or such other variation as the court thinks fit.

.

(5)

If the grounds referred to in subsection (2) or (3) (as the case may be) are established to the satisfaction of the court with respect to some but not all of the leases specified in the application, the power to make an order under that subsection shall extend to those leases only.

.

(6)

The court shall not make an order under this section effecting any variation of a lease if it appears to the court—

.

(a)

that the variation would be likely substantially to prejudice—

.

(i)

any respondent to the application, or

.

(ii)

any person who is not a party to the application,

.

and that an award under subsection (10) would not afford him adequate compensation, or

(b)

that for any other reason it would not be reasonable in the circumstances for the variation to be effected.

.

(7)

The court shall not, on an application relating to the provision to be made by a lease with respect to insurance, make an order under this section effecting any variation of the lease—

.

(a)

which terminates any existing right of the landlord under its terms to nominate an insurer for insurance purposes; or

.

(b)

which requires the landlord to nominate a number of insurers from which the tenant would be entitled to select an insurer for those purposes; or

.

(c)

which, in a case where the lease requires the tenant to effect insurance with a specified insurer, requires the tenant to effect insurance otherwise than with another specified insurer.

.

(8)

The court may, instead of making an order varying a lease in such manner as is specified in the order, make an order directing the parties to the lease to vary it in such manner as is so specified; and accordingly any reference in this Part (however expressed) to an order which effects any variation of a lease or to any variation effected by an order shall include a reference to an order which directs the parties to a lease to effect a variation of it or (as the case may be) a reference to any variation effected in pursuance of such an order.

.

(9)

The court may by order direct that a memorandum of any variation of a lease effected by an order under this section shall be endorsed on such documents as are specified in the order.

.

(10)

Where the court makes an order under this section varying a lease the court may, if it thinks fit, make an order providing for any party to the lease to pay, to any other party to the lease or to any other person, compensation in respect of any loss or disadvantage that the court considers he is likely to suffer as a result of the variation

IN THE FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
RESIDENTIAL PROPERTY

Reference No: CHI/29UL/LVL/2014/0005

IN THE MATTER OF AN APPLICATION FOR VARIATION OF LEASES MADE
PURSUANT TO SECTION 35 OF THE LANDLORD AND TENANT ACT 1987

BETWEEN:

PARK RESORTS LIMITED

Applicant

– and –

LEASEHOLDERS OF ROMNEY SANDS HOLIDAY PARK

Respondents

ORDER

Upon considering the Applicant's application to vary 32 leases pursuant to s. 35 of the Landlord and Tenant Act 1987.

IT IS ORDERED THAT

Lease of Flat 1, La Rocco dated 09/12/1975 (Title no. K437677)

Lease of Flat 2, La Rocco dated 11/12/1973 (Title no. K409307)

Lease of Flat 3, La Rocco dated 08/04/1974 (Title no. K413852)

Lease of Flat 6, La Rocco dated 09/01/1976 (Title no. K438344)

Lease of Flat 8, La Rocco dated 17/04/1974 (Title no. K414165)

Lease of Flat 9, La Rocco dated 03/04/1974 (Title no. K413155)

Lease of Flat 10, La Rocco dated 07/02/1974 (Title no. K790314)

Lease of Flat 11, La Rocco dated 14/01/1974 (Title no. K412049)

Lease of Flat 12, La Rocco dated 17/12/1973 (Title no. K410573)

Lease of Flat 15, La Rocco dated 12/09/1974 (Title no. K419330)

Lease of Flat 17, La Rocco dated 31/05/1974 (Title no. K415409)
Lease of Flat 18, La Rocco dated 31/05/1974 (Title no. K415410)
Lease of Flat 19, La Rocco dated 12/03/1974 (Title no. K412923)
Lease of Flat 20, La Rocco dated 31/12/1973 (Title no. K617962)
Lease of Flat 22, La Rocco dated 04/04/1973 (Title no. K413595)
Lease of Flat 23, La Rocco dated 05/06/1974 (Title no. K415833)
Lease of Flat 24, La Rocco dated 07/06/1973 (Title no. K416335)
Lease of Flat 8, La Galamina dated 25/11/1975 (Title no. K437580)
Lease of Flat 10, La Galamina dated 04/11/1975 (Title no. K435916)
Lease of Flat 11, La Galamina dated 26/02/1976 (Title no. K440738)
Lease of Flat 12, La Galamina dated 05/02/1976 (Title no. K439318)
Lease of Flat 15, La Galamina dated 02/01/1976 (Title no. K437793)
Lease of Flat 18, La Galamina dated 09/08/1974 (Title no. K766613)

all located at Romney Sands Holiday Village, Greatstone, Kent is each hereby varied as follows:

1 Deletion of provisions from the lease

- 1.1 The words “Romney Bay Estate (1973) Limited whose registered office is at 6 South Quay Great Yarmouth Norfolk (hereinafter called “the Company”) of the third part” shall be deleted from the first paragraph of the lease.
- 1.2 The words “and Company” shall be deleted from:
 - 1.2.1 Sub-clause 2(b).
- 1.3 The words “and the Company” shall be deleted from:
 - 1.3.1 The opening words of Clause 3 (excluding for the avoidance of doubt the sub-clauses of Clause 3);
 - 1.3.2 The opening words of Paragraph 1 of the Third Schedule and Sub-paragraph 1(2) of the Third Schedule.

1.4 The words “the Company” shall be deleted from:

1.4.1 Sub-paragraph 1(5) of the Fifth Schedule.

1.5 Sub-clause 4(b) (which commences with the words “That the Landlord will allow the Company and the persons authorised by the Company to have such access...”) shall be deleted in its entirety.

1.6 Paragraph 4 of the Fifth Schedule shall be deleted and replaced with the following:

“(4)

(a) Pay to the Superior Landlord the Insurance Rent (as defined by the superior lease dated 28 May 1999 made between (1) The Scottish American Investment Company Plc (2) Leisure Great Britain Plc and (3) Queensborough Holdings Plc (“the Superior Lease”)) or any similar sums in respect of insurance of the Landlord’s property (as demised by the Superior Lease) payable to any party with an interest in reversion to the Landlord’s interest and to use reasonable endeavours to procure that the landlord to the Superior Lease complies with its obligations in clause 6 of the Superior Lease;
or

(b) In the event that the Superior Lease ceases to exist and no renewal lease or similar lease is put in place so that the responsibility for insurance of the building rests with the Landlord unless such insurance shall be vitiated by any act or default of the Tenant or of the Tenant or occupier of any other flat in the Building to keep insured or procure to be kept insured the Building on a comprehensive basis including loss or damage by fire or such other risks (if any) as the Landlord thinks fit with such well established insurance company or underwriters of repute as the Landlord may from time to time prescribe in the full replacement value thereof or such greater sum as the Landlord shall from time to time think fit and whenever required (but not more than once in any year) produce to the Tenant the policy or policies of such insurance or copies thereof and the receipt for the last premium for the same and will in the event of the Building or any part thereof being damaged or destroyed by fire or other insured risk as soon as reasonably practicable apply the insurance moneys payable in respect thereof in the repair rebuilding or reinstatement of the Building;”

2 Replacement of “the Company” with “the Landlord” in the lease

2.1 Each occurrence of the words “the Company” shall be deleted and replaced with the words “the Landlord” in the following provisions of the lease:

2.1.1 Recital (3) and Recital (5);

2.1.2 Sub-clause 2(h);

2.1.3 Sub-clause 3(a);

2.1.4 Sub-clause 3(d);

2.1.5 Sub-clause 3(e);

2.1.6 Clause 5;

2.1.7 The opening words of Paragraph 1 of the Fifth Schedule and Sub-paragraphs 1(3), 1(6) and 1(7) of the Fifth Schedule.

3 Other amendments to the lease

3.1 Sub-clause 3(f) shall be amended to read as follows:

“(f) Permit the Landlord and its Surveyors and Agents with or without workmen and others at all reasonable times during the said term to enter upon and examine the condition of the said flat and thereupon the Landlord may serve upon the Tenant notice in writing specifying the repairs necessary to be done and for which the Tenant is liable under his covenants hereinbefore contained and requiring the Tenant forthwith to execute the same and if the Tenant shall not within six weeks after the service of such notice commence and proceed diligently with the execution of such works then to permit the Landlord and its agents to enter upon the said flat and execute such repairs and the cost thereof and of the preparation and service of the said notice shall be a debt immediately due from the Tenant to the Landlord and be forthwith recoverable”

3.2 The opening words of Sub-clause 3(g) shall be amended to read as follows:

“(g) To permit the Landlord and its Surveyors and agents with or without workmen...”

3.3 Sub-clause 3(d) shall be amended to read as follows:

“(d) Pay to the Landlord from time to time on demand as a contribution towards the costs charges expenses and management fees from time to time previously spent and incurred by the Landlord in carrying out its obligations under the Fifth Schedule hereto (Hereinafter called “the maintenance charges”) the part of the maintenance charges apportioned in respect of the said flat (which shall be in the entire discretion of the Landlord) but in the event of any dispute as to the amount of any sum payable by the Tenant under this clause the certificate of the auditors for the time being of the Landlord shall be conclusive and binding on all parties”

AND IT IS ORDERED THAT

Lease of Flat 5, La Rocco dated 01/01/1977 (Title no. K652767)

Lease of Flat 7, La Rocco dated 15/04/1976 (Title no. K441770)

Lease of Flat 21, La Rocco dated 28/05/1976 (Title no. K443106)

Lease of Flat 7, La Galamina dated 26/03/1976 (Title no. K440823)

Lease of Flat 9, La Galamina dated 23/02/1976 (Title no. K440191)

Lease of Flat 16, La Galamina dated 21/01/1976 (Title no. K438920)

Lease of Flat 17, La Galamina dated 08/07/1976 (Title no. K445963)

all located at Romney Sands Holiday Village, Greatstone, Kent is each hereby varied as follows:

4 Deletion of provisions from the lease

4.1 The words “Romney Bay Estate (1973) Limited whose registered office is at 6 South Quay Great Yarmouth Norfolk (hereinafter called “the Company”) of the third part” shall be deleted from the first paragraph of the lease.

4.2 The words “and Company” shall be deleted from:

4.2.1 Sub-clause 2(b).

4.3 The words “and the Company” shall be deleted from:

4.3.1 The opening words of Clause 3 (excluding for the avoidance of doubt the sub-clauses of Clause 3);

4.3.2 The opening words of Paragraph 1 of the Third Schedule and Sub-paragraph 1(2) of the Third Schedule.

4.4 The words “the Company” shall be deleted from:

4.4.1 Sub-paragraph 1(5) of the Fifth Schedule.

4.5 Sub-clause 4(c) (which commences with the words “That the Landlord will allow the Company and the persons authorised by the Company to have such access...”) shall be deleted in its entirety.

4.6 Paragraph 4 of the Fifth Schedule shall be deleted and replaced with the following:

“(4)

(a) Pay to the Superior Landlord the Insurance Rent (as defined by the superior lease dated 28 May 1999 made between (1) The Scottish American Investment Company Plc (2) Leisure Great Britain Plc and (3) Queensborough Holdings Plc (“the Superior Lease”)) or any similar sums in respect of insurance of the Landlord’s property (as demised by the Superior Lease) payable to any party with an interest in reversion to the Landlord’s interest and to use reasonable endeavours to procure that the landlord to the Superior Lease complies with its obligations in clause 6 of the Superior Lease;
or

(b) In the event that the Superior Lease ceases to exist and no renewal lease or similar lease is put in place so that the responsibility for insurance of the building rests with the Landlord unless such insurance shall be vitiated by any act or default of the Tenant or of the Tenant or occupier of any other flat in the Building to keep insured or procure to be kept insured the Building on a comprehensive basis including loss or damage by fire or such other risks (if any) as the Landlord thinks fit with such well established insurance company or underwriters of repute as the Landlord may from time to time prescribe in the full replacement value thereof or such greater sum as the Landlord shall from time to time think fit and whenever required (but not more than once in any year) produce to the Tenant the policy or policies of such insurance or copies thereof and the receipt for the last premium for the same and will in the event of the Building or any part thereof being damaged or destroyed by fire or other insured risk as soon as reasonably practicable apply the insurance moneys payable in respect thereof in the repair rebuilding or reinstatement of the Building;”

5 Replacement of “the Company” with “the Landlord” in the lease

5.1 Each occurrence of the words “the Company” shall be deleted and replaced with the words “the Landlord” in the following provisions of the lease:

5.1.1 Recital (3) and recital (5);

5.1.2 Sub-clause 2(h);

5.1.3 Sub-clause 3(a);

5.1.4 Sub-clause 3(d);

5.1.5 Sub-clause 3(e);

5.1.6 Clause 5;

5.1.7 The opening words of Paragraph 1 of the Fifth Schedule and Sub-paragraphs 1(3), 1(6) and 1(7) of the Fifth Schedule.

6 Other amendments to the lease

6.1 Sub-clause 3(f) shall be amended to read as follows:

“(f) Permit the Landlord and its Surveyors and Agents with or without workmen and others at all reasonable times during the said term to enter upon and examine the condition of the said flat and thereupon the Landlord may serve upon the Tenant notice in writing specifying the repairs necessary to be done and for which the Tenant is liable under his covenants hereinbefore contained and requiring the Tenant forthwith to execute the same and if the Tenant shall not within six weeks after the service of such notice commence and proceed diligently with the execution of such works then to permit the Landlord and its agents to enter upon the said flat and execute such repairs and the cost thereof and of the preparation and service of the said notice shall be a debt immediately due from the Tenant to the Landlord and be forthwith recoverable”

6.2 The opening words of Sub-clause 3(g) shall be amended to read as follows:

“(g) To permit the Landlord and its Surveyors and agents with or without workmen...”

6.3 Sub-clause 3(d) shall be amended to read as follows:

“(d) Pay to the Landlord from time to time on demand as a contribution towards the costs charges expenses and management fees from time to time previously spent and incurred by the Landlord in carrying out its obligations under the Fifth Schedule hereto (Hereinafter called “the maintenance charges”) the part of the maintenance charges apportioned in respect of the said flat (which shall be in the entire discretion of the Landlord) but in the event of any dispute as to the amount of any sum payable by the Tenant under this clause the certificate of the auditors for the time being of the Landlord shall be conclusive and binding on all parties”

AND IT IS ORDERED THAT

Lease of Flat 24, La Tausco dated 08/02/1980 (Title no. K508293)

Lease of Flat 26, La Tausco dated 07/01/1980 (Title no. K498365)

both located at Romney Sands Holiday Village, Greatstone, Kent is each hereby varied as follows:

7 Deletion of provisions

7.1 The words “Romney Bay Estate (1973) Limited whose registered office is at Holcam House New Lane Lydd aforesaid (hereinafter called “the Company”) of the second part” shall be deleted from the first paragraph of the lease

7.2 The words “and Company” shall be deleted from:

7.2.1 Sub-clause 2(b).

7.3 The words “and the Company” shall be deleted from:

7.3.1 The opening words of Clause 3 (excluding for the avoidance of doubt the sub-clauses of Clause 3);

7.3.2 The opening words of Paragraph 1 of the Third Schedule and Sub-paragraph 1(2) of the Third Schedule.

7.4 The words “the Company” shall be deleted from:

7.4.1 Sub-paragraph 1(5) of the Fifth Schedule.

7.5 Sub-clause 4(b) (which commences with the words “That the Landlord will allow the Company and the persons authorised by the Company to have such access...”) shall be deleted in its entirety.

7.6 Paragraph 4 of the Fifth Schedule shall be deleted and replaced with the following:

“(4)

(a) Pay to the Superior Landlord the Insurance Rent (as defined by the superior lease dated 28 May 1999 made between (1) The Scottish American Investment Company Plc (2) Leisure Great Britain Plc and (3) Queensborough Holdings Plc (“the Superior Lease”)) or any similar sums in respect of insurance of the Landlord’s property (as demised by the Superior Lease) payable to any party with an interest in reversion to

the Landlord's interest and to use reasonable endeavours to procure that the landlord to the Superior Lease complies with its obligations in clause 6 of the Superior Lease; or

(b) In the event that the Superior Lease ceases to exist and no renewal lease or similar lease is put in place so that the responsibility for insurance of the building rests with the Landlord unless such insurance shall be vitiated by any act or default of the Tenant or of the Tenant or occupier of any other flat in the Building to keep insured or procure to be kept insured the Building on a comprehensive basis including loss or damage by fire or such other risks (if any) as the Landlord thinks fit with such well established insurance company or underwriters of repute as the Landlord may from time to time prescribe in the full replacement value thereof or such greater sum as the Landlord shall from time to time think fit and whenever required (but not more than once in any year) produce to the Tenant the policy or policies of such insurance or copies thereof and the receipt for the last premium for the same and will in the event of the Building or any part thereof being damaged or destroyed by fire or other insured risk as soon as reasonably practicable apply the insurance moneys payable in respect thereof in the repair rebuilding or reinstatement of the Building;"

8 Replacement of "the Company" with "the Landlord" in the lease

8.1 Each occurrence of the words "the Company" shall be deleted and replaced with the words "the Landlord" in the following provisions of the lease:

8.1.1 Recital (3) and recital (5);

8.1.2 Sub-clause 2(h);

8.1.3 Sub-clause 3(a);

8.1.4 Sub-clause 3(d);

8.1.5 Sub-clause 3(e);

8.1.6 Clause 5;

8.1.7 The opening words of Paragraph 1 of the Fifth Schedule and Sub-paragraphs 1(3), 1(6) and 1(7) of the Fifth Schedule.

9 Other amendments to the lease

9.1 Sub-clause 3(f) shall be amended to read as follows:

“(f) Permit the Landlord and its Surveyors and Agents with or without workmen and others at all reasonable times during the said term to enter upon and examine the condition of the said flat and thereupon the Landlord may serve upon the Tenant notice in writing specifying the repairs necessary to be done and for which the Tenant is liable under his covenants hereinbefore contained and requiring the Tenant forthwith to execute the same and if the Tenant shall not within six weeks after the service of such notice commence and proceed diligently with the execution of such works then to permit the Landlord and its agents to enter upon the said flat and execute such repairs and the cost thereof and of the preparation and service of the said notice shall be a debt immediately due from the Tenant to the Landlord and be forthwith recoverable”

9.2 The opening words of Sub-clause 3(g) shall be amended to read as follows:

“(g) To permit the Landlord and its Surveyors and agents with or without workmen...”

9.3 Sub-clause 3(d) shall be amended to read as follows:

“(d) Pay to the Landlord from time to time on demand as a contribution towards the costs charges expenses and management fees from time to time previously spent and incurred by the Landlord in carrying out its obligations under the Fifth Schedule hereto (hereinafter called “the maintenance charges”) the part of the maintenance charges apportioned in respect of the said flat (which shall be in the entire discretion of the Landlord) but in the event of any dispute as to the amount of any sum payable by the Tenant under this clause the certificate of the auditors for the time being of the Landlord shall be conclusive and binding on all parties”