SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00MR/LSC/2007/0086

REASONS

Application : Sections 27A and 20C of the Landlord and Tenant Act 1985 as amended ("the 1985 Act")

Applicant/Leaseholders : Miss Kerry McDermott, First Floor Flat, and Mr Chris Keegan, Basement Flat, and Mr Daniel O'Hara, Second Floor Flat

Respondent/Landlord : Property Proprietors Limited

Building : 27 Salisbury Road, Southsea, PO4 9QY

Flats : The residential Flats in the Building, including the Premises

Premises : First Floor Flat, Basement Flat, and Second Floor Flat

Date of Application : 3 September 2007

Dates of Directions : 18 September 2007

Dates of Hearing : 12 December 2007 and 23 January 2008

Venue : First Floor, 1 Market Avenue, Chichester

Appearances for Applicant/Leaseholders : Miss McDermott, Mr Keegan, and (12 December 2007 only) Mr O'Hara

Appearances for Respondent/Landlord : Mr N Faulkner BSc FRICS and Ms R Drew, Labyrinth Properties Ltd, Mr M Belcher BSc, Daniells Harrison, and Mr P Gooch of the Respondent/Landlord

Members of the Tribunal : Mr P R Boardman JP MA LLB (Chairman), Mr A J Mellery-Pratt FRICS, and Mr D Lintott FRICS

Date of Tribunal's Reasons : 20 March 2008

Introduction

1. This application by the Applicant/Leaseholders comprises :
    a. an application under Section 27A(1) of the 1985 Act for the Tribunal to determine the payability of service charge demands for the year 2007
    b. an application under section 20C of the 1985 Act for an order that the costs incurred by the Respondent/Landlord are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicant/Leaseholders

2. On the 30 October 2006 the Tribunal had made a previous determination (case number CHI/00MR/LSC/2006/0068) that it had no jurisdiction to decide a previous application because no demand for payment had been made, and the amount of any future service charge had not been ascertainable

Documents

3. The documents before the Tribunal are :
    a. the application and other documents in the Tribunal's bundle
    b. the Applicant/Leaseholders' bundle
    c. the Respondent/Landlord's bundle
    d. further documents submitted by Mr Faulkner on the first day of the hearing :
        - contract instruction Daniells Harrison 14 March 2007
        - invoice Daniells Harrison 23 March 2007
        - invoice Portsmouth City Council 28 March 2007
        - specification with tender sum and final account figures Daniells Harrison

Expressions used in these reasons

4. The following expressions in these reasons have the following meanings :
    a. A1, A2 and so on : document numbers in the Applicant/Leaseholders's bundle
    b. R1, R2 and so on : page numbers in the Respondent/Landlord's bundle
    c. Appendix : one of the appendices to these reasons

Inspection

5. A description of the Building (as it then was) is at paragraph 6 of the Tribunal's previous determination

6. There are helpful photographs of the Building (as it then was) in Appendix 3 of a report dated the 24 January 2007 by Rund Partnership Ltd (A71)

7. The Tribunal inspected the exterior of the Building on the 12 December 2007. The fire escape referred to at paragraph 6.2 of the Tribunal's previous determination, and shown in the photographs at A71, had been removed. The boundary wall on the eastern side (the right-hand side, looking from the road) had been lowered

8. The Tribunal briefly inspected the interior of the Building. In Miss McDermott's Flat there was a crack above the lounge door, and some cracks in the corners in the hall. There were no visible cracks in the bathroom, which was on the eastern elevation. In Mr O'Hara's Flat there were no visible cracks in the bathroom on the eastern elevation, although Mr O'Hara said that there used to be a crack but it was now behind the tiles. There was some visible evidence of damp on the ceilings of the kitchen and sitting room

The Leases

9. Copies of the Leases of the Premises, and of the Deed of Variation in relation to the Second Floor Flat, are at pages 9 to 75 of the Tribunal's bundle. The parties agreed at the hearing that the Leases were in materially similar terms

10. For the purposes of these proceedings the material parts of each Lease are as follows :

Clause 2 : Tenant's covenants

(S) *to pay.....such sums of Service Charge as are payable in accordance with the provisions of the Sixth Schedule.....*

Clause 3 : Lessors' covenants

(D) *.....the Lessors will maintain and keep in good and substantial repair and condition:*
(i) the main structure of the Building including.....the external.....walls
(ii).....
(iii) the .....fire escape

Fourth Schedule : Costs expenses outgoings and matters in respect of which the Tenant is to contribute

1 *All costs and expenses incurred by the Lessors .....under subclauses.....(D) of clause 3 of this Lease*

2 .....

3. *All charges and outgoings.....payable by the Lessors in respect of all parts of the Building*

4. *The fees of the Lessor's managing Agents.....for the general management of the Building.....*

5. *All charges and other outgoings payable by the Lessors in respect of repair and service charges incurred in connection with the alarm system and the emergency lighting system in the Building*

Sixth Schedule

1 (A) *"Expenditure on Services" means the expenditure of the Lessors in complying with their obligations set out in the Fourth Schedule including interest paid on any money borrowed for that purpose*

(B) *"Service Charge" means one quarter part of the Expenditure on Services*

(C) *"Interim Service Charge Instalment" means a payment on account of Service Charge of [£100] a year*

(D) *"Service Charge Statement" means an itemised statement of.....the Expenditure on Services for a year ending on the [31] December*

2 .....

3 *On the [1] January in every year the Tenant shall pay to the [Lessors] the Interim Service Charge Instalment*

4 *Forthwith upon service upon him of a Service Charge Statement the Tenant shall pay the Lessors any [balance due]*

Preliminary points

11. The parties agreed at the hearing on the 12 December 2007 that :
    a. the Respondent was Property Proprietors Limited, not Mr Gooch personally, despite the reference to him in the application
    b. there was no issue before the Tribunal about the choice of insurer, despite the reference in that respect in the application

12. The issues before the Tribunal were the question of the Respondent/Landlord's costs of these proceedings for the purposes of section 20C of the 1985 Act, and the payability by way of service charge of the following sums referred to in a letter from Labyrinth Properties Ltd dated the 27 April 2007 (AEX89) :

Portsmouth City Council	£883.60
Daniells Harrison	£2,937.50
Hurst Brothers Ltd	£25,277.77
	£29,098.87

13. In that letter the Applicant/Leaseholders' shares of Service Charge were stated to be £7,274.71 each

14. In a letter to each of the Applicant/Leaseholders from Labyrinth Properties Ltd dated the 31 August 2007 (AEX91) it was stated that each of the Applicant/Leaseholders service charge accounts were in arrears in that sum, that they were in breach of their covenants by failing to make payment when demanded, and that if the accounts were not paid in 14 days further action might be taken, incurring costs which would be added to their accounts

15. However, at the hearing on the 12 December 2007 :
    a. Mr Faulkner conceded on behalf of the Respondent/Landlord that the sums demanded could not be payable under the service charge provisions in the Leases until service of a service charge statement after the 31 December in that respect under paragraphs 1(D) and 4 of the sixth schedule
    b. the parties agreed that the Tribunal should nevertheless treat the Applicant/Leaseholders' application as an application under section 27A(3) of the 1985 Act, namely an application for a determination whether, if the costs referred to were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs

Authorities

16. The Tribunal has taken full account of the decision in **Loria v Hammer** [1989] 2 EGLR 249 Chancery Division

17. In the Lands Tribunal decision in **Continental Property Ventures Inc v Jeremy White** LRX/60/2005 heard on the 10 February 2006 (A1), the LVT had decided that the works to a flat costing £17,114.15 had been made necessary because the landlord had neglected to carry out repairs to a leaking pipe within a reasonable time; that, if the landlord had complied with its repairing covenant, the cost would have been only £3,525; and that that was the only sum which had been reasonably incurred

18. The Lands Tribunal decided that :
    a. breach of a landlord's covenant to repair would give rise to a claim in damages
    b. if the breach results in further disrepair imposing a liability on the lessee to pay service charge, that is part of what may be claimed by way of damages
    c. at least to that extent it would give rise to an equitable set-off, and, as such, constitute a defence
    d. it would not mean that the costs of remedying the further disrepair were not reasonably incurred, but would mean that there was a defence to their recovery
    e. the LVT's decision, that the costs were not payable under section 27A of the 1985 Act, was correct, but not because the costs had not been reasonably incurred
    f. so far as the LVT's jurisdiction to determine such claims for damages is concerned,
        - the LVT has jurisdiction to determine whether a service charge is payable
        - the fact that the costs have been unreasonably incurred is only one reason why it might not be payable
        - the LVT has jurisdiction to determine claims for damages for breach of covenant only in so far as they constitute a defence to a service charge in respect of which the LVT's jurisdiction under section 27A of the 1985 Act has been invoked
        - where the LVT holds jurisdiction concurrently with the County Court, the LVT may, as a matter of discretion, think it inappropriate to exercise its jurisdiction, at least where one party asks it not to do so

Statement by Applicant/Leaseholders and documents in the Applicant/Leaseholders' bundle

19. The Applicant/Leaseholders stated that the Respondent/Landlord had failed to comply with the Respondent/Landlord's repairing covenant in the past, which had resulted in further disrepair. The failure to place "one stitch" in time did not mean that the cost of the resulting "nine stitches" was unreasonably incurred, but did mean that Applicant/Leaseholders had a defence if the Respondent/Landlord sought to include the cost of the "nine stitches" by way of service charge

20. There was a history of past neglect by the Respondent/Landlord

21. The property was suffering from wall-tie corrosion as early as the late 1980's. On the 19 February 1992 Re-Tie produced a report (A4). 340 new stainless-steel ties were inserted in the front and rear walls, with the work being finished on the 5 January 1993 at a cost of £2,291.25 (A4). A Wall Tie Installers Federation 25 –year guarantee certificate was issued on the 5 January 1993 (A4) and sent to the then managing agents, Millers

22. On the 18 March 1996 Paul Hymers estimated the cost of repairs to and painting the fire escape as £780 and £230 plus VAT, and the cost of renewing wooden treads to lower wooden stairs and painting as £83 plus VAT (A9)

23. In a report to Millers dated the 20 September 1996, Re-Tie stated that there was wall-tie failure in the eastern side wall (A6). On the 18 March 1997 Vollers carried out the works at a cost of £893 and gave a 25-year guarantee (A5, A6)

24. On the 9 March 1999 Millers stated (A10) that :
    a. the fire escape had been repaired in 1996
    b. current fire safety regulations were not retrospective, that the Building complied with the requirements pertaining at the time, and that they were still valid

25. On the **26 March 1999 Stone Associates reported** to Millers (A7) that on the east flank elevation the outer leaf of brickwork near the roof was buckled and disturbed over an area of about 2sqm, that there was a vertical 2mm-wide crack about 900mm long where the fire-escape was attached to the wall at first-floor level, and that there was bulging and disturbed brickwork round the bearing end of the fire-escape. They also reported brickwork cracking and disturbance on the south and north elevations, including bulging probably caused by roof thrust on the north elevation (paragraph 8.06 of the report). They recommended repairs, and, although they saw no evidence of wall-tie corrosion, recommended a report by a wall-tie specialist in view of the age and location of the Building

26. On the 30 March 1999 Millers stated that the structural engineer's report had made it clear that no subsidence or other movement was present and that the cracks had been caused by "rusting steelwork etc", and that they were arranging a quote (A11)

27. On the 8 May 1999 Millers stated (A8) that :
    a. they had instructed a contractor to effect an immediate temporary repair where a tread

had broken during the survey, and that they had authorised a permanent repair which was to be completed within the month

b. that the fire escape had been repaired in 1996, that all work deemed necessary at that time had been completed, that they had asked the contractor to inspect and report on the whole fire escape, but that total replacement would be prohibitively expensive

c. that they had written to the guarantors regarding the wall-ties, that they had denied liability, but that they had agreed to re-inspect

28. On the 11 May 1999 Paul Hymers estimated the cost of repairs to the south elevation (£540 plus VAT), east flank elevation (£1,090 plus VAT), rear north elevation (£170 plus VAT) and roof (£440 plus VAT). The proposed works to the east elevation were repairing cracked first-floor brickwork, repairing about 2sqm of brickwork to south-east corner adjacent to top platform of fire-escape and new wall-ties, and renewing bulging brickwork around fire-escape bearing end. Scaffolding would be required (A12)

29. On the 15 May 1999 Millers sent the estimate and stated that the total was £2,632, and that they would shortly be writing to all lessees inviting their comments and requesting a cheque for 25% to pay for the works (A12)

30. There was no further correspondence available to confirm that those works were ever undertaken

31. Maintenance accounts for 1999 and 2000 showed only £710 and £552 expended under "general repairs and maintenance", which suggested that only minor remedial works were undertaken (A13 and 14)

32. On the 13 September 2002 Paul Hymers sent to Millers an invoice for £1,534.55 for repairs to stairway access, removing broken treads and installing new treads, securing handrails and supplying floor plates (A16). The cost was included in the 2002 maintenance account as "fire escape repair £1,535" (A15). The owners of the First Floor Flat had paid for scaffolding themselves as they were trying to sell their Flat

33. It was clear that the Respondent/Landlord had occasionally carried out maintenance work to the fire escape. However, all the work carried out by the Respondent/Landlord was minor work. None of the work addressed the supporting structure of the fire escape or the structural problems the Building was experiencing from the distressed brickwork caused by the corroding steel where the fire escape was embedded in the brickwork, as identified in the Stone Associates report

34. The dates of the Applicant/Leaseholders purchasing their respective Flats were Mr O'Hara 12 February 2002, Miss McDermott 29 November 2002, and Mr Keegan 9 July 2004

35. On the 24 September 2003 Portsmouth City Council wrote to the Respondent/Landlord stating that the fire escape had been reported as being in a dangerous condition, that they had inspected, that there was significant corrosion of steel and rot of the timber sections, that it did not appear

immediately dangerous, but that it would become so in the near future (A18)

36. On the 6 October 2003 Millers stated to the Applicant/Leaseholders that they would now suspend all non-essential works and obtain quotes to re-build the fire escape. There was no reserve to fund major works

37. On the 20 October 2003 Millers stated that they had given up management of the block with immediate effect, and that the Respondent/Landlord had now appointed Labyrinth Properties Ltd (A18), and on the 17 November 2003 Labyrinth Properties Ltd confirmed the position (A21)

38. Minutes of a meeting dated the 10 December 2003 recorded that Labyrinth Properties Ltd had met Portsmouth City Council to discuss the necessary internal alterations to meet current fire regulations if the fire escape were removed. Labyrinth Properties Ltd were to obtain quotations from 2 structural engineers for a report and specification (A22)

39. On the 21 April 2004 Labyrinth Properties Ltd wrote to Mr B Fairs asking for a quotation to remedy water penetration, and also to remedy the large sections of loose concrete on the step leading down to the top of the fire escape (A24)

40. On the 12 May 2004 Labyrinth Properties Ltd stated that under no circumstances, except in the case of an absolute emergency, was the fire escape to be used (A24)

41. On the 28 June 2004 Labyrinth Properties Ltd again stated that the fire escape was dangerous (A25)

42. On the **21 September 2004 Daniells Harrison, in a report signed by Mr Belcher**, stated that the fire escape was in very bad condition and should not be used unless critical. The steelwork was corroded and should be removed and replaced. It had caused extensive cracking where tied into the external wall, which would also need repairs. The timber steps and asphalt decking were decayed and defective. The report set out estimated costings for removing the fire escape, for retaining the fire escape, for upgrading existing internal fire safety in either case, for other necessary works, including repairs to the flank wall adjacent to the fire escape, and for upgrading the fire alarm. The report stated that the Building had not seen any effective planned maintenance for many years, which had undoubtedly contributed to the rapid deterioration of both the Building and the external stairs. As a result any works to bring the Building up to a satisfactory level of condition would be expensive. However, to leave the Building in its existing condition would render any future works increasingly expensive as its condition deteriorated further (A26)

43. If the Respondent/Landlord had acted on the Stone Associates report in 1999 then the rapid deterioration of the Building to the extent it was in 2004 would not have occurred

44. On the 5 January 2005 Labyrinth Properties Ltd served on the Applicant/Leaseholders a notice of intention to carry out works under section 20 of the 1985 Act, namely removal of the fire escape (which was suffering from extensive corrosion and required immediate removal), works

to the internal communal areas (to upgrade to comply with minimal [sic] fire regulations, and extensive brickwork and render repairs to the external fabric of the Building (the flank wall adjacent to the fire escape was in very poor condition, and extensive brickwork and render repairs were in need of urgent attention, and stonework to the front of the property as well as external joinery was also in very poor condition)

45. On the 14 June 2005 the Hall Floor Flat experienced a complete failure and collapse of the ceiling in the lobby area. Mr Faulkner inspected, and described it as an isolated incident. However, the crack had appeared and continued in a perpendicular direction to a point on the external wall where the corroding steel from the first-floor fire escape platform was sited, and had progressively cracked and collapsed within a few minutes. The Applicant/Leaseholders were not satisfied that it was an isolated incident in the light of the structural reports, and were concerned for their own safety. Miss McDermott contacted Portsmouth City Council who inspected the Building, and, on the 15 June 2005, issued a notice under section 77 of the Building Act 1984 that the side and rear fire escape and gable wall were dangerous, and that works should be executed to obviate the danger within 90 days (A33)

46. On the 22 August 2005 Labyrinth Properties Ltd sent to the Applicant/Leaseholders a tender analysis by Daniells Harrison, with the lowest of the 3 tenders being Hurst Brothers, £63,626.20, and with the proposed works being phased over 3 years (A40)

47. Following a meeting between Labyrinth Properties Ltd and the Applicant/Leaseholders on the 21 September 2005, on the 23 September 2005, Labyrinth Properties Ltd served on the Applicant/Leaseholders a second notice under section 20 of the 1985 Act, namely a notice and statement of estimates in relation to proposed works, and stated that scaffolding would not be erected until an attached application for payment had been paid by all (A41)

48. Considerable correspondence between Miss McDermott and Labyrinth Properties Ltd ensued, including Miss McDermott expressing disappointment at the delay in carrying out the works, and Labyrinth Properties Ltd responding that the delays had been caused by the Applicant/Leaseholders not responding to the consultation

49. The Respondent/Landlord's attitude had been that no works would be undertaken until the Applicant/Leaseholders paid "up-front"

50. The Applicant/Leaseholders applied to the Tribunal in September 2006. The Tribunal decided that it did not have jurisdiction. However, it was accepted during the hearing that under the Leases the Respondent/Landlord could not seek in advance a payment on account of future expenditure, but, in the absence of agreement, the Respondent/Landlord would have to pay for the works and then re-coup from the Applicant/Leaseholders together with the interest incurred on any borrowing (A62)

51. On the 27 October 2006 Portsmouth City Council asked Labyrinth Properties Ltd for an update on the progress for the removal of the dangerous fire escape, having visited the previous day and having found that the fire escape had deteriorated to such an extent that it would now possibly fall down in a strong gale

52. On the 5 December 2006 Labyrinth Properties Ltd served on the Applicant/Leaseholders a notice of intention to carry out works under section 20 of the 1985 Act in connection with the removal of the existing fire escape, works to the internal communal areas, and extensive brickwork and render repairs to the external fabric of the Building (A65)

53. On the 5 January 2007, Labyrinth Properties Ltd served on the Applicant/Leaseholders a second notice under section 20 of the 1985 Act, namely a notice and statement of estimates in relation to proposed works, the cheaper of the 2 estimates received being from Hurst Brothers, £52,737.50 plus VAT

54. On the 22 January 2007 Labyrinth Properties Ltd stated that in order to instruct Daniells Harrison to appoint contractors to undertake the work, Labyrinth Properties Ltd would need payment in full from each of the Applicant/Leaseholders for their proportion of the associated cost. In year 1 the cost was £38,399 plus 10% for Daniells Harrison's supervisory fee. The total payable by each of the Applicant/Leaseholders was £10,559.72

55. Following instructions from the Applicant/Leaseholders, **Rund Partnership Ltd reported on the 24 January 2007** (A71) that :

a. all the works set out in Daniells Harrison's specification of works dated May 2005 were required and essential
b. there were tell-tale internal signs of general building flexing movement associated with the general factors causing damage to the side elevation
c. a structural engineer should assess the degree of brickwork rebuilding required to the side elevation gable-head area and an area of wall under the upper Flat fire exit door
d. the front gable walls and the main side wall/gable and weak roof frame were real hazards
e. the overall state of the Building was consistent with a continual lack of effective repair and maintenance over many years which could easily pre-date 1999
f. as a result, the choice of repair or renewal had now swung to renewal
g. neglect had caused additional cost to reinstate to a reasonable standard
h. if the fire escape had been removed in the mid-1990's the wants of repair since then would have been considerably reduced
i. in the Daniells Harrison report in September 2004, £70,000 was the overall maximum repair cost, but a provisional repair cost was now about £95,000
j. phasing of repairs was not agreed : the contract should be kept as short as possible to reduce heavy scaffolding hire costs
k. the fire escape's state dictated removal from perhaps pre-1995, and failure to do so, plus failure to remove redundant cavity tie [sic] in 1997, plus failure properly to upgrade works to the roof frame, had meant that deterioration had continued and had caused proportionately greater remedial costs now
l. the stated £95,000 might be about 35% inflated because of the accelerated deterioration caused by the Respondent/Landlord's neglect and passive repair stance over a considerable time period

56. On the 26 January 2007Miss McDermott sent to Labyrinth Properties Ltd notices signed by each of the Applicant/Leaseholders waiving their rights under section 20 of the 1985 Act and instructing that the works to remove the fire escape and to undertake internal works to comply with Building Regulations be commenced as soon as possible because of the urgent nature of the works and the dangerous state of the Building (A72)

57. On the 30 January 2007 Portsmouth City Council requested Labyrinth Properties Ltd to carry out emergency works to repair or remove the dangerous external fire escape and make good any disturbed brickwork by the 16 February 2007, failing which Portsmouth City Council would do so (A75)

58. On the same date, Miss McDermott wrote to Labyrinth Properties Ltd that the tender submitted by Hurst Brothers was about £12,000 cheaper than the original 2005 estimate, but showed an 11% increase in costs because of further delay (A76)

59. On the 6 February 2007 Labyrinth Properties Ltd wrote to Miss McDermott that they had received telephone notification from Portsmouth City Council that they were on site with Hampshire Fire Brigade, and, following instructions from them, Labyrinth Properties Ltd had removed all flammable items from the common areas, and had installed smoke detectors. Contractors were on site to submit urgent quotations for fire alarms and emergency lighting (A78)

60. On the 22 February 2007 Portsmouth City Council asked Labyrinth Properties Ltd for confirmation that the removal of the external fire escape, the making good of brickwork, and the provision of guarding to and doors and windows currently served by the staircase, would be carried out by the 5 March 2007 (A83)

61. On the 1 March 2007 Labyrinth Properties Ltd notified Miss McDermott that the emergency lighting would be installed in the common areas that day (A85)

62. On the 24 April 2007 (AEX89) Labyrinth Properties Ltd :
    a. notified Miss McDermott that the emergency works to remove the fire escape had been completed
    b. sent invoices :

Portsmouth City Council	£863.60
Daniells Harrison for overseeing works	£2,937.50
Hurst Brothers Ltd	£25,277.77

    c. stated that the total was £29,098.87, or £7,274.71 a Flat
    d. stated that if the Applicant/Leaseholders intended to pay by return on receiving a demand, the Respondent/Landlord would fund the costs in the short term to save them paying interest, failing which he would need a bank loan and would charge the interest to the Applicant/Leaseholders
    e. stated that the issue of the boundary wall was still outstanding, as they were unable to begin rebuilding the wall until they could ascertain who was responsible for paying for the work

63. On the 31 August 2007 Labyrinth Properties Ltd sent Miss McDermott a "final reminder" (AEX91) :
    a. attaching a "tenant account summary" requiring payment within 14 days of £7,274.71 for "levy re removing fire escape"
    b. stating that no payment had been made for her liability to the levy for removing the fire escape, and that she was in breach of her covenants by failing to make payment when demanded
    c. warning that if her account was not paid in full within 14 days further action might be taken, incurring costs which would be added to her account

64. There was no evidence that the fire escape had been inspected regularly by the Respondent/Landlord. The general repairs to steps and handrails in 1996 resulted from complaints by residents. The problems with the fire escape were clearly highlighted in 1999, but the Respondent/Landlord dismissed concerns, although agreed to undertake a structural survey

65. The Stone Associates 1999 report made very clear recommendations to remove all embedded steel and rebuild the gable wall where it had failed. The Respondent/Landlord should have undertaken that work immediately

66. It was not until 2003 that the full extent of the neglect of the fire escape was identified to the Applicant/Leaseholders as the new owners of Flats

67. The Daniells Harrison 2004 report highlighted the same defects to the Building as the Stone Associates 1999 report, and stated that the Building had not seen any effective maintenance for a number of years

68. If the works had been undertaken in 1999, none of the Applicant/Leaseholders, as subsequent Flat owners, would have had to contribute to their cost

69. The Respondent/Landlord's costs of these proceedings before the Tribunal should not be included in future service charges because of :
    a. the great inconvenience and worry incurred by the Applicant/Leaseholders over the last 5 years
    b. the significant personal expense they had incurred in trying to bring the situation to a satisfactory conclusion
    c. the conduct of the Respondent/Landlord and the managing agents in, for example not undertaking health and safety checks, not informing the Respondent/Landlord that the smoke detection/fire alarm system did not work, and misleading the Applicant/Leaseholders, all contrary to the Royal Institution of Chartered Surveyors Code of Practice

Statement on behalf of Respondent/Landlord and documents in the Respondent/Landlord's bundle

70. Labyrinth Properties Ltd stated that they were appointed as managing agent in November 2003

71. The Stone Associates report referred to the replacement of wall-ties in the southern elevation only, whereas the fire escape was attached to the eastern elevation, and the report did not state that the incorrect procedures for the wall-tie works had affected the stability of the building

72. The Applicant/Leaseholders had not disputed that major works had to be undertaken to the fire escape

73. It took 2 months to organise access to the flats for Daniells Harrison in 2004 because of a lack of response from the Applicant/Leaseholders

74. In 2005 quotations were sought and the section 20 consultation procedure was followed. The only response from the Applicant/Leaseholders to correspondence following a meeting in September 2005 related to scaffolding

75. Labyrinth Properties Ltd requested access to draw up floor plans on the 28 February 2006 (R171) and had to chase twice on the 22 March 2006 (R174) and the 30 March 2006 (R176). Labyrinth Properties Ltd wrote to the Applicant/Leaseholders on the 6 June 2006 asking whether they wished to appoint a new company in place of Daniells Harrison, and a chasing letter was sent on the 21 June 2006 because of a lack of response

76. Access for a survey was finally agreed with the Applicant/Leaseholders on the 23 June 2006, and planning permission and Building Regulations approval was obtained on the 23 August 2006, some 6 months after the first attempt to organise access

77. A further delay was caused by the Applicant/Leaseholders applying to the Tribunal in the summer of 2006. The Tribunal dismissed the application for lack of jurisdiction, but confirmed that full section 20 procedures were needed (R207), so that it was not appropriate for the Respondent/Landlord to act on the forms of waiver sent to the Respondent/Landlord by the Applicant/Leaseholders

78. Correspondence from the Applicant/Leaseholders in early 2007 was merely designed as time-wasting (R240). The Applicant/Leaseholders had specifically requested that the work to the roof be removed because of the cost, and that the work be spread over a longer time. Labyrinth Properties Ltd had continued to act on that basis. If the contracts had been amended to include the roof works there would have been further unnecessary delays to the important work to the fire escape

79. The Respondent/Landlord instructed Daniells Harrison to consider the Rund Partnership Ltd report. **Daniells Harrison's report dated November 2007** (R250) stated that (R256 and 257):
    a. the Stone Associates report in 1999 indicated that the steelwork might be beyond repair, and, if so should be removed and replaced, which suggested that the condition of the staircase in 1999 was in a state of repair which warranted substantial works and expenditure

b. the report mentioned various defects with the brickwork where the steelwork was built into the outer skin of the external wall, which was also mentioned in the reports of Daniells Harrison in 2004 and Rund Partnership Ltd in 2007
c. the Daniells Harrison report in 2004 stated that the external staircase should be removed and replaced as a matter of urgency to prevent further damage to the Building and risk of injury, and that there had been a lack of effective maintenance of the Building
d. the reports by Daniells Harrison and Rund Partnership Ltd shared a clear consensus that the state of the Building had occurred over many years and easily predated 1999, suggesting that the fire escape was in a condition that necessitated complete removal in about 1995
e. Rund Partnership Ltd were correct when they stated that if effective maintenance had been carried out during the years before 1999 then the scope of repairs might have been more minor and therefore less costly, but the absence of evidence of the condition of the Building in 1999 made it difficult to make an accurate comparison
f. the Rund Partnership Ltd estimate that costs might have been inflated by as much as 35% over the 8 years between 1999 and 2007 due to the Respondent/Landlord neglect was not accepted
g. the works which were required in 1999 were very substantial, but from 1999 to 2007 the condition of the Building had been suspended, and had not deteriorated any further, and, contrary to the view in the Rund Partnership Ltd report, the Building had not suffered from an accelerated deterioration in that time
h. the cost of repairing a crack 3mm wide and 1.5m long would not be substantially more than the cost of repairing a crack 2mm wide and 1m long, and the same would apply to the normal quantity increases in repointing brickwork and rebuilding areas of bulging brickwork
i. works undertaken to the eastern elevation and external metal staircase in 2007 were the same works as had been included in the agreed 3-year maintenance programme; the original contract value was £18,224, but additional works became necessary, including the taking down of the unstable boundary wall on the eastern elevation whose construction included the steel columns of the fire escape and which was found to be in danger of collapse when the columns were removed, and the final cost was £22,013 plus VAT and professional fees; the work was started on the 6 March 2007 and finished on the 10 April 2007
j. it should be assumed that the 1996 work to the fire escape was sufficient to maintain it in a serviceable condition
k. it was highly unlikely that the condition of the external wall and staircase was significantly different when the 1999 report was produced from their condition in 1996, and the significant defects highlighted in the 1999 report were unlikely to have occurred during the intervening 3 years
l. the condition of the external wall and fire escape on the eastern elevation in 1996 required major work and expenditure, and the works carried out in 1996 were only a superficial attempt to maintain an already defective staircase
m. the condition of the Building in 2004, when Daniells Harrison inspected and reported, would have been very similar to its condition in 1999 when the Stone Associates report was produced, and the deterioration had probably been systematic for a period of 15 to 20 years prior to 2004

n. having prepared the Daniells Harrison report in 2004, and having managed the works in 2007, Mr Belcher was of the view that no change had occurred in the meantime in the condition of the Building, especially to the eastern elevation and fire escape
o. the Rund Partnership Ltd report suggested a rate of deterioration between 1999 and 2007 of 35%, but the rate of deterioration between 2004 and 2007 had been no more than 5%, and there would not have been a change of 30% between 1999 and 2004
p. the cost of the work to comply with the Dangerous Structure Notice was the same as that in the previous specification by Daniells Harrison, not additional
q. if the work carried out in 2007 had been carried out in 1996 or 1999 then the level of expenditure would have been comparable with the expenditure in 2007, if one disregarded intervening inflationary increases in costs

Hearing 12 December 2007

The Tribunal's jurisdiction

80. Mr Faulkner said that he was contesting whether the Tribunal had jurisdiction to find that a service charge was not payable, either partially, or at all, because works should have been carried out before. The Tribunal indicated that the decision in **Continental Property Ventures Inc v Jeremy White** drew a distinction between reasonableness, which affected whether work should have been carried out, whether it had been carried out properly, and whether the costs were reasonable, and payability, which included reasonableness, but also included whether the cost should be included in a service charge

81. The Tribunal adjourned the hearing for an hour, to enable Mr Faulkner to consider the decision in **Continental Property Ventures Inc v Jeremy White**, and the position generally

82. After the adjournment, Mr Faulkner said that it had also been made clear in the decision that cases on payability should be referred to the county court, and the Respondent/Landlord would like this case referred to the county court accordingly

83. After a further short adjournment the Tribunal indicated the following findings to the parties at the hearing
    a. in **Continental Property Ventures Inc v Jeremy White** itself the judge dismissed the appeal against the LVT's decision to reduce the service charge because of past neglect by the landlord
    b. the judge made it clear that the LVT had jurisdiction to determine a claim for damages for breach of a landlord's covenant, but only so far as the breach constituted a defence to a service charge in respect of which the LVT's jurisdiction under section 27A of the 1985 Act was involved
    c. the Tribunal found that :
        - the Tribunal did have jurisdiction in this case
        - it was not one of those cases where it would be more appropriate to transfer it to the county court
        - the Tribunal was not prepared to transfer it to the county court accordingly

Portsmouth City Council £833.60

84. Miss McDermott said that Portsmouth City Council had been involved after the collapse of a ceiling. They had issued a notice about the dangerous fire-escape in 2005. They then became increasingly concerned about the lack of fire precautions. They threatened to issue a prohibition notice in 2007, but did not do so in reliance on the Respondent/Landlord agreeing to remedy the existing fire alarm system. The Respondent/Landlord installed a new smoke alarm system and emergency lights, but the fire alarm still was not working. If the Respondent/Landlord had removed the dangerous fire escape earlier and had carried out the fire safety works earlier then the Portsmouth City Council would not have had to issue a notice and their fees would not have been incurred, and their fees should not now be included in the service charge

85. In cross-examination Miss McDermott said that she had been the one to contact Portsmouth City Council in the first place. They had been happy to take no further action on the notice while the Labyrinth Properties Ltd were liaising with them. However, they had not been aware of the absence of effective fire precautions inside until later. The smoke alarm work had been carried out in March 2007. The fire alarm had not worked since 1989

86. Mr Faulkner said that the Portsmouth City Council fees were payable by way of service charge under paragraph 3 of the Fourth Schedule to the leases. The Applicant/Leaseholders had called in the Portsmouth City Council, who had served the notice on the Respondent/Landlord, and the fees were re-chargeable to the Applicant/Leaseholders by way of service charge. It had been unnecessary for the Applicant/Leaseholders to call in Portsmouth City Council. The Respondent/Landlord had already been taking action before Portsmouth City Council's involvement, as the Applicant/Leaseholders were well aware, as shown in the following letters from Labyrinth Properties Ltd to Applicant/Leaseholders, all pre-dating Portsmouth City Council's involvement, and showing that the Respondent/Landlord had exceeded the statutory consultation requirements :
    a. 16 April 2004 (R51) asking for instructions how to proceed following quotes for the cost of reports
    b. 1 June 2004 (R54) asking for access to enable Daniells Harrison to prepare a report
    c. 28 June 2004 (R55) chasing access
    d. 5 October 2004 (R56) sending Daniells Harrison's report and asking for urgent choices on the options
    e. 7 December 2004 (R61) advising that Daniells Harrison would be instructed to compile a report and specification for the removal of the fire escape
    f. 5 January 2005 (R126) sending section 20 notice
    g. 27 May 2005 (R129) asking them to contact the 3 proposed tenderers to arrange access

87. Miss McDermott said that the Respondent/Landlord had already contacted Portsmouth City Council, as was clear from the letter from Portsmouth City Council to the Respondent/Landlord dated the 24 September 2003 (A17) and the minutes of the meeting with the Applicant/Leaseholders on the 10 December 2003 (A22). In any event, Miss McDermott had called in Portsmouth City Council in June 2005 because of the collapse of a ceiling which the Applicant/Leaseholders thought was connected with the dangerous condition of the fire escape,

and Portsmouth City Council had inspected the same day and had issued a notice immediately

88. Mr Faulkner said that they had contacted Portsmouth City Council in 2003 about Building Regulations. The letter dated September 2003 had followed a previous tenant contacting Portsmouth City Council, and had resulted in the Respondent/Landlord changing agents to Labyrinth Properties Ltd. The notice issued in June 2005 made no mention of a collapsed ceiling

89. Mr Keegan said that they had contacted Portsmouth City Council in June 2005 because they had lost faith in the ability and willingness of the Respondent/Landlord and the managing agents to protect the Building. The Applicant/Leaseholders had to ensure that work was carried out

Hurst Brothers £25,277.77

90. Miss McDermott confirmed that the Applicant/Leaseholders accepted that all the works were necessary, that they had been reasonably well carried out, and that the costs were reasonable. However, the Applicant/Leaseholders contended that the full costs should not be payable by way of service charge because the work should have been carried out before 1999, which would have resulted in :
    a. less work being required later
    b. the cost not being increased in the meantime because of inflation
    c. previous tenants being liable for the cost, rather than the Applicant/Leaseholders, who had all bought their Flats relatively recently

91. The Tribunal indicated that :
    a. the Tribunal had no jurisdiction to take account of the latter point, in that the Applicant/Leaseholders were the current tenants, and were accordingly liable for service charges payable now, and that it would be a matter for the county court to decide such questions as whether or not they had any redress for what was said, or not said, to them when they purchased, or whether the prices they paid reflected the condition of the Building at the time
    b. in order to make a determination about the other 2 points, it would be necessary for the Tribunal to consider each element of the costs comprising the Hurst Brothers figure of £25,227.77

92. The accounts from Portsmouth City Council, Hurst Brothers, and Daniells Harrison were not before the Tribunal. A short adjournment was granted to enable Mr Faulkner to arrange for copies to be sent by fax

93. Various documents subsequently arrived by fax, but not including the account from Hurst Brothers. It became obvious that there was insufficient time for the parties to consider the documents and to present their cases to the Tribunal by the end of the day, and the hearing was adjourned to enable :
    a. the Applicant/Leaseholders to prepare and serve a schedule showing their case about how much it would have cost for the Respondent/Landlord to comply with the Respondent/Landlord's maintenance covenant under the leases if the

Respondent/Landlord had carried out the work at the time the Applicant/Leaseholders said the work should have been carried out

b. the Respondent/Landlord to respond, and to serve a copy of the Hurst Brothers invoice

Hearing 23 January 2008

Hurst Brothers £25,277.77

94. Further documents now before the Tribunal were :
    a. statement by Miss McDermott sent with her letter dated the 14 January 2008
    b. spreadsheet showing the actual sums in Hurst Brothers final account and sums contended for by Applicant/Leaseholders if the works had been carried out in 1985, 1990, 1995, 1996, 1999, and 2004, respectively (copy attached to these reasons as Appendix 1)
    c. BCIS all-in TPI, based on 1985 mean = 100
    d. Daniells Harrison cost analysis showing comparison between Hurst Brothers original tender costs 13 June 2005, Hurst Brothers uplifted tender costs 13 October 2006, costs of works carried out March 2007, and costs of possible planned maintenance works in 1999, 2004, and 2009 (copy attached to these reasons as Appendix 2)

95. In her statement sent with her letter dated the 14 January 2008, Miss McDermott set out in detail the reasons for the Applicant/Leaseholders' claim that the fire escape should have been removed in 1990 (when failure might have started to occur), or 1995 (when it was reaching complete failure), or 1999 (when it had completely failed), and referred to :
    a. the 1996 estimate from Paul Hymers
    b. the March 1999 home-buyers report by a prospective buyer of the First Floor Flat
    c. the 1999 Stone Associates report
    d. the May 1999 letter from Warner Goodman Streat stating that a tread had broken during the inspection
    e. the May 1999 letter from the then managing agents about the £2,632 cost of structural repairs
    f. the 2004 Daniells Harrison report
    g. the January 2007 Rund Partnership Ltd report
    h. the November 2007 Daniells Harrison report, stating that the Building had reached a maximum permissible failure by 1999
    i. the Applicant/Leaseholders' calculation that the fire alarm had been installed in 1985 and had not been tested since then

96. The Tribunal heard oral evidence and submissions from Miss McDermott, Mr Faulkner, and Mr Belcher in relation to the cost of each item of work carried out by Hurst Brothers

97. Miss McDermott said that the work to the fire escape should have been carried out in 1990. It had probably been constructed in about 1960. Portsmouth City Council had been happy with the means of escape in 1983 following conversions in 1980 from 4 flats to a guest house and in

1982 from guest house to 4 flats, although they had not specifically mentioned the words "fire escape". Even by 1996 there was evidence of deterioration to the fire escape. It had broken treads in 1996 and 1999. The life expectancy of a well-maintained fire escape was a maximum of 70 years, but, in a location near the sea, was more like 30 years. There was little evidence of any maintenance at all. The Respondent/Landlord should have inspected regularly. The fire escape had failed by 1999 according to the Stone Associates report. 1990 was the likely date by which it should have been removed to prevent damage to the rest of the Building. The evidence of corroded treads and handrails in 1996 indicated that the steel embedded in the Building could have been corroded too

98. Mr Faulkner said that the cost of an annual building survey would have been about £1,000 to £1,500, which would have had to be included in service charges. However, in answer to a question from us, Mr Faulkner agreed that it was reasonable for a managing agent to visit the Building 3 or 4 times a year and to ask for a formal survey only if anything was noted to be wrong. Mr Belcher had charged for his survey in 2004, and his fee had been included in a subsequent service charge

99. So far as the date of the fire escape's construction was concerned, the Tribunal indicated to the parties the Tribunal's preliminary view, having taken all the evidence into account, including the appearance of the fire escape on the previous Tribunal's inspection before its removal, that the fire escape had probably been constructed in the 1960's

100. In relation to the fire alarm, Miss McDermott said that it should have been replaced at the same time as the fire escape, namely in 1990. Mr Belcher said that in his experience of preparing planned maintenance schedules electrical systems had a life expectancy of no more than 20 years, and he would expect an electrical system to be replaced more than once in 25 years. Mr Faulkner said that he managed many properties. There were no fire alarm systems more than 20 years old in any of them. They were now replacing alarms which had been installed in the 1990's, so, if this one had been replaced in 1990, it would still have to be replaced at about this time. In any event, the tenants had not had to bear the cost of an earlier replacement. Miss McDermott said that if it had been replaced in 1990 at the same time as the fire escape then it would not yet have had to be replaced again

101. The Tribunal indicated to the parties that, in the Tribunal's view, Miss McDermott's approach, namely that the fire escape should have been replaced earlier, and that the costs to be payable by way of service charge now should be the costs set out in the appropriate column of Miss McDermott's spreadsheet copied at Appendix 1 to these reasons, was either :

a. completely flawed, or
b. correct in principle, with either :
    - 1990 as the correct date when the fire escape should have been removed, or
    - a different date as the date when the fire escape should have been removed

102. The Tribunal's preliminary view about the date by which it would have been reasonable for the fire escape to have been removed, if, which the Tribunal had not yet even discussed, let alone decided, the Tribunal were to decide to adopt Miss McDermott's approach in principle, was that :

a. the Tribunal had taken into account :
   - the likelihood that the fire escape had been constructed in the 1960's
   - the evidence that some work to treads and handrails was carried out in 1996, and further work to treads in 1999
   - the 1999 Stone Associates report recommending a full survey and replacement of those parts needing to be replaced
   - the 2003 letter from Portsmouth City Council expressing the view that the fire escape was not then dangerous
   - the 2004 Daniells Harrison report recommending replacement
   - the 2005 notice from Portsmouth City Council stating that the fire escape was then dangerous
   - the conclusions in the 2007 reports by Rund Partnership Ltd and Daniells Harrison
   - the length of time needed to draw up specifications, obtain and consider tenders, and undertake consultation, including the procedure under section 20 of the 1985 Act, both before and after the changes to that procedure introduced by the Commonhold and Leasehold Reform Act 2002
   - the evidence and submissions by both parties, including the evidence that the internal fire alarm system had not been working for many years

b. taking all these matters into account, the Tribunal's preliminary view was that the fire escape should have been replaced in early 2004

103. Miss McDermott said that the evidence showed that the fire escape had significantly failed by 2004, and that significant damage had been caused to the Building as a result, and that it should have been removed long before it had failed, and long before that damage had been caused. The fire escape was the only means of escape particularly as the fire alarm system was not working, so that to remove it only when it had become dangerous was too late

104. Mr Faulkner said that the Respondent/Landlord's full submission showed all the steps which the Respondent/Landlord had taken between 2004 and 2007, including undertaking a fresh section 20 procedure in accordance with the previous Tribunal's determination

105. The Tribunal then heard evidence from Miss McDermott and Mr Belcher about each of the items listed in Miss McDermott's spreadsheet copied at Appendix 1 to these reasons

106. Miss McDermott accepted that all the items were consequential on the removal of the fire escape, and accordingly raised the same issue, namely, whether Miss McDermott's approach should be adopted, and, if so, the date when the fire escape should have been removed, except the following items :

107. **Elevation repairs**

108. Cut out defective bricks £335

109. Mr Faulkner said that 10% of the brickwork referred to was to do with the fire escape

steelwork, and the remainder was other brickwork unconnected with the steelwork

110. Rake out existing cement £1,340

111. Mr Belcher said that this was general maintenance work which had been carried out at the same time as the fire escape removal in order to take advantage of the scaffolding, but was nothing to do with the fire escape

112. Miss McDermott said that this work should accordingly have been carried earlier, at the same time as the fire escape, so that the costs should be discounted

113. Allow to insert Hellibars £1,250

114. Mr Belcher said that this was, again, general maintenance work which had been carried out at the same time as the fire escape removal in order to take advantage of the scaffolding, but, again, was nothing to do with the fire escape

115. Miss McDermott said that this work should accordingly have been carried earlier, at the same time as the fire escape, so the costs should be discounted

116. **Additional extras**

117. Rebuilding of external wall around second floor flat £675

118. Mr Faulkner said that 70% of this work was associated with the fire escape steelwork

119. Brick repairs round first floor window £250

120. Mr Faulkner said that none of this work was connected with the fire escape steelwork

121. New external door to hall flat £950

122. Miss McDermott said that each tenant was responsible for their own door and windows, so this should not be included in the service charge

123. Mr Faulkner said that the Leases did not provide for the tenants to be responsible for doors and windows. The door concerned was at first-floor level at the rear and would have opened onto a void once the fire escape had been removed

124. Works to make safe boundary wall £720

125. Miss McDermott said, on reflection, that this was in fact the same issue as the fire escape

126. The Tribunal then heard evidence from Mr Belcher about his cost analysis showing comparison between Hurst Brothers original tender costs 13 June 2005, Hurst Brothers uplifted tender costs 13 October 2006, costs of works carried out March 2007, and costs of possible planned maintenance works in 1999, 2004, and 2009 (copy attached to these reasons as Appendix 2). The analysis assumed a 5-year cycle of maintenance costs, and used the same price index tables as Miss McDermott had used in her spreadsheet. The analysis was based on the hypothesis that the fire escape had had a major overhaul in 1999, and had then been repaired again in 2004 and 2009, rather than being replaced in 2007. The cost was considerably higher. Removal was a better option

127. So far as the fire alarm was concerned (item 3.05 on page 2 of 4 of Mr Belcher's analysis), Mr Belcher agreed, in response to a question from the Tribunal, that, if the Tribunal adopted Miss McDermott's approach, and that if the Tribunal adopted 2004 as the date when the fire escape should have been removed, and that if the Tribunal accepted that the fire alarm should have been replaced at the same time as the removal of the fire escape, then the appropriate figure to take into account would be £4,095, namely £3,780 for the new fire alarm plus £315 for removal of the old fire alarm

Daniells Harrison's fees £2500 plus VAT

128. The account was produced. Mr Belcher accepted that the fee had been calculated as 10% of £25,000, whereas the final account from Hurst Brothers had been £22,013 plus VAT. That was because the £2,500 had been a fixed fee agreed with the Respondent/Landlord

129. Miss McDermott accepted in principle that a fee of 10% was payable by way of service charge. However, it should be 10% of the discounted cost of the work carried out by Hurst Brothers in accordance with Miss McDermott's approach

130. Mr Belcher agreed that that was the appropriate calculation if the Tribunal adopted Miss McDermott's approach in principle

Miss McDermott's 2004 calculations

131. In response to questions by Mr Belcher, Miss McDermott agreed that the appropriate discount rate in her 2004 calculations in the spreadsheet at Appendix 1 should be 1.1, rather than 1.14

132. The Tribunal indicated that it would be helpful if Miss McDermott could supply to the Tribunal and to the Respondent/Landlord a revised spreadsheet showing revised figures for 2004 to take account of the matters discussed in evidence at the hearing. Miss McDermott agreed to do so within 7 days. Mr Faulkner agreed to send any response in writing within a further 7 days

Section 20C application

133. Miss McDermott said that the Applicant/Leaseholders had been totally inconvenienced and stressed by the whole process. They had had to pay for a solicitor's advice. They had paid for their own survey. They had had to pay for the Tribunal application and hearing. They were going to have to pay for the works through the service charge. They should not have to pay the Respondent/Landlord's costs as well

134. Mr Faulkner agreed with the Tribunal that the letter from Labyrinth Properties Ltd dated the 31 August 2007 (AEX91) had alleged that the Applicant/Leaseholders were in breach of covenant for having failed to pay, and had threatened action. However, no action had actually been taken, and the Respondent/Landlord had incurred substantial costs, including costs in relation to the hearing day in December, following which the nature of the Applicant/Leaseholders' case had completely changed. Mr Faulkner said that the Respondent/Landlord was entitled to include the costs in the service charge pursuant to paragraph 4 of the Fourth Schedule to the Leases as *"fees of the Lessor's managing Agents.....for the general management of the Building"*

Further representations received by the Tribunal after the hearings

135. Miss McDermott submitted a spreadsheet of revised calculations for 1999 and 2004, copied at Appendix 3 to these reasons

136. Miss McDermott stated that 2004 should not be taken as the date when the fire escape should have been removed. Case law showed that if a landlord is aware of disrepair and fails to act upon it, hence undertaking one timely stitch, then he can not pass onto lessees the cost of nine stitches resulting from subsequent substantial deterioration of the building. The Respondent/Landlord was aware of the disrepair to the Building in 1999 on receipt of the Stone Associates report, and was then in breach of covenant by failing to remove the embedded steel from the east elevation and attend to the cracks in the brickwork. Mr Belcher had confirmed as much in his reports. It was not accepted that the Respondent/Landlord became liable for breach of covenant only when the breach of covenant had led to the fire escape becoming dangerous. The Applicant/Leaseholders relied on the case of **Loria v Hammer** [1989] 2 EGLR 249 Chancery Division

137. Mr Faulkner, in a letter dated the 5 February 2008, stated that the Respondent/Landlord accepted the accuracy of Miss McDermott's revised 2004 figures

138. The Respondent/Landlord, in a letter dated the 26 January 2008, stated that the first hearing day had been wasted because it had been based on the Applicant/Leaseholders' initial claim that they had not been tenants when the work should have been done, when they should have made that claim against the surveyors or solicitors who acted for them when they purchased, or it might well be that they had negotiated a discount when they bought to allow for the cost of works. The Applicant/Leaseholders should have instructed professionals to deal with the hearing for them, and costs had been increased because they had not done so. The Respondent/Landlord left the management of the Building entirely to professionals, and so had to incur the fees of Labyrinth Properties Ltd and Daniells Harrison in order to deal with the Applicant/Leaseholders' application. The demand letter from Labyrinth Properties Ltd had

indicated that legal proceedings would follow, but had been written to try to avoid the Applicant/Leaseholders incurring interest, and the time between that demand and the Applicant/Leaseholders' application to the Tribunal was only about a day, so they were clearly already intent on making the application. The Respondent/Landlord would be happy to waive interest if awarded costs

The Tribunal's findings

Hurst Brothers £25,277.77

139. The Tribunal finds that there is no copy before the Tribunal of the account from Hurst Brothers, but that the figure of £25,277.77 is calculated as follows :

building works (see Appendix 4 column 1)	£22,013.00
less retention	£500.00
	£21,513.00
VAT	£3,764.77
	£25,277.77

140. The Tribunal notes that the retention has accordingly been deducted before the addition of VAT, and, in the interests of consistency, the Tribunal has adopted the same approach in its calculations later in these reasons

141. The Tribunal also notes that the Applicant/Leaseholders accept that it was necessary for the fire escape to be removed, that the works carried out were of a reasonable standard, and that the costs incurred were reasonable

142. However, the Tribunal finds that the removal of the fire escape should have taken place in early 2004, and that the Respondent/Landlord, having had sufficient prior notice of the poor condition of the fire escape, was in breach of the repairing covenants in the Leases in not doing so

143. . In making those findings, the Tribunal has taken account of :

a. all the submissions on behalf of the Respondent/Landlord that the Respondent/Landlord could not have carried out the work before 2007
b. the submissions by the Applicant/Leaseholders that the work should have been carried out in 1990 or 1999, including in particular the submissions in the letter from Miss McDermott dated the 14 January 2008, and the submissions received from the Applicant/Leaseholders after the hearings
c. the likelihood, as the Tribunal finds, for reasons already given, that the fire escape was built in the 1960's
d. the evidence, which the Tribunal accepts, that the internal fire alarm system had not been working for many years
e. the fact, as the Tribunal finds, that some work to treads and handrails was carried out in 1996, and further work to treads in 1999

f. the fact, as the Tribunal finds, that the 1999 Stone Associates did not itself recommend removal of the fire escape
g. the fact, as the Tribunal finds, that there is no evidence of any report between 1999 and 2004 recommending removal of the fire escape, despite the Paul Hymers invoice dated the 13 September 2002 for £1,534.55 for repairs to stairway access, removing broken treads and installing new treads, securing handrails and supplying floor plates (A16), which the Tribunal finds was included in the 2002 maintenance account as "fire escape repair £1,535" (A15)
h. the fact, as the Tribunal finds, that Portsmouth City Council wrote to the Respondent/Landlord on the 24 September 2003 stating that the fire escape had been reported as being in a dangerous condition, that they had inspected, that there was significant corrosion of steel and rot of the timber sections, but that it did not appear immediately dangerous, although it would become so in the near future
i. the likely length of time needed to draw up specifications, obtain and consider tenders, and undertake consultation, including the procedure under section 20 of the 1985 Act, both before and after the changes to that procedure introduced by the Commonhold and Leasehold Reform Act 2002
j. the 2004 Daniells Harrison report recommending replacement
k. the 2005 notice from Portsmouth City Council stating that the fire escape was then dangerous
l. the conclusions in the 2007 reports by Rund Partnership Ltd and Daniells Harrison

144. Having considered all the evidence and submissions in the round, the Tribunal confirms the Tribunal's preliminary view expressed at the hearing, and finds that, if the Respondent/Landlord had complied with the repairing covenants in the Leases the fire escape should have been removed in early 2004

145. The Tribunal finds that if the work had been carried out in early 2004 :
a. there is no evidence before the Tribunal that any less work would have been involved in early 2004 than was actually involved in 2007
b. however, the cost of the work would have been less, in that costs have increased because of inflation in the meantime
c. the Applicant/Leaseholders have had the benefit of not having to pay for the cost of the work by way of service charge in the meantime

146. Nevertheless, having considered all the circumstances in the round, the Tribunal finds that :
a. the measure of damages for the Respondent/Landlord's breach of covenant in not removing the fire escape in 2004 is, in principle, in relation to the removal of the fire escape and those of the works which should have been carried out at the same time as the removal of the fire escape, the difference between the cost of the works when they were actually carried out in 2007 on the one hand, and the cost of the works when they should have been carried out in 2004, on the other hand
b. the service charge payable by the Applicant/Leaseholders in respect of those works should be calculated by setting off those damages against the cost of the works when they were actually carried out in 2007

c. in other words, the service charge payable by the Applicant/Leaseholders in respect of those works should be equivalent to the cost of the works when they should have been carried out in 2004

147. In relation to those items in Miss McDermott's revised spreadsheet in Appendix 3 which are noted with a positive figure in the column headed "2004", the Tribunal :

a. finds that the index figure of 1.1 is in accordance with the published figures, and that it has been accepted by Mr Belcher

b. finds that the figures in the column headed "2004" fairly represent the cost of the works when they should have been carried out in 2004

c. adopts the figures set out in that column for the purposes of calculating the servce charge payable by the Applicant/Leaseholders in respect of those works

d. in relation to each of the individual items challenged by the Applicant/Leaseholders as not being payable at all, namely, elevation repairs (cut out defective bricks £335, rake out existing cement £1,340, and allow to insert Hellibars £1,250), and additional extras (rebuilding of external wall around second floor flat £675, brick repairs round first floor window £250, new external door to hall flat £950, and works to make safe boundary wall £720) the Tribunal makes the following findings :

- the Tribunal accepts as straightforward and persuasive Mr Belcher's evidence that each of the items should have been dealt with at the same time as the removal of the fire escape in that it was either directly connected with, or was part of the need to make good following, the removal of the fire escape, or was sensible, as a cost-saving exercise, to deal with at the same time as the removal of the fire escape whilst the scaffolding was in place for that purpose
- in relation to the new external door to the hall flat, the Tribunal has not been referred to any provision in the Leases making the Applicant/Leaseholders responsible for their own doors and windows, and, in those circumstances, the Tribunal :
    - accepts Mr Belcher's evidence that the provision of a new external door to the hall flat was part of the need to make good following the removal of the fire escape
    - finds that it is reasonable in principle for the cost of the new external door to the hall flat to be payable by way of service charge
- the Tribunal finds that :
    - each of these items should have been carried out in early 2004, at the same time as the removal of the fire escape
    - the service charge payable by the Applicant/Leaseholders in respect of those works should be equivalent to the cost of the works when they should have been carried out in 2004
    - that service charge should be calculated by applying the index figure of 1.1 to the actual cost incurred by the Respondent/Landlord in respect of each item
    - the Tribunal's calculation of the service charge payable in respect of each item is shown in Appendix 4 column 2

148. **Summary**

149. The amount payable by way of service charge in relation to Hurst Brothers account for £25,277.77 would be £20,011.82, calculated in accordance with the figures in Appendix 4 to these reasons, less the retention of £500 referred to in Appendix 4 column 1, leaving a balance of £19,511.82, plus VAT of 17.5% of £3,414.57, making a total of £22,926.39

150. The Tribunal has deducted the retention before the addition of VAT, rather than afterwards, for reasons already given

Portsmouth City Council £883.60

151. The Tribunal finds that :
   a. the sum charged was in relation to work carried out by the Council after the date in 2004 when the fire escape should have been removed
   b. the work carried out by the Council would not have been necessary at all if the Respondent/Landlord had complied with the repairing covenants in the Leases
   c. it is not reasonable for this sum to be charged to the Applicant/Leaseholders
   d. this sum would not be payable by way of service charge accordingly

Daniells Harrison £2,937.50

152. The Tribunal finds that :
   a. it is reasonable in principle for a fee of 10% of the cost of the works to be charged to the Applicant/Leaseholders by way of service charge
   b. the cost of the works for this purpose should be the sum of £20,011.82, being the amount payable by way of service charge in relation to Hurst Brothers account, for reasons already given
   c. the amount payable by way of service charge in relation to Daniells Harrison's fees would be £2,001.18, namely 10% of £ 20,011.82, plus VAT at 17.5% of £350.21, making a total of £2,351.39

Section 20C application

153. The Tribunal finds that :
   a. it was reasonable for the Applicant/Leaseholders to have taken these proceedings, in that:
      - the demand for payment and threat of action contained in the letter from Labyrinth Properties Ltd dated the 31 August 2007 (AEX91) did not comply with the service charge payment procedure set out in the Leases, so that none of the sums claimed were in fact payable by way of service charge at that time
      - the nature of the basis of the Applicant/Leaseholders claim was clear from the contents of the Applicant/Leaseholders' bundle before the first hearing day on the 12 December 2007, namely that the Respondent/Landlord had not complied with the

repairing covenants in the Leases, and that damages should be offset against the costs payable by way of service charge in accordance with the Lands Tribunal's decision in **Continental Property Ventures Inc v Jeremy White**

- the Tribunal has accepted that claim in principle, and has reduced the amount which would be payable by way of service charge accordingly

b. the costs incurred by the Respondent/Landlord in connection with this application should therefore not be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicant/Leaseholders

Summary of Tribunal's findings

154. The amount payable by way of service charge in relation to Hurst Brothers account for £25,277.77 is £22,926.39

155. The amount payable by way of service charge in relation to Portsmouth City Council's account for £883.60 is nil

156. The amount payable by way of service charge in relation to Daniells Harrison's fees of £2,937.50 is £2,351.39

157. The Tribunal makes an order under section 20C of the 1985 Act that the costs incurred by the Respondent/Landlord in connection with this application are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicant/Leaseholders

Dated the 20 March 2008

.....

P R Boardman
(Chairman)

A Member of the Tribunal
appointed by the Lord Chancellor

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00MR/LSC/2007/0086

27 Salisbury Road, Southsea, PO4 9QY

Appendix 1

Spreadsheet showing the actual sums in Hurst Brothers final account and sums contended for by Applicant/Leaseholders if the works had been carried out in 1985, 1990, 1995, 1996, 1999, and 2004, respectively

Actual First Account Works

Description		BCIS Index Date	Multiplier 1990	Argued Sums																
Year 1																				
Fire Escape Works		Date	1988	Argued Sums				Date	1995		Argued Sums	Date				Date	1999		Argued Sums	Date	2004		Argued Sums
a Erect suitable scaffold	£4,675.00	1985	2.350515	£1,988.93	1990	1.688888889	£2,798.09	£2,798.09	1995	1.767442	£2,845.07	£2,845.07	1996	1.795276	£2,604.06	£2,604.06	1999	1.55102	£3,014.15	£3,014.15	2004	1.14	£4,100.86	£4,100.86
b Remove existing fire escape	£3,245.00	1985	2.350515	£1,380.55	1990	1.688888889	£1,921.38	£1,921.38	1995	1.767442	£1,835.99	£1,835.99	1996	1.795276	£1,807.52	£1,807.52	1999	1.55102	£2,092.17	£2,092.17	2004	1.14	£2,846.49	£2,846.49
c Remove areas of brickwork	£90.00	1985	2.350515	£38.29	1990	1.688888889	£53.29	£53.29	1995	1.767442	£50.92	£50.92	1996	1.795276	£50.13	£50.13	1999	1.55102	£55.03	£55.03	2004	1.14	£78.95	£78.95
d Remove timber balustrading	£22.00	1985	2.350515	£9.36	1990	1.688888889	£13.03	£13.03	1995	1.767442	£12.45	£12.45	1996	1.795276	£12.25	£12.25	1999	1.55102	£14.18	£14.18	2004	1.14	£19.30	£19.30
e Remove balcony	£355.00	1985	2.350515	£151.03	1990	1.688888889	£210.20	£210.20	1995	1.767442	£200.86	£200.86	1996	1.795276	£197.74	£197.74	1999	1.55102	£228.88	£228.88	2004	1.14	£311.40	£311.40
f Remove metal beams	£22.00	1985	2.350515	£9.36	1990	1.688888889	£13.03	£13.03	1995	1.767442	£12.45	£12.45	1996	1.795276	£12.25	£12.25	1999	1.55102	£14.18	£14.18	2004	1.14	£19.30	£19.30
g Make good disturbed areas	£50.00	1985	2.350515	£21.27	1990	1.688888889	£29.61	£0.00	1995	1.767442	£28.29	£0.00	1996	1.795276	£27.85	£0.00	1999	1.55102	£32.24	£0.00	2004	1.14	£43.86	£0.00
h Remove timber steps	£22.00	1985	2.350515	£9.36	1990	1.688888889	£13.03	£13.03	1995	1.767442	£12.45	£12.45	1996	1.795276	£12.25	£12.25	1999	1.55102	£14.18	£14.18	2004	1.14	£19.30	£19.30
i Remove timber door	£22.00	1985	2.350515	£9.36	1990	1.688888889	£13.03	£0.00	1995	1.767442	£12.45	£0.00	1996	1.795276	£12.25	£0.00	1999	1.55102	£14.18	£0.00	2004	1.14	£19.30	£0.00
j Clean down brickwork	£205.00	1985	2.350515	£87.21	1990	1.688888889	£121.38	£0.00	1995	1.767442	£115.98	£0.00	1996	1.795276	£114.19	£0.00	1999	1.55102	£132.17	£0.00	2004	1.14	£179.82	£0.00
k Provide cavity closer	£20.00	1985	2.350515	£8.51	1990	1.688888889	£11.84	£0.00	1995	1.767442	£11.32	£0.00	1996	1.795276	£11.14	£0.00	1999	1.55102	£12.89	£0.00	2004	1.14	£17.54	£0.00
l Supply and install window	£765.00	1985	2.350515	£321.21	1990	1.688888889	£447.04	£321.21	1995	1.767442	£427.17	£427.17	1996	1.795276	£420.55	£420.17	1999	1.55102	£486.78	£486.78	2004	1.14	£662.26	£662.26
m Make good concrete surface	£0.00			£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
n Make good internal plastered surface	£0.00			£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
	£9,483.00			£4,034.44	£3,000.00			£5,614.93	£5,313.25			£5,365.36	£5,197.34			£5,282.20	£5,116.57			£6,114.04	£5,822.55			£8,316.42	£8,067.80
Elevation Repairs																								
a Strip back roof covering	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
b Take down skin of brickwork	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
c Cut out defective bricks	£335.00	1985	2.350515	£142.52	£0.00	1990	1.688888889	£198.36	£0.00	1995	1.767442	£188.64	£0.00	1996	1.795276	£186.60	£0.00	1999	1.55102	£215.99	£0.00	2004	1.14	£293.86	£0.00
d Re-site removed stone	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
e Remove surface corrosion	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
f Redecorate metal lintel	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
	£335.00			£142.52	£0.00			£198.36	£0.00			£188.64	£0.00			£186.60	£0.00			£215.99	£0.00			£293.86	£0.00
Plumbing and Drainage Works																								
a Undertake plumbing inspection	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
b Provisional sum	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
b Replace defective pipework	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
c Prepare for and decorate pipework	£350.00	1985	2.350515	£148.90	£0.00	1990	1.688888889	£207.24	£0.00	1995	1.767442	£198.03	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
d Supply and install new soil and vent pipes	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
	£350.00			£148.90	£0.00			£207.24	£0.00			£198.03	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
Roof Works																								
a Undertake inspection of roof void	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
b Provisional sum	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
c Supply and install guttering	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
Internal Work																								
a Remove existing fire alarm	£0.00			£0.00	£0.00			£0.00	£0.00															
b Supply and install new fire alarm	£4,200.00	1985	2.350515	£1,786.84	£1,786.84	1985	2.350515	£1,786.84	£1,786.84	1985	2.350515	£1,786.84	£1,786.84	1985	2.350515	£1,786.84	£1,786.84	1985	2.350515	£1,786.84	£1,786.84	1985	2.350515	£1,786.84	£1,786.84
c Supply and install fire doors	£1,300.00	1985	2.350515	£553.07	£553.07	1990	1.688888889	£769.74	£769.74	1995	1.767442	£735.53	£735.53	1996	1.795276	£724.12	£724.12	1999	1.55102	£838.16	£838.16	2004	1.14	£1,140.35	£1,140.35
d Supply and install fire doors	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
e Inspect ceilings	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
f Supply and install plasterboard	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
g Plaster skim	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
h Decorate new plaster	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
i Supply and install timber stud framing	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
j Supply and install wall board	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
k Supply and install door frame	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
l Plaster skim entrance lobby	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
m Supply and install architraving	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
n Supply and install fire door	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
o Provisional sum	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
p Decorate new plaster	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
q Decorate new timber	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
r Supply and install skirting boards	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
	£5,500.00			£2,339.91	£2,339.91			£2,556.58	£2,556.58			£2,522.37	£2,522.37			£2,510.97	£2,510.96			£2,625.00	£2,625.00			£2,927.19	£2,927.19
Miscellaneous Items																								
a Alter emergency escape window	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00				£0.00	£0.00			£0.00	£0.00
Year 1 Sub Total	£15,668.00			£9,666.77	£8,240.00			£8,577.11	£7,869.83			£8,275.32	£7,719.71			£7,979.75	£7,627.93			£9,966.03	£9,547.55			£11,539.47	£10,968.00
Year 2																								
Scaffold	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
Elevation Repairs																								
a Rake out existing cement	£1,340.00	1985	2.350515	£570.09	£0.00	1990	1.688888889	£793.42	£0.00	1995	1.767442	£759.16	£0.00	1996	1.795276	£746.40	£0.00	1999	1.55102	£963.95	£0.00	2004	1.14	£1,175.44	£0.00
b Clean down areas of face brickwork	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
c Remove all paintwork	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
d Provisional sum	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
e Treat stonework with stone waterproofer	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
f Cut out cast iron airblock	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
g Supply and install clay airblock	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
h Rake out defective mortar	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
i Repoint all affected areas	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00			£0.00	£0.00
j Allow to insert Helifbars	£1,250.00	1985	2.350515	£531.80	£0.00	1990	1.688888889	£740.13	£0.00	1995	1.767442	£707.24	£0.00	1996	1.795276	£696.27	£0.00	1999	1.55102	£805.92	£0.00	2004	1.14	£1,096.49	£0.00
k Helifbars to be inserted into 15mm deep	Included			Included	£0.00			Included	Included			Included				Included				£0.00	£0.00			£0.00	£0.00

Item	2006	1985	1985	1990	1990	1995	1995	1996	1996	1999	1999	2004	2004
l Repoint remaining mortar	Included	Included	£0.00	Included	Included	Included		Included		£0.00	£0.00	£0.00	£0.00
m Hammer test the render	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
n Re-render all affected areas	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
	£2,590.00	£1,101.89	£0.00	£1,533.55	£0.00	£1,468.39	£0.00	£1,442.68	£0.00	£1,669.87	£0.00	£2,271.93	£0.00
External Joinery Works													
a Cut out rotten timber	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
b New timber to be primed and treated	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
c Contractor to inspect windows and doors	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
d Provisional sum	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
Year 2 Sub Total	£2,590.00	£1,101.89	£0.00	£1,533.55	£0.00	£1,468.39	£0.00	£1,442.68	£0.00	£1,669.87	£0.00	£2,271.93	£0.00
Year 3													
Scaffolding	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
Elevation Repairs													
a Hack off loose render	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
External Joinery Works													
a Remove timber window frame	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
b Supply and install window	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
c Remove timber window frame	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
d Prepare surrounding brickwork	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
Roof Works													
a Remove corrugated asbestos sheeting	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
b Supply and install plywood	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
c Supply and install roof covering	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
d Supply and install lead flashing	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
e Investigate brickwork	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
f Supply and install cavity trays	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
Balcony Work													
a Supply and install support beams	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
b Supply and install concrete slab	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
c Supply and install handrailing	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
d Install balustrading	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
d Decorate handrail	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
e Supply and install quarry tiles	Not Included	Not Included	Not Included	Not Included	Not Included	Not Included		Not Included		Not Included		Not Included	
Year 3 sub total	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00		£0.00		£0.00		£0.00	
Contingency	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00		£0.00		£0.00		£0.00	
Total	£19,254.00	£7,767.66	£9,248.00	£10,110.66	£7,669.83	£9,740.71		£9,422.44		£10,624.69		£13,811.40	

Additional Maintenance Items (MB Only)

year at 2006 prices

and rear balcony for 2004 & 2009 (5 year cycle)

Item	2006	Year	Factor			Year	Factor			Year	Factor			Year	Factor			Year	Factor			Year	Factor		
Additional Extras (not specified or priced)																									
1.21 Repairs to LH Roof verge	£280.00	1985	2.350516	£119.12	£0.00	1990	1.688888889	£165.79	£165.79	1995	1.767442	£158.42	£0.00	1996	1.795276	£155.96	£0.00	1999	1.55102	£180.53	£0.00	2004	1.14	£245.61	£0.00
1.22 Repairs to make good weathering to front RH stone parapet	£80.00	1985	2.350515	£34.04	£0.00	1990	1.688888889	£47.37	£47.37	1995	1.767442	£80.00	£0.00	1996	1.795279	£44.56	£0.00	1999	1.55102	£51.58	£0.00	2004	1.14	£70.16	£0.00
1.23 Rebuilding of external wall around second floor flat	£675.00	1985	2.350515	£287.17	£0.00	1990	1.688888889	£399.67	£0.00	1995	1.767442	£391.91	£0.00	1996	1.795276	£375.99	£0.00	1999	1.55102	£435.20	£0.00	2004	1.14	£592.11	£0.00
1.24 Brick repairs around first floor window	£250.00	1985	2.350515	£106.36	£0.00	1990	1.688888889	£148.03	£0.00	1995	1.767442	£141.45	£0.00	1996	1.795276	£139.25	£0.00	1999	1.55102	£161.18	£0.00	2004	1.14	£219.30	£0.00
1.25 New external door to hall flat	£950.00	1985	2.350515	£404.17	£0.00	1990	1.688888889	£562.50	£0.00	1995	1.767442	£537.50	£0.00	1996	1.795276	£529.17	£0.00	1999	1.55102	£612.50	£0.00	2004	1.14	£833.33	£0.00
1.26 Works to make safe boundary wall	£720.00	1985	2.350516	£306.32	£0.00	1990	1.688888889	£426.32	£426.32	1995	1.767442	£407.37	£0.00	1996	1.795276	£401.05	£0.00	1999	1.55102	£464.21	£0.00	2004	1.14	£631.58	£0.00
1.27 Installation of juliette balcony hall flat	£500.00	1985	2.350515	£212.72	£0.00	1990	1.688888889	£296.05	£0.00	1995	1.767442	£282.89	£0.00	1996	1.795276	£278.51	£0.00	1999	1.55102	£322.37	£0.00	2004	1.14	£438.60	£0.00
1.28 Installation of fire door to communal cupboard	£300.00	1985	2.350515	£127.63	£127.63	1990	1.688888889	£177.63	£177.63	1995	1.767442	£169.74	£169.74	1996	1.795276	£167.11	£167.11	1999	1.55102	£193.42	£193.42	2004	1.14	£263.16	£263.16
	£3,755.00			£1,597.52	£127.63			£2,223.36	£817.10			£2,159.28	£169.74			£2,091.66	£167.11			£2,420.90	£193.42			£3,293.86	£263.16
Sub total	£22,913.86			£9,365.18	£9,375.63			£12,334.01	£8,486.94			£11,899.99	£7,588.46			£11,514.04	£7,734.64			£13,045.58	£6,740.97			£17,105.26	£11,246.88
Other costs (MB Only)																									
Professional fees (10%)	[illegible]	1985	2.350515	£1,063.60	£1,063.60	1990	1.688888889	£1,480.26	£1,480.26	1995	1.767442	£1,414.47	£1,414.47	1996	1.795276	£1,392.54	£1,392.54	1999	1.55102	£1,611.84	£1,611.84	2004	1.14	£2,192.98	£2,191.98
Portsmouth City Council fees for DSM	[illegible]	1985	2.350515	£319.93	£0.00	1990	1.688888889	£445.26	£0.00	1995	1.767442	£425.47	£0.00	1996	1.795276	£418.68	£0.00	1999	1.55102	£484.84	£0.00	2004	1.14	£858.65	£0.00
Preparation of Building Control Application	£1,100.00	1985	2.350515	£487.98	£487.98	1990	1.688888889	£651.32	£651.32	1995	1.767442	£622.37	£622.37	1996	1.795276	£612.72	£612.72	1999	1.55102	£709.21	£709.21	2004	1.14	£964.61	£964.91
Submission of Building Control Application	£329.90	1985	2.350515	£140.35	£140.35	1990	1.688888889	£195.34	£195.34	1995	1.767442	£186.65	£166.65	1996	1.795276	£163.76	£163.76	1999	1.55102	£212.70	£212.70	2004	1.14	£289.39	£289.39
[redacted]	[redacted]	1985	2.350515	£425.44	£425.44	1990	1.688888889	£592.11	£592.11	1995	1.767442	£565.79	£565.79	1996	1.795276	£557.02	£557.02	1999	1.55102	£644.74	£644.74	2004	1.14	£877.19	£877.19
VAT (on deposited sums only)		1985	2.350515		£711.30	1990	1.688888889		£1,377.78	1995	1.767442		£1,256.03	1996	1.795276		£1,219.32	1999	1.55102		£1,633.60	2004	1.14		£3,023.05
VAT (on total)	£4,964.16	1985	2.350515	£1,984.31		1990	1.688888889	£2,781.67		1995	1.767442	£2,836.93		1996	1.795276	£2,598.02		1999	1.55102	£3,007.18		2004	1.14	£4,091.37	
retention	-£500.00			-£500.00	-£500.00			-£500.00	-£500.00			-£500.00	-£500.00			-£500.00	-£500.00			-£500.00	-£500.00			-£500.00	-£500.00
Sub Total	£31,859.08			£13,266.80	£8,684.30			£17,959.97	£12,483.75			£17,253.68	£11,436.76			£16,776.97	£11,260.00			£19,216.37	£13,053.06			£25,680.75	£18,094.77
Total Estimated Expenditure	£31,859.08			£13,266.80	£8,684.30			£17,959.97	£12,483.75			£17,253.68	£11,436.76			£16,776.97	£11,260.00			£19,216.37	£13,053.06			£25,680.75	£18,094.77
Cost Per Flat	£7,964.77			£3,316.70	£2,171.08			£4,489.99	£3,120.94			£4,313.42	£2,859.19			£4,194.24	£2,815.00			£4,804.09	£3,263.27			£6,420.18	£4,523.69

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00MR/LSC/2007/0086

27 Salisbury Road, Southsea, PO4 9QY

Appendix 2

Daniells Harrison cost analysis showing comparison between Hurst Brothers original tender costs 13 June 2005, Hurst Brothers uplifted tender costs 13 October 2006, costs of works carried out March 2007, and costs of possible planned maintenance works in 1999, 2004, and 2009

27 SALISBURY ROAD, SOUTHSEA
FIRE ESCAPE REMOVAL AND REMEDIAL WORKS
COST ANALYSIS OF DISCOUNTED REPAIR AND MAINTENANCE WORKS
LVT HEARING JANUARY 23RD 2008

CHARTERED SURVEYORS

Non-discounted costs

Ref	Description	* Hurst Brothers Original Tender rates submitted 13th June 2006	Hurst Brothers optimised tendered costs submitted 19th October 2006	Works Carried out March 2007
1.00	Preliminaries			
1.23 (J)	Ensure workmen are aware of escape			
	YEAR 1			
3.01	Fire Escape Works			
A	Erect suitable scaffold	£ 4,212.50	£ 4,675.00	£ 4,675.00
B	Remove existing fire escape	£ 2,925.00	£ 3,245.00	£ 3,245.00
C	Remove areas of brickwork	£ 80.00	£ 90.00	£ 90.00
D	Remove timber balustrading	£ 20.00	£ 22.00	£ 22.00
E	Remove balcony	£ 320.00	£ 355.00	£ 355.00
F	Remove metal beams	£ 20.00	£ 22.00	£ 22.00
G	Make good disturbed areas	£ 45.00	£ 50.00	£ 50.00
H	Remove timber steps	£ 20.00	£ 22.00	£ 22.00
I	Remove timber door	£ 20.00	£ 22.00	£ 22.00
J	Clean down brickwork	£ 185.00	£ 205.00	£ 205.00
K	Provide cavity closer	£ 18.00	£ 20.00	£ 20.00
L	Supply & Install window	£ 680.00	£ 755.00	£ 755.00
M	Make good concrete surface	£ 90.00	£ 100.00	£ 335.00
N	Make good internal plastered surfaces	£ 130.00	£ 145.00	£ 350.00
3.02	Elevation Repairs			
A	Strip back roof covering	£ 330.00	£ 365.00	£ -
B	Take down skin of brickwork	£ 1,980.00	£ 2,200.00	£ -
C	Cut out defective bricks	£ 300.00	£ 335.00	£ -
	Re-site removed stone	£ 36.00	£ 40.00	£ -
		£ 18.00	£ 18.00	£ -

Discounted costs

Ref	Description	2007 rate	Possible Planned Maintenance works undertaken 2nd quarter 1999 BCIS Table forecast for 2nd quarter 1999 152; first quarter 2007 239 152/239 = 64% of non-discounted/ current prices	Possible Planned Maintenance works undertaken 2nd quarter 2004 BCIS Table forecast for 2nd quarter 2004 216; first quarter 2007 239 215/239 = 90% of non-discounted/ current prices	Anticipated Planned Maintenance works undertaken 2nd quarter 2009 BCIS Table forecast for 4th quarter 2007 245; 2nd quarter 2009 264 (Forecast) 264/245 = 108% of non-discounted/ current prices
1.00	Preliminaries				
1.23 (J)	Ensure workmen are aware of escape				
			1999 rate	2004 rate	2009 rate (Est)
3.01	Fire Escape Works				
A	Erect suitable scaffold	4,675.00	£ 2,992.00	4,207.50	5,500.00
B	Overhaul existing fire escape to include: *Treatment to Corrosion* *New welded sections* *Remedial spot welding* *Full decorations*	6,000.00	£ 3,840.00	-	
C	Remove areas of brickwork to top south-east corner and rebuild	675.00	£ 432.00	-	
D	Overhaul timber balustrading and balcony to rear to include: *Remove and replace defective timbers* *Treat corroded metal* *Replace balcony covering* *Full decorations*	3,250.00	£ 2,080.00	-	
3.02	Elevation Repairs				

27 SALISBURY ROAD, SOUTHSEA
FIRE ESCAPE REMOVAL AND REMEDIAL WORKS
COST ANALYSIS OF DISCOUNTED REPAIR AND MAINTENANCE WORKS
LVT HEARING JANUARY 23RD 2008

Daniel Harrison
CHARTERED SURVEYORS

Non-discounted costs

		Hurst Brothers Original Tender rates submitted 13th June 2007	Hurst Brothers refined tendered costs submitted 13th October 2008	Works carried out March 2007
F	Redecorate metal lintel	£ 70.00	£ 70.00	£ -
3.03	**Plumbing and Drainage Works**			
A	Undertake plumbing inspection	£ 165.00	£ 165.00	£ -
B	Provisional sum	£ 250.00	£ 250.00	£ -
C	Replace defective pipework	£ 1,650.00	£ 1,650.00	£ -
D	Prepare for & decorate pipework	£ 1,025.00	£ 1,025.00	£ -
E	Supply & install new soil & vent pipes	£ 1,650.00	£ 1,650.00	£ -
3.04	**Roof Works**			
A	Undertake inspection of roof void	£ 80.00	£ 90.00	£ -
B	Provisional sum	£ 1,000.00	£ 1,000.00	£ -
C	Supply & install guttering	£ 330.00	£ 370.00	£ -
3.05	**Internal Work**			
A	Remove exisitng fire alarm	£ 5,000.00	£ 5,000.00	£ 4,200.00
B	Supply & install new fire alarm	included		
C	Supply & install fire doors	£ 1,175.00	£ 1,300.00	£ 1,300.00
D	Supply & install fire doors	£ 1,417.20	£ 1,570.00	£ -
E	Inspect ceilings	£ 165.00	£ 180.00	£ -
F	Supply & install plasterboard	£ 2,850.00	£ 3,465.00	£ -
G	Plaster skim	£ 2,280.00	£ 2,530.00	£ -
H	Decorate new plaster	£ 1,785.00	£ 1,980.00	£ -
I	Supply & install timber stud framing	£ 3,075.00	£ 3,075.00	£ -
J	Supply & install wall board	included		
K	Supply & install door frame	included		
L	Plaster skim entrance lobby	included		
M	Supply & install architraving	included		
N	Supply & install fire door	included		
O	Provisional sum	£ 150.00	£ 160.00	£ -
P	Decorate new plaster			
Q	Decorate new timber	£ 366.00	£ 366.00	£ -
R	Supply & install skirting boards	£ 72.00	£ 72.00	£ -
3.06	**Miscellaneous Items**			
A	Alter emergency escape window	£ 48.00	£ 55.00	£ -
	Year 1 Sub total	**£ 36,032.70**	**£ 36,699.00**	**£ 15,668.00**

Discounted costs

			Possible Planned Maintenance works undertaken 2nd quarter 1999 BCIS Table forecast for 2nd quarter 1999 152; first quarter 2007 239 152/239 = 64% of non-discounted/ current prices	Possible Planned Maintenance works undertaken 2nd quater 2004 BCIS Table forecast for 2nd quarter 2004 215; first quarter 2007 239 215/239 = 90% of non-discounted/ current prices	Anticipated Planned Maintenance works undertaken 2nd quarter 2009 BCIS Table forecast for 4th quarter 2007 245; 2nd quarter 2009 264 (Forecast) 264/248 = 108% of non-discounted/ current prices
3.03	**Plumbing and Drainage Works**				
3.04	**Roof Works**				
3.05	**Internal Work**				
A	Overhaul exisitng fire alarm, test and leave full working condition	1,000.00	640.00	-	
B	Supply & install new fire alarm and emergency lighting	4,200.00	-	3,780.00	
C	Remove obsolete fire alarm	350.00	-	315.00	
3.06	**Miscellaneous Items**				
A					

27 SALISBURY ROAD, SOUTHSEA
FIRE ESCAPE REMOVAL AND REMEDIAL WORKS
COST ANALYSIS OF DISCOUNTED REPAIR AND MAINTENANCE WORKS
LVT HEARING JANUARY 23RD 2008

Daniels Harrison
CHARTERED SURVEYORS

		Non-discounted costs			Discounted costs					
								Possible Planned Maintenance works undertaken 2nd quarter 1999 BCIS Table forecast for 2nd quarter 1999 152; first quarter 2007 239 152/239 = 64% of non-discounted current prices	Possible Planned Maintenance works undertaken 2nd quater 2004 BCIS Table forecast for 2nd quarter 2004 215; first quarter 2007 239 215/239 = 90% of non-discounted current prices	Anticipated Planned Maintenance works undertaken 2nd quarter 2009 BCIS Table forecast for 4th quarter 2007 249; 2nd quarter 2009 264 (Forecast) 264/245 = 108% of non-discounted current prices
		Hurst Brothers' Original Tender rates submitted 13th June 2005	Hurst Brothers' updated tendered costs submitted 13th October 2006	Works carried out March 2007						
	Scaffold									
3.07	**Elevation Repairs**				3.07	**Elevation Repairs**				
A	Rake out existing cement	£ 4,812.50	£ 5,345.00	£ 1,340.00	A	Rake out existing cement	1,500.00	960.00	1,350.00	500.00
B	Clean down areas of face brickwork	£ 760.00	£ 845.00	£ -	B					
C	Remove all paintwork	£ 1,650.00	£ 1,650.00	£ -	C					
D	Provisional sum	£ 1,500.00	£ 1,500.00	£ -	D					
E	Treat stonework with stone waterproofer	£ 825.00	£ 825.00	£ -	E					
F	Cut out cast iron airblock	£ 10.00	£ 10.00	£ -	F					
G	Supply & install clay airblock	£ 28.00	£ 28.00	£ -	G					
H	Rake out defective mortar	£ 600.00	£ 670.00	£ -	H					
I	Repoint all affected areas	£ 600.00	£ 670.00	£ -	I					
J	Allow to insert Hellibars	£ 1,125.00	£ 1,250.00	£ 1,250.00	J					
K	Hellibars to be inserted into 15mm deep grout	included			K	Hellibars to be inserted into 15mm de	1,250.00	800.00	1,125.00	
L	Repoint remaining mortar	included			L					
M	Hammer test the render	£ 430.00	£ 430.00	£ -	M					
N	Re-render all affected areas	included			N					
3.08	**External Joinery Works**				3.08	**External Joinery Works**				
A	Cut out rotten timber	£ 450.00	£ 450.00	£ -	A					
B	New timber to be primed and treated	included			B					
C	Contractor to inspect windows & doors	£ 165.00	£ 165.00	£ -	C					
D	Provisional sum	£ 500.00	£ 500.00	£ -	D					
	Year 2 Sub Total	**£ 13,455.50**	**£ 14,336.00**	**£ 2,590.00**						
	YEAR 3									
	Scaffold									
3.09	**Elevation Repairs**				3.09	**Elevation Repairs**				
A	Hack off loose render	£ 380.00	£ 380.00	£ -	A					
3.10	**External Joinery Works**				3.10	**External Joinery Works**				
A	Remove timber window frame	£ 30.00	£ 30.00	£ -	A					
B	Supply & install window	£ 680.00	£ 680.00	£ -	B					
C	Remove timber window frame	£ 30.00	£ 30.00	£ -	C					
D	Prepare surrounding brickwork	£ 680.00	£ 680.00	£ -	D					
3.11	**Roof Works**				3.11	**Roof Works**				
A	Remove corrugated asbestos sheeting	£ 665.00	£ 665.00	£ -	A					
B	Supply & install plywood	£ 1,200.00	£ 1,200.00	£ -	B					
C	Supply & install roof covering	included	included		C					
D	Supplt & install lead flashing	included	included		D					
E	Investigate brickwork	£ 18.00	£ 18.00	£ -	E					
F	Supply & install cavity trays	£ 380.00	£ 380.00	£ -	F					

RICS

27 SALISBURY ROAD, SOUTHSEA
FIRE ESCAPE REMOVAL AND REMEDIAL WORKS
COST ANALYSIS OF DISCOUNTED REPAIR AND MAINTENANCE WORKS
LVT HEARING JANUARY 23RD 2008

Non-discounted costs

		Hurst Brothers Original tender rates submitted 13th June 2005	Hurst Brothers uplifted tendered costs submitted 13th October 2006	Works carried out March 2007
3.12	Balcony Work			
A	Supply & install support beams	£ 990.00	£ 990.00	£ -
B	Supply & install concrete slab	£ 975.00	£ 975.00	£ -
C	Supply & install handrailing	£ 1,000.00	£ 1,000.00	£ -
D	Install balustading	£ 1,000.00	£ 1,000.00	£ -
E	Decorate handrail	£ 450.00	£ 450.00	£ -
F	Supply & install quarry tiles	£ 660.00	£ 660.00	£ -
	Year 3 sub total	£ 9,138.00	£ 9,138.00	£ -
4.04	Contingency	£ 5,000.00	£ 5,000.00	£ 3,755.00
		£ 63,626.20	£ 67,175.00	£ 22,013.00
Other Costs				
1	Professional Fees (10%)			£ 2,500.00
2	Portsmouth City Council fees for DSN			£ 709.45
3	Preparation of Building Control Application			£ 1,100.00
4	Submission of Building Control Application			£ 329.90
5	VAT			£ 4,664.16
Total cost of maintaining East Elevation including to remove staircase				£ 31,316.51

Discounted costs

			Possible Planned Maintenance works undertaken 2nd quarter 1999 BCIS Table forecast for 2nd quarter 1994 152, first quarter 2007 239 152/239 = 64% of non-discounted/ current prices	Possible Planned Maintenance works undertaken 2nd quater 2004 BCIS Table forecast for 2nd quarter 2004 215, first quarter 2007 239 215/239 = 90% of non-discounted/ current prices	Anticipated Planned Maintenance works undertaken 2nd quarter 2009 BCIS Table forecast for 4th quarter 2007 245, 2nd quarter 2009 264 (Fordcast) 264/245 = 108% of non-discounted/ current prices
3.12	Balcony Work				
A					
B					
C					
D					
E					
F					
4.04	Contingency	5,000.00	5,000.00	2,500.00	1,500.00
	Additional Maintenance Items				
	Annual test for Fire alarm between 1999 and 2004 at £75.00 per year at 2008 prices	375.00		337.50	
	Redecorations to all external metal and timber work to stairs and rear balcony for 2004 & 2009 (5 year cycle)	5,000.00		4,500.00	5,400.00
			£ 16,744.00	£ 18,115.00	£ 10,900.00
			£ 1,674.40	£ 1,811.50	£ 1,090.00
			£ -	£ -	£ -
			£ -	£ -	£ -
			£ -	£ -	£ -
			£ 3,223.22	£ 3,487.14	£ 2,098.25
			£ 21,641.62	£ 23,413.64	£ 14,088.25
Total cost for Maintaining East Elevation between 1999 and 2009			£ 21,641.62	£ 45,055.26	£ 59,143.51
			Year 1999	Year 2004	Year 2009
Difference between Maintaining or removing the staircase					£ 27,827.00

RICS

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00MR/LSC/2007/0086

27 Salisbury Road, Southsea, PO4 9QY

Appendix 3

Spreadsheet of revised calculations for 1999 and 2004

Actual Final Account Works

Description									
Year 1									
Fire Escape Works		**Date**	**1999**		**Argued Sums**	**Date**	**2004**		**Argued Sums**
a Erect suitable scaffold	£4,675.00	1999	1.55102	£3,014.15	£3,014.15	2004	1.1	£4,250.00	£4,250.00
b Remove existing fire escape	£3,245.00	1999	1.55102	£2,092.17	£2,092.17	2004	1.1	£2,950.00	£2,950.00
c Remove areas of brickwork	£90.00	1999	1.55102	£58.03	£58.03	2004	1.1	£81.82	£81.82
d Remove timber balustrading	£22.00	1999	1.55102	£14.18	£14.18	2004	1.1	£20.00	£20.00
e Remove balcony	£355.00	1999	1.55102	£228.88	£228.88	2004	1.1	£322.73	£322.73
f Remove metal beams	£22.00	1999	1.55102	£14.18	£14.18	2004	1.1	£20.00	£20.00
g Make good disturbed areas	£50.00	1999	1.55102	£32.24	£32.24	2004	1.1	£45.45	£45.45
h Remove timber steps	£22.00	1999	1.55102	£14.18	£14.18	2004	1.1	£20.00	£20.00
i Remove timber door	£22.00	1999	1.55102	£14.18	£14.18	2004	1.1	£20.00	£20.00
j Clean down brickwork	£205.00	1999	1.55102	£132.17	£132.17	2004	1.1	£186.36	£186.36
k Provide cavity closer	£20.00	1999	1.55102	£12.89	£12.89	2004	1.1	£18.18	£18.18
l Supply and install window	£755.00	1999	1.55102	£486.78	£486.78	2004	1.1	£686.36	£686.36
m Make good concrete surface	£0.00			£0.00	£0.00			£0.00	£0.00
n Make good internal plastered surface	£0.00			£0.00	£0.00			£0.00	£0.00
	£9,483.00			**£6,114.04**	**£6,114.04**			**£8,620.91**	**£8,620.91**
Elevation Repairs									
a Strip back roof covering	£0.00			£0.00	£0.00			£0.00	£0.00
b Take down skin of brickwork	£0.00			£0.00	£0.00			£0.00	£0.00
c Cut out defective bricks	£335.00	1999	1.55102	£215.99	**£0.00**	2004	1.1	£304.55	**£0.00**
d Re-site removed stone	£0.00			£0.00	£0.00			£0.00	£0.00
e Remove surface corrosion	£0.00			£0.00	£0.00			£0.00	£0.00
f Redecorate metal lintel	£0.00			£0.00	£0.00			£0.00	£0.00
	£335.00			**£215.99**	**£0.00**			**£304.55**	**£0.00**
Plumbing and Drainage Works									
a Undertake plumbing inspection	£0.00			£0.00	£0.00			£0.00	£0.00
b Provisional sum	£0.00			£0.00	£0.00			£0.00	£0.00
b Replace defective pipework	£0.00			£0.00	£0.00			£0.00	£0.00
c Prepare for and decorate pipework	£350.00	1999	1.55102	£225.66	£225.66	2004	1.1	£318.18	£318.18
d Supply and install new soil and vent pipes	£0.00			£0.00	£0.00			£0.00	£0.00
	£350.00			**£225.66**	**£225.66**			**£318.18**	**£318.18**
Roof Works									
a Undertake inspection of roof void	£0.00			£0.00	£0.00			£0.00	£0.00
b Provisional sum	£0.00			£0.00	£0.00			£0.00	£0.00
c Supply and install guttering	£0.00			£0.00	£0.00			£0.00	£0.00
	£0.00			**£0.00**	**£0.00**			**£0.00**	**£0.00**
Internal Work									
a Remove existing fire alarm	£0.00								
b Supply and install new fire alarm	£4,200.00	1999	1.55102	£2,707.90	£2,707.90	2004	1.1	£3,818.18	£3,818.18
c Supply and install fire doors	£1,300.00	1999	1.55102	£838.16	£838.16	2004	1.1	£1,181.82	£1,181.82
d Supply and install fire doors	£0.00			£0.00	£0.00			£0.00	£0.00
e Inspect ceilings	£0.00			£0.00	£0.00			£0.00	£0.00
f Supply and install plasterboard	£0.00			£0.00	£0.00			£0.00	£0.00
g Plaster skim	£0.00			£0.00	£0.00			£0.00	£0.00
h Decorate new plaster	£0.00			£0.00	£0.00			£0.00	£0.00
i Supply and install timber stud framing	£0.00			£0.00	£0.00			£0.00	£0.00
j Supply and install wall board	£0.00			£0.00	£0.00			£0.00	£0.00
k Supply and install door frame	£0.00			£0.00	£0.00			£0.00	£0.00
l Plaster skim entrance lobby	£0.00			£0.00	£0.00			£0.00	£0.00
m Supply and install architraving	£0.00			£0.00	£0.00			£0.00	£0.00
n Supply and install fire door	£0.00			£0.00	£0.00			£0.00	£0.00
o Provisional sum	£0.00			£0.00	£0.00			£0.00	£0.00
p Decorate new plaster	£0.00			£0.00	£0.00			£0.00	£0.00
q Decorate new timber	£0.00			£0.00	£0.00			£0.00	£0.00
r Supply and install skirting boards	£0.00			£0.00	£0.00			£0.00	£0.00
	£5,500.00			**£3,546.06**	**£3,546.06**			**£5,000.00**	**£5,000.00**
Miscellaneous Items									
a After emergency escape window	£0.00			£0.00	£0.00			£0.00	£0.00
	£15,668.00			**£10,101.74**	**£9,885.75**			**£14,243.64**	**£13,939.09**
Year 2									
Scaffold	£0.00			£0.00	£0.00			£0.00	£0.00
Elevation Repairs									
a Rake out existing cement	£1,340.00	1999	1.55102	£863.95	**£0.00**	2004	1.1	£1,218.18	**£0.00**
b Clean down areas of face brickwork	£0.00			£0.00	£0.00			£0.00	£0.00
c Remove all paintwork	£0.00			£0.00	£0.00			£0.00	£0.00
d Provisional sum	£0.00			£0.00	£0.00			£0.00	£0.00
e Treat stonework with stone waterproofer	£0.00			£0.00	£0.00			£0.00	£0.00
f Cut out cast iron airblock	£0.00			£0.00	£0.00			£0.00	£0.00
g Supply and install clay airblock	£0.00			£0.00	£0.00			£0.00	£0.00

h Rake out defective mortar	£0.00				£0.00	£0.00				£0.00	£0.00
i Repoint all affected areas	£0.00				£0.00	£0.00				£0.00	£0.00
j Allow to insert Helibars	£1,250.00	1999	1.55102		£805.92	**£0.00**	2004	1.1		£1,136.36	**£0.00**
k Helibars to be inserted into 15mm deep	Included				£0.00	£0.00				£0.00	£0.00
l Repoint remaining mortar	Included				£0.00	£0.00				£0.00	£0.00
m Hammer test the render	£0.00				£0.00	£0.00				£0.00	£0.00
n Re-render all affected areas	£0.00				£0.00	£0.00				£0.00	£0.00
	£2,590.00				**£1,669.87**	**£0.00**				**£2,354.55**	**£0.00**
External Joinery Works											
a Cut out rotten timber	£0.00				£0.00	£0.00				£0.00	£0.00
b New timber to be primed and treated	£0.00				£0.00	£0.00				£0.00	£0.00
c Contractor to inspect windows and doors	£0.00				£0.00	£0.00				£0.00	£0.00
d Provisional sum	£0.00				£0.00	£0.00				£0.00	£0.00
	£0.00				**£0.00**	**£0.00**				**£0.00**	**£0.00**
Year 2 Sub Total	**£2,590.00**				**£1,669.87**	**£0.00**				**£2,354.55**	**£0.00**
Year 3											
Scaffolding											
	Not included				Not included					Not included	
Elevation Repairs					Not included					Not included	
a Hack off loose render	Not included										
External Joinery Works											
a Remove timber window frame	Not included				Not included					Not included	
b Supply and install window	Not included				Not included					Not included	
c Remove timber window frame	Not included				Not included					Not included	
d Prepare surrounding brickwork	Not included				Not included					Not included	
Roof Works											
a Remove corrugated asbestos sheeting	Not included				Not included					Not included	
b Supply and install plywood	Not included				Not included					Not included	
c Supply and install roof covering	Not included				Not included					Not included	
d Supply and install lead flashing	Not included				Not included					Not included	
e Investigate brickwork	Not included				Not included					Not included	
f Supply and install cavity trays	Not included				Not included					Not included	
Balcony Work											
a Supply and install support beams	Not included				Not included					Not included	
b Supply and install concrete slab	Not included				Not included					Not included	
c Supply and install handrailing	Not included				Not included					Not included	
d Install balustrading	Not included				Not included					Not included	
d Decorate handrail	Not included				Not included					Not included	
e Supply and install quarry tiles	Not included				Not included					Not included	
Year 3 sub total	£0.00				£0.00					£0.00	
Contingency (see below)	£0.00				£0.00					£0.00	
	£18,258.00				**£11,771.61**					**£16,596.18**	
Additional Extras (not specified or priced)											
1.21 Repairs to LH Roof verge	£280.00	1999	1.55102		£180.53	£180.53	2004	1.1		£254.55	**£254.55**
1.22 Repairs to make good weathering to front RH stone parapet	£80.00	1999	1.55102		£51.58	£51.58	2004	1.1		£72.73	**£72.73**
1.23 Rebuilding of external wall around second floor flat	£875.00	1999	1.55102		£435.20	**£0.00**	2004	1.1		£613.64	**£0.00**
1.24 Brick repairs around first floor window	£250.00	1999	1.55102		£161.18	**£0.00**	2004	1.1		£227.27	**£0.00**
1.25 New external door to hall flat	£950.00	1999	1.55102		£612.50	**£0.00**	2004	1.1		£863.64	**£0.00**
1.26 Works to make safe boundary wall	£720.00	1999	1.55102		£464.21	**£0.00**	2004	1.1		£654.55	**£0.00**
1.27 Installation of juliette balcony hall flat	£500.00	1999	1.55102		£322.37	£322.37	2004	1.1		£454.55	**£454.55**
1.28 Installation of fire door to communal cupboard	£300.00	1999	1.55102		£193.42	£193.42	2004	1.1		£272.73	£263.16
	£3,755.00				**£2,420.99**	**£747.89**				**£3,413.64**	**£1,044.98**
Sub total	[illegible]					[illegible]					
Other costs (MB Only)											
Professional fees (10%)	**£2,500.00**	1999			£1,419.26	£1,063.36	2004			£2,001.18	£1,498.41
VAT (on disputed sums only)		1999				£2,046.98	2004				£2,884.43
VAT (on total)	**£4,289.78**	1999			£2,732.07		2004			£3,852.28	
retention	-£500.00				-£500.00	-£500.00				-£500.00	-£500.00
Sub Total	**£28,302.78**				**£17,843.93**	**£13,243.99**				**£25,365.28**	**£18,866.91**
Total Expenditure	[illegible]				[illegible]	[illegible]				[illegible]	[illegible]

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00MR/LSC/2007/0086

27 Salisbury Road, Southsea, PO4 9QY

Appendix 4

Tribunal's calculations

Actual Final Account Works		Tribunal's calculations			
Description					
Year 1					
Fire Escape Works		**Date**	**2004**		
a Erect suitable scaffold	£4,675.00	2004	1.1		£4,250.00
b Remove existing fire escape	£3,245.00	2004	1.1		£2,950.00
c Remove areas of brickwork	£90.00	2004	1.1		£81.82
d Remove timber balustrading	£22.00	2004	1.1		£20.00
e Remove balcony	£355.00	2004	1.1		£322.73
f Remove metal beams	£22.00	2004	1.1		£20.00
g Make good disturbed areas	£50.00	2004	1.1		£45.45
h Remove timber steps	£22.00	2004	1.1		£20.00
i Remove timber door	£22.00	2004	1.1		£20.00
j Clean down brickwork	£205.00	2004	1.1		£186.36
k Provide cavity closer	£20.00	2004	1.1		£18.18
l Supply and install window	£755.00	2004	1.1		£686.36
m Make good concrete surface	£0.00				£0.00
n Make good internal plastered surface	£0.00				£0.00
	£9,483.00				**£8,620.91**
Elevation Repairs					
a Strip back roof covering	£0.00				£0.00
b Take down skin of brickwork	£0.00				£0.00
c Cut out defective bricks	£335.00	2004	1.1		£304.55
d Re-site removed stone	£0.00				£0.00
e Remove surface corrosion	£0.00				£0.00
f Redecorate metal lintel	£0.00				£0.00
	£335.00				**£304.55**
Plumbing and Drainage Works					
a Undertake plumbing inspection	£0.00				£0.00
b Provisional sum	£0.00				£0.00
b Replace defective pipework	£0.00				£0.00
c Prepare for and decorate pipework	£350.00	2004	1.1		£318.18
d Supply and install new soil and vent pipes	£0.00				£0.00
	£350.00				**£318.18**
Roof Works					
a Undertake inspection of roof void	£0.00				£0.00
b Provisional sum	£0.00				£0.00
c Supply and install guttering	£0.00				£0.00
	£0.00				**£0.00**
Internal Work					
a Remove existing fire alarm	£0.00				
b Supply and install new fire alarm	£4,200.00	2004	1.1		£3,818.18
c Supply and install fire doors	£1,300.00	2004	1.1		£1,181.82
d Supply and install fire doors	£0.00				£0.00
e inspect ceilings	£0.00				£0.00
f Supply and install plasterboard	£0.00				£0.00
g Plaster skim	£0.00				£0.00
h Decorate new plaster	£0.00				£0.00
i Supply and install timber stud framing	£0.00				£0.00
j Supply and install wall board	£0.00				£0.00
k Supply and install door frame	£0.00				£0.00
l Plaster skim entrance lobby	£0.00				£0.00
m Supply and install architraving	£0.00				£0.00
n Supply and install fire door	£0.00				£0.00
o Provisional sum	£0.00				£0.00
p Decorate new plaster	£0.00				£0.00
q Decorate new timber	£0.00				£0.00
r Supply and install skirting boards	£0.00				£0.00
	£5,500.00				**£5,000.00**
Miscellaneous Items					
a Alter emergency escape window	£0.00				£0.00
Year 1 Sub Total	**£15,668.00**				**£14,243.64**
Year 2					
Scaffold	£0.00				£0.00
Elevation Repairs					
a Rake out existing cement	£1,340.00	2004	1.1		£1,218.18
b Clean down areas of face brickwork	£0.00				£0.00
c Remove all paintwork	£0.00				£0.00
d Provisional sum	£0.00				£0.00
e Treat stonework with stone waterproofer	£0.00				£0.00
f Cut out cast iron airblock	£0.00				£0.00
g Supply and install clay airblock	£0.00				£0.00
h Rake out defective mortar	£0.00				£0.00
i Repoint all affected areas	£0.00				£0.00

j	Allow to insert Hellibars	£1,250.00		2004	1.1	£1,136.36
k	Hellibars to be inserted into 15mm deep	Included				£0.00
l	Repoint remaining mortar	Included				£0.00
m	Hammer test the render	£0.00				£0.00
n	Re-render all affected areas	£0.00				£0.00
		£2,590.00				**£2,354.55**
	External Joinery Works					
a	Cut out rotten timber	£0.00				£0.00
b	New timber to be primed and treated	£0.00				£0.00
c	Contractor to inspect windows and doors	£0.00				£0.00
d	Provisional sum	£0.00				£0.00
		£0.00				**£0.00**
	Year 2 Sub Total	**£2,590.00**				**£2,354.55**
	Year 3					
	Scaffolding					
		Not included				Not included
	Elevation Repairs					Not included
a	Hack off loose render	Not included				
	External Joinery Works					
a	Remove timber window frame	Not included				Not included
b	Supply and install window	Not included				Not included
c	Remove timber window frame	Not included				Not included
d	Prepare surrounding brickwork	Not included				Not included
	Roof Works					
a	Remove corrugated asbestos sheeting	Not included				Not included
b	Supply and install plywood	Not included				Not included
c	Supply and install roof covering	Not included				Not included
d	Supply and install lead flashing	Not included				Not included
e	Investigate brickwork	Not included				Not included
f	Supply and install cavity trays	Not included				Not included
	Balcony Work					
a	Supply and install support beams	Not included				Not included
b	Supply and install concrete slab	Not included				Not included
c	Supply and install handrailing	Not included				Not included
d	Install balustrading	Not included				Not included
d	Decorate handrail	Not included				Not included
e	Supply and install quarry tiles	Not included				Not included
	Year 3 sub total	£0.00				£0.00
	Contingency (see below)	£0.00				£0.00
	Total	**£18,268.00**				**£16,698.18**
	Additional Extras (not specified or priced)					
1.21	Repairs to LH Roof verge	£280.00		2004	1.1	£254.55
1.22	Repairs to make good weathering to front RH stone parapet	£80.00		2004	1.1	£72.73
1.23	Rebuilding of external wall around second floor flat	£675.00		2004	1.1	£613.64
1.24	Brick repairs around first floor window	£250.00		2004	1.1	£227.27
1.25	New external door to hall flat	£950.00		2004	1.1	£863.64
1.26	Works to make safe boundary wall	£720.00		2004	1.1	£654.55
1.27	Installation of juliette balcony hall flat	£500.00		2004	1.1	£454.55
1.28	Installation of fire door to communal cupboard	£300.00		2004	1.1	£272.73
		£3,755.00				**£3,413.64**
	Sub total	**£22,013.00**				**£20,011.82**
	VAT			Less retention		£500.00
						£19,511.82
				VAT		£3,414.57
				Total Hurst		**£22,926.39**
	Daniells Harrison fees (10%)	**£2,500.00**				£2,001.18
				VAT		£350.21
				Total Daniells Harrison	2,351.39	
	[Total VAT]	**£4,289.78**		£		
	Total			Total		£25,277.78
	retention	-£500.00				
	Sub Total	**£28,302.78**				**£25,277.78**
	Total Expenditure	**£28,302.78**	Total payable			**£25,277.78**