



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

**Case Reference** : **CHI/21UC/LVT/2015/0001**

**Property** : **Marina Village, Sovereign Harbour  
North, Eastbourne, East Sussex  
BN23 5AX**

**Applicant** : **Marina Village (Eastbourne)  
Management Co Ltd**

**Representative** : **Mayo Wynne Baxter LLP**

**Respondent** : **The Leaseholders as set out in  
Schedule A attached**

**Representative** : **Did not appear and were not  
represented.**

**Type of Application** : **Variation of lease, ss35-40  
Landlord and Tenant Act 1987**

**Tribunal Members** : **Mrs F J Silverman Dip Fr LLM  
Mr N Robinson FRICS**

**Date and venue of  
Hearing** : **Eastbourne Magistrates Court  
1 May 2015**

**Date of Decision** : **1 May 2015**

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**DECISION**

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The Tribunal grants the Applicant's application under section 35 Landlord and Tenant Act 1987 for the reasons set out below.

## REASONS

1 The Applicant is the Management Company responsible for the performance and observance of the landlord's repairing and other covenants in the various leases of the premises known as Marina Village, Sovereign Harbour North, Eastbourne East Sussex BN23 5 AX.

2 The Premises are divided into houses and 119 flats in Caroline Way. This application only concerns 96 of the flats. These flats are those which have the benefit of balconies. No other flats or houses are affected. The Respondent tenants are the lessees of the flat(s) listed against their name(s) in Schedule A annexed to this decision.

3 The current application, brought under s 35 Landlord and Tenant Act 1987, seeks to vary the provisions in the Respondents' leases so that the Respondents become liable to indemnify the Applicant for the latter's costs incurred in repairing and maintaining the balconies to the flats. The wording of the proposed variation is set out verbatim in the attached Schedule B.

4 The leases as presently drafted do not allow the Applicant to recover the costs of maintenance of the balconies neither do they impose a repairing obligation on the individual leaseholders to maintain them.

5 The Applicant brought an application to the Tribunal (dated 29 January 2015) asking the Tribunal to vary the leases for the reasons cited above and in the manner set out in the annexed Schedule B.

6 Directions were issued by the Tribunal on 10 February 2015.

7 The Tribunal inspected the premises on 1 May 2015 accompanied by the Managing Agents who pointed out to the Tribunal the six different types and sizes of balcony present on the various flats and provided an explanation of the method by which the Applicant had attempted to ensure that the varied service charge provisions would be applied fairly to each of the affected units (see Schedule B). The premises comprise a modern development of mixed houses and flats set around a marina with a number of units directly facing the sea. Although the development was generally in good order it was apparent that the proximity of the premises to the sea was causing some premature rusting of the steel pillars supporting some of the balconies. The timber decking/flooring to the balconies was also showing signs of deterioration, particularly to the sea facing balconies, with some of the edge detailing missing, having presumably fallen off. It was also evident that some leaseholders were maintaining their balconies whereas others were in disrepair.

8 The Tribunal is satisfied that all the Respondents and other interested parties have been informed of the proposals to vary the leases.

9 A bundle of documents was presented to the Tribunal for its consideration. Page references below are references to pages in that bundle.

10 With one exception (see paragraph 11 below) no objections to the application have been made by the Respondents.

11 Page 56 of the bundle contains a letter from a Respondent named Barry Porter who objects to the Application. His letter is addressed to the Managing Agents whose reply is set out on pages 57-59 of the bundle. The Tribunal has considered Mr Porter's objections which are firstly, that he feels

each balcony owner should maintain their own balcony, and secondly, that the disrepair to the balconies should be dealt with by a claim on the buildings insurance policy. Mr Porter's first suggestion is not feasible because the individual leases do not include the balconies within the demise and his second is unworkable because the building insurance policy will not cover fair wear and tear. A claim under such a policy would also impact on all leaseholders, not just those with the benefit of a balcony. His further suggestion that balcony repairs should be funded on a cyclical basis from the reserve fund would not be possible without a variation to the existing leases and would again impact unfairly on those leaseholders who do not have balconies.

12 From an inspection of the property, and having read the leases, proposed variations, submissions made by the Applicant and the one objection from Mr Porter it is clear to the Tribunal that the present leases are defective in that they fail to deal adequately with the ownership and repair of the balconies and that it is necessary to remedy that defect in order to allow for the proper maintenance of the premises.

13 The variations proposed by the Applicant have been carefully drafted to share the liability for the maintenance of the balconies fairly between those leaseholders who are affected by this problem.

14 The Tribunal therefore allows the application with the wording of the lease variation as set out in Schedule B attached.

15 The Law

**Section 36 Landlord and Tenant Act 1987. Application by party to lease for variation of lease.**

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

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

(a) the repair or maintenance of—

(i) the flat in question, or

(ii) the building containing the flat, or

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

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

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

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

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

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

(g) such other matters as may be prescribed by regulations made by the

Secretary of State.

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

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

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

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

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

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

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

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

(5) Rules of court shall make provision—

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

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

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

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

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

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

### **Section 36 Landlord and Tenant Act 1987**

#### **Application by respondent for variation of other leases.**

(1) Where an application (“the original application”) is made under section 35 by any party to a lease, any other party to the lease may make an application to the court asking it, in the event of its deciding to make an order effecting any variation of the lease in pursuance of the original application, to make an order which effects a corresponding variation of each of such one or more other leases as are specified in the application.

(2) Any lease so specified—

(a) must be a long lease of a flat under which the landlord is the same person as the landlord under the lease specified in the original application; but

(b) need not be a lease of a flat which is in the same building as the flat let

under that lease, nor a lease drafted in terms identical to those of that lease.

(3) The grounds on which an application may be made under this section are—

(a) that each of the leases specified in the application fails to make satisfactory provision with respect to the matter or matters specified in the original application; and

(b) that, if any variation is effected in pursuance of the original application, it would be in the interests of the person making the application under this section, or in the interests of the other persons who are parties to the leases specified in that application, to have all of the leases in question (that is to say, the ones specified in that application together with the one specified in the original application) varied to the same effect.

### **Section 37 Landlord and Tenant Act 1987**

#### **Application by majority of parties for variation of leases.**

(1) Subject to the following provisions of this section, an application may be made to the court in respect of two or more leases for an order varying each of those leases in such manner as is specified in the application.

(2) Those leases must be long leases of flats under which the landlord is the same person, but they need not be leases of flats which are in the same building, nor leases which are drafted in identical terms.

(3) The grounds on which an application may be made under this section are that the object to be achieved by the variation cannot be satisfactorily achieved unless all the leases are varied to the same effect.

(4) An application under this section in respect of any leases may be made by the landlord or any of the tenants under the leases.

(5) Any such application shall only be made if—

(a) in a case where the application is in respect of less than nine leases, all, or all but one, of the parties concerned consent to it; or

(b) in a case where the application is in respect of more than eight leases, it is not opposed for any reason by more than 10 per cent. of the total number of the parties concerned and at least 75 per cent. of that number consent to it.

(6) For the purposes of subsection (5)—

(a) in the case of each lease in respect of which the application is made, the tenant under the lease shall constitute one of the parties concerned (so that in determining the total number of the parties concerned a person who is the tenant under a number of such leases shall be regarded as constituting a corresponding number of the parties concerned); and

(b) the landlord shall also constitute one of the parties concerned.

### **Section 38 Landlord and Tenant Act 1987**

#### **Orders by the court varying leases.**

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

(2) If—(a)

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

the court may (subject to subsections (6) and (7)) also make an order varying

each of those leases in such manner as is specified in the order.

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

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

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

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

(a) that the variation would be likely substantially to prejudice—

(i) any respondent to the application, or

(ii) any person who is not a party to the application,

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

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

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

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

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

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

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

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

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

### **Section 39 Landlord and Tenant Act 1987**

#### **Effect of orders varying leases: applications by third parties.**

(1) Any variation effected by an order under section 38 shall be binding not

only on the parties to the lease for the time being but also on other persons (including any predecessors in title of those parties), whether or not they were parties to the proceedings in which the order was made or were served with a notice by virtue of section 35(5).

(2) Without prejudice to the generality of subsection (1), any variation effected by any such order shall be binding on any surety who has guaranteed the performance of any obligation varied by the order; and the surety shall accordingly be taken to have guaranteed the performance of that obligation as so varied.

(3) Where any such order has been made and a person was, by virtue of section 35(5), required to be served with a notice relating to the proceedings in which it was made, but he was not so served, he may—

(a) bring an action for damages for breach of statutory duty against the person by whom any such notice was so required to be served in respect of that person's failure to serve it;

(b) apply to the court for the cancellation or modification of the variation in question.

(4) The court may, on an application under subsection (3)(b) with respect to any variation of a lease—

(a) by order cancel that variation or modify it in such manner as is specified in the order, or

(b) make such an order as is mentioned in section 38(10) in favour of the person making the application, as it thinks fit.

(5) Where a variation is cancelled or modified under paragraph (a) of subsection (4)—

(a) the cancellation or modification shall take effect as from the date of the making of the order under that paragraph or as from such later date as may be specified in the order, and

(b) the court may by order direct that a memorandum of the cancellation or modification shall be endorsed on such documents as are specified in the order;

and, in a case where a variation is so modified, subsections (1) and (2) above shall, as from the date when the modification takes effect, apply to the variation as modified.

Judge F J Silverman as Chairman

**Date 1 May 2015**

Note:

Appeals

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

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking



SCHEDULE A.

**SCHEDULE OF RESPONDENTS**

Mr G C Dewell	2 Caroline Way	c/o Oakfield, 3 Gildredge Road, EASTBOURNE, BN21 4RD
Mr and Mrs Banerji	4 Caroline Way	4 Caroline Way, EASTBOURNE, BN23 5AY
Mr and Mrs Hobden	5 Caroline Way	Bloomfield House, Watermill Lane, BEXHILL, TN39 5JA
Mr C P Goodyear	9 Caroline Way	79 Michel Dene Road, East Dean, Eastbourne, BN20 0JZ
Mr and Mrs J V Harris	12 Caroline Way	12 Caroline Way, EASTBOURNE, BN23 5AX
Mr and Mrs T Rammond	14 Caroline Way	14 Caroline Way, EASTBOURNE, BN23 5AX
Mr M Jackson	16 Caroline Way	84 Eastbourne Road, Willingdon, EASTBOURNE, BN20 9NT
Mr and Mrs C J Hardy	17 Caroline Way	17 Caroline Way, EASTBOURNE, BN23 5AX
Mr and Mrs A Grocock	19 Caroline Way	15 Bridger Way, CROWBOROUGH, TN6 2XD
Mr S J Hall	27 Caroline Way	27 Caroline Way, EASTBOURNE, BN23 5AX
Mr M Dyason	29 Caroline Way	29 Caroline Way, EASTBOURNE, BN23 5AX
Mr and Mrs W S Taylor	31 Caroline Way	31 Caroline Way, EASTBOURNE, BN23 5AX
Mr and Mrs B Forward	35 Caroline Way	38 Sturdee Close, EASTBOURNE, BN23 6AZ
Mr and Mrs F A Avery	37 Caroline Way	37 Caroline Way, EASTBOURNE, BN23 5AX
Mr and Mrs D J Cummins	40 Caroline Way	SJOVEGEN, 7 5307, ASK.I HRD, NORWAY
Mr R E Aldridge	42 Caroline Way	42 Caroline Way, EASTBOURNE, BN23 5AY
Mr J W Hatch	44 Caroline Way	44 Caroline Way, EASTBOURNE, BN23 5AY
Mr and Mrs R J Joyce	46 Caroline Way	46 Caroline Way, EASTBOURNE, BN23 5AY
Mr S M Bush	48 Caroline Way	36 Phoenix Drive, EASTBOURNE, BN23 5PG
Mr and Mrs A S McKinlay	50 Caroline Way	50 Caroline Way, EASTBOURNE, BN23 5AY mckinlaysab@yahoo.co.uk
Mr and Mrs H Paget	54 Caroline Way	Glenlivet House, Ballindalloch, Banffshire, AB37 9DJ
Mr J C Elkington	56 Caroline Way	52 Rottingdean Place, Falmer Road, Rottingdean, BRIGHTON, BN2 7FS
Mr J C Elkington	58 Caroline Way	52 Rottingdean Place, Falmer Road, Rottingdean, BRIGHTON, BN2 7FS

## SCHEDULE OF RESPONDENTS

Mr and Mrs T R Rogers	59 Caroline Way	Buckwell Barn, Hailsham Road, HERSTMONCEUX, BN27 4JX
Mrs B J Cook	60 Caroline Way	60 Caroline Way, EASTBOURNE, BN23 5AX
Mr S L Williamson	61 Caroline Way	61 Caroline Way, EASTBOURNE, BN23 5AY
Mrs L C Di Lieto	63 Caroline Way	19 Dominica Court, EASTBOURNE, BN23 5TR
Ms P Ulrichsen	64 Caroline Way	64 Caroline Way, EASTBOURNE, BN23 5AX <a href="mailto:pamulrich@gmail.com">pamulrich@gmail.com</a>
Mr A J Donachie and Ms C S Price	65 Caroline Way	1560 Carolina Jasmine Road, Mt Pleasant, South Carolina 29464, USA <a href="mailto:chadonie@yahoo.com">chadonie@yahoo.com</a>
Mr M J Buckthorpe and Ms M Bjerkaas	66 Caroline Way	107 Eastbourne Road, Lower Willingdon, EASTBOURNE, BN20 9NE
Mr Raj Harshen and Dr Rema Jyothirmayi	68 Caroline Way	44 Frankfield Rise, TUNBRIDGE WELLS, Kent, TN2 5LF
Mr and Mrs J Green	69 Caroline Way	25 Sandringham Way, MARKET HARBOROUGH, Leics, LE16 8EP
Mr and Mrs M J Revill	70 Caroline Way	Hunters End, Black Hill, LINDFIELD, West Sussex, RH16 2HF
Miss S J Evans	71 Caroline Way	71 Caroline Way, EASTBOURNE, BN23 5AX
Mr R I S Say	73 Caroline Way	73 Caroline Way, EASTBOURNE, BN23 5AX
Mr and Mrs M B Tanner	74 Caroline Way	Old Barn House, London Road, FAIRFORD, Glos. GL7 4AR
Mr M Noakes and Miss M Kendle	75 Caroline Way	75 Caroline Way, EASTBOURNE, BN23 5AX
Mr W Foster, Exor for Mrs A V M Foster deceased	76 Caroline Way	35 Albert Road North, MALVERN, Worcestershire, WR14 2TP
Mr and Mrs J D Chapman	78 Caroline Way	Long Gill, Little Trodgers Lane, MAYFIELD, East Sussex, TN20 6PW
Mr J M Root and Mr and Mrs P Murrell	79 Caroline Way	24 Wheeler Avenue, OXTED, Surrey, RH8 9LE
Mr P J W Bate and Ms L M Bate	80 Caroline Way	Oakwood, Butlers Dean Road, WOLDINGHAM, Surrey, CR3 7HD
Mr A J Garner and Ms P J Eden	81 Caroline Way	11c Grosvenor Road, LONDON, N10 2DR
Mr D W Easton and Mr S R Easton	83 Caroline Way	Flat 11 The Hanburys, 4 Hardwick Road,

## SCHEDULE OF RESPONDENTS

		EASTBOURNE, BN21 4DF
Mortgage Express	84 Caroline Way	c/o Jordan Salata, 33 Cork Street, Mayfair, LONDON, W1S 3NQ
Mr A R Fawcett	85 Caroline Way	3 Wedgwood Road, HOPTON, Staffs, ST18 0TL
Mr P Castle and Ms D Pask	86 Caroline Way	1 Kilman Way
Mr I C Barker	88 Caroline Way	88 Caroline Way, EASTBOURNE, BN23 5AY
Ms M Kriellaars and Mr S Knott	89 Caroline Way	89 Caroline Way, EASTBOURNE, BN23 5AX
Mr and Mrs G S Moore	90 Caroline Way	69 Firsby Avenue, Shirley, CROYDON, CR0 8TP
Mrs C O Tuck	91 Caroline Way	Granite Lodge, 77 Lubbock Road, CHISLEHURST, Kent, BR7 5JG
Ms J Healy, Ms S V Healy and Mr G R Healy	93 Caroline Way <i>Without prejudice to lease assignment &amp; company membership</i>	93 Caroline Way, EASTBOURNE, BN23 5AX
Mortgage Express	94 Caroline Way	c/o Jordan Salata, 33 Cork Street, Mayfair, LONDON, W1S 3NQ
Mr and Mrs D P Birkby	95 Caroline Way	22 Kiln Way, Paddock Wood, TONBRIDGE, Kent, TN12 6LF
Mr P Mansell	96 Caroline Way	5 Leith Road, Beare Green, DORKING, Surrey, RH5 4RQ
Mr and Mrs R I Jacob	98 Caroline Way	24 Dene Road, NORTHWOOD, Middlesex, HA6 2BT
Mr and Mrs D C German	99 Caroline Way	58 Kingsway, GILLINGHAM, Kent, ME7 3BD
Mr P A Da Silva and Ms C Highfield	100 Caroline Way	15B Hyperiod Place, WEST EWELL, Surrey, KT19 9ED
Mr W A Butler and Miss R Miller	101 Caroline Way	3 Rochester Road, Earlsdon, COVENTRY, CV5 6AB
Mrs C J Crick	103 Caroline Way	14 Shortacres, NUTFIELD, Surrey, RH1 4HJ
Mr T J Allington	104 Caroline Way	Heathfield Lodge, Pembury Road, TUNBRIDGE WELLS, TN2 3QY
Mr and Mrs P H Dorling	105 Caroline Way	105 Caroline Way, EASTBOURNE, BN23 5AY
Mr G A Wills	106 Caroline Way	106 Caroline Way, EASTBOURNE, BN23 5AY
Mr A M Hyland	108 Caroline Way	108 Caroline Way, EASTBOURNE, BN23 5AY <a href="mailto:andyspeedyone@hotmail.com">andyspeedyone@hotmail.com</a>
Mr and Mrs A G Peckham	109 Caroline Way	11 Keats Close, HORSHAM, West Sussex, RH12 5PL
Dr E M and Mrs A P Saunderson	110 Caroline Way	43 Wakerfield Close, HORNCHURCH, Essex, RM11 2TH

## SCHEDULE OF RESPONDENTS

Ria Homes Limited	111 Caroline Way	Saffrons House, 59/60 High Street, BATTLE, TN33 0EN
Mr and Mrs P Brooker	113 Caroline Way	Fall House, The Academy at Peckham, 112 Peckham Road, LONDON, SE15 5DZ
Mr D Vieweg	114 Caroline Way	114 Caroline Way, EASTBOURNE, BN23 5AY
Mr W F McCormick	115 Caroline Way	115 Caroline Way, EASTBOURNE, BN23 5AY
Mr and Mrs P R J Cadogan	116 Caroline Way	6 Charnwood, Chestfield, WHITSTABLE, Kent, CT5 3QD
Mrs S A Knight	118 Caroline Way	Iona, 1 Rayburn Road, HORNCHURCH, Essex, RM11 3AP
Ms J Marsh	119 Caroline Way	119 Caroline Way, EASTBOURNE, BN23 5AY
Miss P Pantazi	120 Caroline Way	120 Caroline Way, EASTBOURNE, BN23 5AY
Mr and Mrs B McCracken	121 Caroline Way	121 Caroline Way, EASTBOURNE, BN23 5AY
Mr P D Maude	123 Caroline Way <i>without prejudice to lease assignment and company membership</i>	123 Caroline Way, EASTBOURNE, BN23 5AX
Mr and Mrs K Vijendra	124 Caroline Way	55 Burton Road, EASTBOURNE, BN21 2RF
Mr and Mrs A Walley	125 Caroline Way	6 Coopers Drive, BILLERICAY, Essex, CM11 2TN
Mr and Mrs P W Page	126 Caroline Way	8 Lundy Walk, EASTBOURNE, BN23 6UH
Mr B Porter	128 Caroline Way	13 Fleming Close, EASTBOURNE, BN23 7AF
Mr and Mrs S A Meeklah	129 Caroline Way	2 Franklin Road, Maidenbower, CRAWLEY, West Sussex, RH10 7FG
Executors of Mrs I Baker deceased	130 Caroline Way	130 Caroline Way, EASTBOURNE, BN23 5AY
Mr and Mrs R Waite	131 Caroline Way	18 Yew Tree Close, WELLING, Kent, DA16 3BY
Mr C Polito	133 Caroline Way	14 Magpie Close, BEXHILL ON SEA, East Sussex, TN39 4EU
Mr K P and Ms K M Jones	134 Caroline Way	5 Wolds Drive, Farnborough, ORPINGTON, Kent, BR6 8NS
Mr M Tredinnick	135 Caroline Way	135 Caroline Way, EASTBOURNE, BN23 5AY
Ms J C Barber	136 Caroline Way	136 Caroline Way, EASTBOURNE, BN23 5AY
Mr G S and Ms J E McConnochie	138 Caroline Way	32 Baldwin Avenue, EASTBOURNE, BN21 1UP
Mr R S Bains	139 Caroline Way	3 The Uplands, West Common, HARPENDEN,

## SCHEDULE OF RESPONDENTS

		Herts, AL5 2PJ
Ms J L Cobb	140 Caroline Way	40 Tanyard Close, HORSHAM, West Sussex, RH13 5BN
Mr G H and Ms J D Cook	141 Caroline Way	6 Knights Park, KINGSTON, Surrey, KT1 2QN
Mr and Mrs R McGregor	143 Caroline Way	Ridgewood, Uvedale Road, OXTED, Surrey, RH8 0EN
Mr L J Parker	145 Caroline Way	145 Caroline Way, EASTBOURNE, BN23 5AY
Mr C Stone	149 Caroline Way	10 Start Hill, BISHOPS STORTFORD, Herts, CM22 7TG
Ria Homes Limited	151 Caroline Way	Saffrons House, 59/60 High Street, BATTLE, East Sussex, TN33 0EN
Mr and Mrs P Charnell	153 Caroline Way	153 Caroline Way, EASTBOURNE, BN23 5AY
Mr and Mrs D M Chambers	155 Caroline Way	P.O Box 37093, 546 Jasmine Drive, Green Community, Dubai, United Arab Emirates <a href="mailto:dmc11660@emirates.net.ae">dmc11660@emirates.net.ae</a>
George Wimpey South London Limited (1011967)	Freehold owner	St David's Court, Union Street, Wolverhampton, West Midlands WV1 3JE

APPLICATION TO THE FIRST TIER TRIBUNAL FOR VARIATION OF LEASES OF 96  
FLATS AT MARINA VILLAGE SOVEREIGN HARBOUR NORTH EASTBOURNE EAST  
SUSSEX

PARTIES

MARINA VILLAGE (EASTBOURNE) MANAGEMENT COMPANY LIMITED

and

LESSEES OF 96 FLATS MARINA VILLAGE

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SCHEDULE OF PROPOSED AMENDMENTS TO BE MADE BY ORDER UNDER S.35 OF  
THE LANDLORD AND TENANT ACT 1987

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Mayo Wynne Baxter  
Solicitors

Mayo Wynne Baxter LLP  
20 Gildredge Road, Eastbourne, BN21 4RP  
(SPH.Marina 112643-7)

NOW THIS DEED WITNESSTH as follows:-

A) The DEFINITIONS in clause 2 shall be amended to include the following definition:-

"Balcony Structures"                      *The whole of the balcony structures affixed to the Buildings now or hereafter constructed by way of replacement to include the foundations supporting structure above the level of the foundations of the Building including all columns beams fixing brackets and fixings to the main structure decking and decking supports balustrading straining wires glazing and handrails.*

B) In clause 2 the definitions of "Buildings" and "Maintenance Charge" shall be amended as follows:-

"Buildings"                                      All buildings and other structures (and any structures incidental to the user thereof) *including Balcony Structures* and...

"Maintenance Charge" .....

(a) In relation to the Buildings and Common Parts *and Balcony Structures* the proportion applicable to the Property (specified in Parts III *and IV* of the Sixth Schedule) of the sums spent or to be spent by the Management Company on the matters specified in Part I of the Fifth Schedule and so far as the same relate the matters specified in Part II of the Sixth Schedule as estimated or adjusted in accordance with Part I of the Sixth Schedule...

C) In Clause 20 of the THIRD SCHEDULE the Covenants by the Buyer shall be amended as follows:

20. Not to erect any washing line within the Development and not to use any part of the Common Parts or the Amenity Areas *or the Balcony Structures* for the purpose of drying or airing laundry...

D) In Part I of the FIFTH SCHEDULE to include the following amendments:-

FIFTH SCHEDULE

## PART I

(Covenants by the Management Company in respect of the Buildings and Common Parts and Balcony Structures)

### 1. Repair

To keep the Common Parts and Accessways *and the Balcony Structures* in a good state of repair and condition and to clean cultivate tidy and maintain any verges floral or recreational areas therein

### 2. Painting

To paint or otherwise treat (as may be appropriate) as often as may be necessary in a proper and workmanlike manner and with suitable materials of a good quality such parts of the Common Parts *and Balcony Structures* as are usually painted or otherwise treated and the exterior of the doors door frames and window frames in all walls dividing the Property from the Development...

.....

### 7. Assessments

To pay all rates taxes assessments and outgoings charged imposed or assessed in respect of the Common Parts *and Balcony Structures*

E) Part 1 of the SIXTH SCHEDULE (Expenditure to be recovered by means of the Maintenance Charge) to be amended to include at clause 1(a):-

#### 1. Estimate

The Management Company shall as soon as practicable after the 1<sup>st</sup> day of September in each year prepare estimates of the sums to be spent by it on the matters specified in Part II of this Schedule ("Estimated Management Costs") for such year in respect of:-

(a) Expenditure relating specifically to the Buildings and the Common Parts *and Balcony Structures* pursuant to the provisions of Part I of the Fifth Schedule; ...

F) The following schedule to be annexed to the end of Part III of the SIXTH SCHEDULE:

#### PART IV

(As respects the Maintenance Charge expenditure attributable to the Balcony Structures percentage applicable to the Property and each flat with the benefit of a balcony within the Development)



MARINA VILLAGE (EASTBOURNE) MANAGEMENT COMPANY LIMITED  
PROPOSED BALCONY APPORTIONMENT SCHEDULE - JANUARY 2014

Flat	Balcony Type	No of Panels	Apportionment (%)	Flat	Balcony Type	No of Panels	Apportionment (%)
2	D	1	0.2336	90	A	6	1.4019
4	D	1	0.2336	91	B	4	0.9346
5	D	1	0.2336	93	B	4	0.9346
9	D	1	0.2336	94	C	7	1.6355
12	E	5	1.1682	95	C	7	1.6355
14	E	5	1.1682	96	B	4	0.9346
16	D	1	0.2336	98	B	4	0.9346
17	D	1	0.2336	99	C	7	1.6355
19	D	1	0.2336	100	A	6	1.4019
27	E	5	1.1682	101	B	4	0.9346
29	E	5	1.1682	103	B	4	0.9346
31	E	5	1.1682	104	C	7	1.6355
35	D	1	0.2336	105	A	6	1.4019
37	D	1	0.2336	106	B	4	0.9346
40	D	1	0.2336	108	B	4	0.9346
42	D	1	0.2336	109	C	7	1.6355
44	D	1	0.2336	110	A	6	1.4019
46	D	1	0.2336	111	B	4	0.9346
48	D	1	0.2336	113	B	4	0.9346
50	D	1	0.2336	114	C	7	1.6355
54	A	6	1.4019	115	A	6	1.4019
56	B	4	0.9346	116	B	4	0.9346
58	B	4	0.9346	118	B	4	0.9346
59	F	4	0.9346	119	C	7	1.6355
60	A	6	1.4019	120	C	7	1.6355
61	D	1	0.2336	121	B	4	0.9346
63	F	4	0.9346	123	B	4	0.9346
64	A	6	1.4019	124	C	7	1.6355
65	D	1	0.2336	125	A	6	1.4019
66	B	4	0.9346	126	B	4	0.9346
68	B	4	0.9346	128	B	4	0.9346
69	A	6	1.4019	129	A	6	1.4019
70	A	6	1.4019	130	C	7	1.6355
71	B	4	0.9346	131	B	4	0.9346
73	B	4	0.9346	133	B	4	0.9346
74	A	6	1.4019	134	C	7	1.6355
75	C	7	1.6355	135	C	7	1.6355
76	B	4	0.9346	136	B	4	0.9346
78	B	4	0.9346	138	B	4	0.9346
79	A	6	1.4019	139	A	6	1.4019
80	A	6	1.4019	140	C	7	1.6355
81	B	4	0.9346	141	B	4	0.9346
83	B	4	0.9346	143	B	4	0.9346
84	C	7	1.6355	145	C	7	1.6355
85	C	7	1.6355	149	A	6	1.4019
86	B	4	0.9346	151	B	4	0.9346
88	B	4	0.9346	153	B	4	0.9346
89	A	6	1.4019	155	C	7	1.6355
						428	100.0002