



THE PHILLIMORE ESTATE

THE ESTATE MANAGEMENT
SCHEME

**IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION (GROUP B)
MR JUSTICE OLIVER AT CHAMBERS
MONDAY THE 18TH DAY OF JULY 1977**

**IN THE MATTER OF THE LEASEHOLD REFORM ACT 1967
AS AMENDED BY THE HOUSING ACT 1974**

AND

**IN THE MATTER OF THE PHILLIMORE KENSINGTON ESTATE
BETWEEN
JOHN GORE PHILLIMORE
& OTHERS
PLAINTIFFS**

AND

**DOMINIC FRANCIS JOHN MARTELLI
& OTHERS
DEFENDANTS**



UPON THE APPLICATION of the Plaintiffs by Originating Summons dated the 11th January 1977
and re-issued on amendment on 7th July 1977

AND UPON HEARING Counsel for the Plaintiffs and for the Defendants Dominic Francis John
Martelli Richard Gretworth Green Peter Hickman and Muriel Annie Mien McArthur and the
Solicitors for the Defendants Peggy Ann Walford and John Alex Paine

AND UPON READING three Affidavits of William Stephen Gibb sword respectively 5th May 1977
23rd June 1977 and 12th July 1977 an Affidavit of Mary Ann Borg Olivier an Affidavit of the
Defendant Richard Gretworth Green an Affidavit of John Salmon and an Affidavit of George
Featherstone Pain all filed this day and the exhibits therein referred to the exhibit marked WSG1
to the first mentioned Affidavit being a copy of a Certificate dated 14th July 1976 given by the
Secretary of State for the Environment pursuant to Section 19 of the Leasehold Reform Act 1967

THE COURT being of opinion that the Scheme set forth in the Order Schedule hereto is fair and
practicable and does not give the Landlords a degree of control out of proportion to that
previously exercised by them or to that required for the purposes of the said Scheme DOTH in
pursuance of Section 19 of the Leasehold Reform Act 1967 HEREBY APPROVE the said Scheme

AND IT IS ORDERED that the Plaintiffs do cause the said Scheme to be registered as a local land
charge pursuant to the Land Charges Act 1972

AND IT IS ORDERED that the Plaintiffs do pay to the Defendants their costs of the said Application
such costs to be taxed by the Taxing Master if not agreed

THE ORDER SCHEDULE

SCHEME

Made pursuant to Section 19 of the Leasehold Reform Act 1967 for the management of the
Phillimore Kensington Estate, London W8



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Definitions:

1. In this Scheme the following expressions shall have the following meanings namely :

(a) "the estate" means the blocks of land and buildings shown surrounded by thick black lines on the plan annexed hereto being part of the Phillimore Kensington Estate in the Royal Borough of Kensington and Chelsea and referred to in a letter dated the 14th July 1976 from the Department of the Environment to Messrs. Chestertons

(b) "the Landlords" means John Gore Phillimore CMG The Honourable Robert George Hugh Phillimore OBE and Simon James Mosley or other the Trustees or Trustee for the time being of Lord Phillimore's Voluntary Settlement being a Settlement dated the 3rd December 1964 and made between The Right Honourable Robert Godfrey Baron Phillimore of the one part and the said John Gore Phillimore the said Honourable Robert George Hugh Phillimore and the said 'Simon James Mosley of the other part

(c) "enfranchised property" means any property forming part of the estate the freehold of which shall have been acquired from the Landlords by any other person whether pursuant to Part 1 of the Leasehold Reform Act 1967 or otherwise

(d) "the date of enfranchisement" means the date of the transfer whereby the freehold of an enfranchised property was transferred on the occasion of such acquisition as aforesaid

(e) "owner" means the person or persons for the time being entitled to the freehold interest in an enfranchised property but also (where the context so admits) any other person from time to time occupying or having an interest in such enfranchised property



Application and Enforceability of Scheme:

2. The Scheme shall apply to each enfranchised property from the date of enfranchisement and shall be enforceable by the Landlords against every person who shall for the time being be an owner in respect thereof as if such person had covenanted with the Landlords to be bound by the Scheme during the period of his ownership (but not further or otherwise)

Restrictions and Stipulations applicable to enfranchised properties

3. The owner of an enfranchised property shall observe and perform the restrictions and stipulations out in the Schedule hereto

Contribution to common expenses

4. If any enfranchised property shall have been subject to a lease requiring the lessee to contribute to the cost of maintenance of any private ways used or enjoyed in common with others then notwithstanding enfranchisement the provisions of any such lease of an enfranchised property in force immediately before the date of enfranchisement and relating to contributions to the cost of maintenance of the ways aforesaid or any of them shall be deemed to remain in force and shall bind the enfranchised property during the subsistence of the Scheme and all such contributions shall be payable to the Landlords by the owner of such enfranchised property



Provisions us as to Change of Ownership

5. The owner shall within one month after the making of every transfer or upon the happening of every event transferring the freehold interest or the creation or transfer of a leasehold interest for a term of 7 years or more in the enfranchised property or any part thereof give to the Landlords notice in writing thereof and of the name and place of residence of the transferee or lessee and produce at the office of the Landlords' Solicitors for registration a photographic or other certified copy of every instrument of transfer or lease or any grant of Probate Letters of Administration Order of the Court or other relevant document (other than a mortgage or charge) affecting the title to the freehold interest or such leasehold interest as aforesaid in the enfranchised property or any part thereof and shall at the same time pay to the Landlords such reasonable sum as the Landlords may require (being not less than £5) in respect of the registration of any and every such instrument or document

Management Charges

6. (a) The owner shall pay to the Landlords on the 31st December in every year in respect of the year ending on that date the sum specified in or ascertained under sub-clause (b) hereof together with value added tax thereon towards the costs incurred by the Landlords in the general administration of this Scheme

(b) The sum shall be £20 but the Landlords may by notice in writing given to the owner direct that the sum payable in respect of that year shall be such sum as the Landlords shall specify being not more than the aggregate of the said sum of £20 and an additional sum bearing the same proportion to the said sum of £20 as shall be borne by any increase in the Index of Retail Prices published by H. M. Stationery Office or any official publication substituted therefor for the month of October to the figure shown therein for the month of October 1976



Other Financial Obligations of Owners

7. The owner shall further pay to the Landlords on demand all proper legal costs and surveyors fees and other expenses incurred by them together with value added tax thereon in connection with any acts or things required or reasonably to be done by them or by their solicitors managing agents or surveyors by virtue of this Scheme specifically in relation to the enfranchised property owned by that owner or any part thereof and/or by reason of any default on the part of the owner including (but without prejudice to the generality of the foregoing) the drawing up of schedules of dilapidations and notices and any inspection to ascertain whether any notice has been complied with

Charge for unpaid sums

8. (a) All sums payable to the Landlords by any owner or recoverable by the Landlords from any owner under any of the provisions of this Scheme which shall not have been paid to the landlords before the expiration of' 21 days after the Landlords shall have notified the amount thereof in writing to the owner by whom the same are payable and demanded payment thereof shall be a charge on that owner's property enforceable as mentioned in sub-section (8) of section 19 of the Leasehold Reform Act 1967 and shall after the expiration of such 21 days until paid bear interest at a rate equal to 2% per annum above Bank of England Minimum Lending Rate (or any rate in lieu thereof as may be adopted from time to time by the bank of England) from time to time in force

(b) Provided that any such charge and the powers of the Landlords of enforcing the same shall be postponed and take effect in all respects subject to any mortgage or charge affecting the enfranchised property or any part thereof which has been or shall have been created before such charge under this Clause has arisen and become enforceable and has been registered or made the subject of a notice or caution under the Land Registration Act 1925 or any statutory modification or re-enactment thereof for the time being in force



Termination or Variation of Scheme and Transfer of Landlords Rights

9. Upon the application of (a) the Landlords or (b) not less than five persons being owners of separate enfranchised properties or leaseholders from the Landlords of separate properties within the estate the High Court may :

- (i) terminate or vary all or any of the provisions of the Scheme or exclude part of the estate from the Scheme if a change of circumstances shall make it appropriate and
- (ii) transfer all or any of the powers and rights conferred by the Scheme on the Landlords to a Local Authority or other body (including a body constituted. for the purpose)

General

10. (a) Any requirement in paragraphs 1 4 5 6 or 9 of the Schedule to this Scheme for any approval or consent to be given by the Landlords shall be subject to the proviso that the same shall not be unreasonably withheld but the Landlords may nevertheless impose such conditions as they reasonably consider desirable to safeguard or improve the amenities and appearance of the neighbourhood

(b) Any dispute or difference between the Landlords and any owner shall be referred to a single arbitrator to be appointed in default of agreement by the President for the time being of the Royal Institution of Chartered Surveyors and this provision shall be deemed to be a submission to arbitration within the Arbitration Act 1950 or any statutory modification or reenactment thereof for the time being in force



Consultation with Owners

11. The Landlords shall in the operation of this Scheme take into consideration any representations made to them on matters of general policy or principle by the Committee of the Phillimore Kensington Estate Tenants Association (being an Association formed on 10th May 1976) or any such other Association which shall provide reasonable evidence to the Landlords at a future time of being more closely representative of the views and interests of the majority of the owners and of the leaseholders from the Landlords within the estate and the Landlords or some one or more of them with or without representatives from their Managing Agents shall if so requested by the said Committee but not more than twice in any year meet with the said Committee to consider any matters of general policy or principle relating to or arising out of this scheme

THE SCHEDULE before referred to



Restrictions and Stipulations

1. Not without the previous written consent of the Landlords to occupy or use or permit or suffer to be occupied or used the enfranchised property or any part thereof otherwise than as a single private dwelling house in the occupation of one household only
2. Not to do or permit or suffer to be done in or upon the enfranchised property or any part thereof any act deed matter or thing whatsoever which may be or become an annoyance nuisance damage or disturbance to the owners or occupiers of any adjoining or neighbouring properties or which shall or may be detrimental to the neighbourhood
3. Not to expose or permit or suffer to be exposed on in or upon any part of the front of the enfranchised property or any building thereon so as to be visible from the road any clothes or linen or any articles of which such exposure is in the opinion of the Landlord objectionable
4. Not to park any motor vehicle caravan trailer boat craft or other vehicle in the front garden or forecourt of the enfranchised property except and subject to the previous written consent of the Landlords one private motor car
5. No signboard placard bill or advertisement whatsoever shall be placed or affixed to or on or visible from the outside of the enfranchised property except (a) a temporary signboard indicating that the enfranchised property is for sale or to let (b) a notice relating to an occasional forthcoming non-commercial function or event exhibited for a period not exceeding three weeks and (c) subject always to and without prejudice to paragraph 1 of this Schedule and subject to the previous written consent of the Landlords having been obtained a plain unilluminated plate (not exceeding 24 inches by 18 inches) indicating that the owner carries on the profession of a Doctor or Dentist



6. Not without the previous written consent of the Landlords to make any alteration to the exterior of the enfranchised property or any existing building thereon or except in the case rebuilding or reinstatement in the circumstances specified in paragraph 9(b) hereof to erect any additional or new building or structure on the enfranchised property

7. At all times to repair and keep the external parts and internal structural parts of the enfranchised property and any additions thereto also any parts thereof for the time being in a condition liable to lead to injury to adjoining neighbouring properties (for example (without prejudice to the generality of the foregoing) parts affected by dry rot or wet rot or electric wiring in a condition liable to cause a fire) and all boundary and outside walls fences and appurtenances thereto belonging in good repair and condition and maintain and keep the gardens thereof in good order and properly tended

8. Without prejudice to the generality of the foregoing during the first three years after the date of enfranchisement and thereafter at intervals not exceeding four years to paint in a proper and workmanlike manner the whole of the outside woodwork ironwork metalwork and cement or stucco work (if any) and other external parts of the enfranchised property usually painted with two coats at least of good quality paint the painting of the cement and stucco work (if any) to be finished in white or such other colour as the Landlords shall from time to time in their absolute discretion approve in writing

9. (a) At all times to keep the enfranchised property insured against loss or damage by fire with the Sun Alliance & London Insurance Group (Law Courts Branch 40 Chancery Lane London WC2) or some other insurance company of repute or underwriters at Lloyds as may from time to time be approved by the Landlords for a sum which shall not be less than the full reinstatement value thereof and whenever required produce to the Landlords the policy and receipt for the last premium in respect of such insurance and in default thereof it shall be lawful for (but not obligatory on) the Landlords to insure the property and any monies expended by the Landlords for that purpose shall be recoverable by the Landlords from the owner



10. If the Landlords shall have reasonable cause to believe that there subsists in respect of any enfranchised property a substantial breach or non-observance of the provisions of this Scheme the Landlords and any responsible person authorised by them may from time to time on giving reasonable notice enter an enfranchised property or any part thereof at any reasonable time in the daytime for the purpose of ascertaining whether the Scheme is being complied with in respect of such property

11. Any owner of an enfranchised property to whom notice of any breach of a restriction or stipulation imposed in respect of such property by this Scheme shall have been given shall be bound to commence to make good such breach within three months after service of such notice and thereafter proceed diligently with the work and in default thereof it shall be lawful for the Landlords and any person authorised by them to enter upon the enfranchised property and take such steps and carry out such works the Landlords shall deem necessary to make good the breach and any monies expended by the Landlords for that purpose shall be recoverable by the Landlords from the owner

12. To permit the Landlords or any person authorised by them or the owner of any adjoining property with workmen and others upon not less than fourteen days previous notice in writing (except in emergency) at any reasonable times in the daytime to enter upon the enfranchised property for the purpose of executing repairs to such adjoining property the Landlords or such owner (as the case may be) forthwith making good all damage thereby occasioned to the enfranchised property

