

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

**PROPERTY:** WESTERN BEACH APARTMENTS  
**APPLICANT:** BRITANNIA VILLAGE (NINE) RESIDENTS  
MANAGEMENT COMPANY LIMITED  
**RESPONDENTS:** THE LEASEHOLDERS

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**ORDER**

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UPON hearing Robert Bowker of counsel for the Applicants and Paras Maalde and David Coppard of the Respondents

AND UPON the Applicants' applications for (1) variations under section 35 of the Landlord and Tenant Act 1985 (2) a determination of payability and reasonableness under section 27A of the Landlord and Tenant Act 1985 and (3) dispensation under section 20ZA of the Landlord and Tenant Act 1985

AND UPON THE Applicants giving notice under rule 22(1)(a) of the withdrawal of its applications under sections 27A and 20ZA such notice having been given without prejudice to the Applicants' contentions that it might be necessary for it to apply to reinstate the applications or to make new applications relying on the same or similar facts and/or to make an application against Taylor Wimpy UK Ltd for a remediation contribution order under section 124 of the Building Safety Act 2022

AND UPON the variations referred to below being variations to the lease ("Lease") of each of the 119 flats listed in the schedule of notices of leases in title number EGL413247 ("Flats") but, for the avoidance of doubt, not including the two leasehold houses registered under title numbers EGL434763 and EGL433213

AND UPON notice of the application to vary having been given to each of the mortgagees with a registered charge over one of the Flats and none of those mortgagees having opposed the application or actively participated in these proceedings

AND the Tribunal finding for the purpose of the application to vary that the balcony of each flat is demised by the Lease and under the terms of the Lease the balcony is part of the Property and the Flat

IT IS DETERMINED AND ORDERED that:

1. the Tribunal consents to the section 27A and 20ZA applications referred above to being withdrawn such consent being given without any conditions being imposed;
2. the Lease is varied as set out in the schedule below; and
3. the Chief Land Registrar is directed to register the variation against the registered title for each of the Flats.

### Schedule

#### Variation 1

To the definition of “**Maintenance Charge**” in clause 1 sub-paragraph (b) is to be re-lettered as sub-paragraph (c) and is to be substituted by a new sub-paragraph (b) which provides as follows:

“(b) In relation to the balcony or terrace of the Property (and notwithstanding the balcony or terrace being demised to the Property) the proportion applicable to the Property (specified in Part III of the Sixth Schedule) of the sums spent or to be spent by the Residents Management Company on the matters specified in Part I of the Fifth Schedule so far as the same relate the matters specified in Part II of the Sixth Schedule estimated or adjusted in accordance with Part I of the Sixth Schedule

#### Variation 2

To Part II of the Second Schedule (Rights Reserved) the following new paragraph (f) is added:

“**“Balcony access”** (f) For the avoidance of doubt, in respect of the balcony or terrace of the Property, and notwithstanding the balcony or terrace being demised to the Property, the right, if proportionate to do so, to enter upon the Property and the balcony or terrace of the

Property to carry out any works to repair maintain remediate renew or comply with any statutory duty.”

### Variation 3

To the definition of “Repair” in Part I of the Fifth Schedule is to be added the words “and, for the avoidance of doubt, in respect of the balcony or terrace of the Property, to repair maintain remediate renew or comply with any statutory duty” so that the full definition now reads –

**“Repair”** 1. To keep the Common Parts in a good state of repair and condition and, for the avoidance of doubt, in respect of the balcony or terrace of the Property to repair maintain remediate renew or comply with any statutory duty.”

### Variation 4

To the definition of “Covenants” in Part II of the Sixth Schedule is to be added the words “and, for the avoidance of doubt, in respect of the balcony or terrace of the flats in the Building, the sums spent by the Management Company of and incidental to repairing maintaining remediating renewing or complying with any statutory duty” so that the full definition now reads –

**“Covenants”** 1. The sums spent by the Management Company of and incidental to the observance and performance of the covenants on the part of the Management Companies contained in the Fifth Schedule and Part I of this schedule and, for the avoidance of doubt, in respect of the balcony or terrace of the flats in the Building, the sums spent by the Management Company of and incidental to repairing maintaining remediating renewing or complying with any statutory duty.”

