



IN THE HIGH COURT OF JUSTICE
 CHANCERY DIVISION (GROUP B)
 MR JUSTICE WALTON

1970 A 4055

MR HANCOCK

MONDAY the 21st day of JANUARY 1974

REGISTRAR

IN THE MATTER of the Application by BASIL CHARLES ALDOUS suing on behalf of himself and others the ESTATES GOVERNORS OF ALLEYN'S COLLEGE OF GOD'S GIFT AT DULWICH

Folio 74W

OS. 1.

and

IN THE MATTER of THE LEASEHOLD REFORM ACT 1967
 (By Original Action)

B E T W E E N

BASIL CHARLES ALDOUS (since deceased) suing on behalf of himself and others the ESTATES GOVERNORS OF ALLEYN'S COLLEGE OF GOD'S GIFT AT DULWICH

Plaintiff

and

- (1) STANLEY GEORGE SKINNER
- (2) John Peter Scott Taylor
- (3) Sir Frederick Charles Everson
- (4) Peter Frederick John Lawson
- (5) Harold Lindsey Barker
- (6) William John Crozier and
- (7) Leonard Frank Worsley

Defendants

(By Amendment to the Originating Summons on 3rd June 1971)

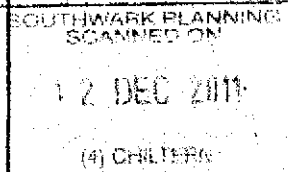
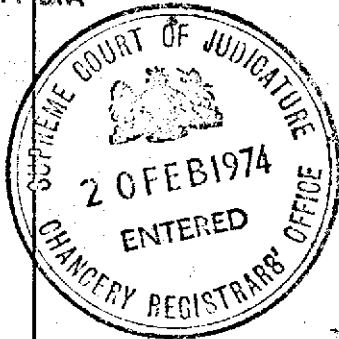
AND B E T W E E N

CHARLES WILLIAM BAKER suing on behalf of himself and others the ESTATES GOVERNORS OF ALLEYN'S COLLEGE OF GOD'S GIFT AT DULWICH

Plaintiff

and

- (1) STANLEY GEORGE SKINNER
- (2) John Peter Scott Taylor
 (against both of whom these proceedings were stayed by the Order to carry on dated 16th October 1973)



*Certified true copy
 Bruce Atlee*

BRUCES & ATLEE
 115, Moorgate
 London, EC2M 6YA

*Solicitors to the
 Plaintiff*

- (3) Sir Frederick Charles Everson
- (4) Peter Frederick John Lawson
- (5) Harold Lindsey Barker (since deceased)
- (6) William John Crozier
- (7) Leonard Frank Worsley
- (8) Robert Edward Thomas Birch and
- (9) Ann Olivia Spencer (the last two named having been added by the said Order to carry on dated 16th October 1973)

Defendants

(By Order to carry on dated 19th April 1972)

THE APPLICATION of the Plaintiff by Originating Summons dated 21st July 1970 re-issued on amendment on 3rd June 1971 having been adjourned to be heard in Court and coming on to be heard accordingly on 16th 17th 18th and 19th October 1973

AND UPON HEARING Counsel for the Plaintiff and for the Defendants Sir Frederick Charles Everson Peter Frederick John Lawson William John Crozier Robert Edward Thomas Birch and Ann Olivia Spencer

AND the Defendant Leonard Frank Worsley not having entered an Appearance

AND UPON READING the Order dated 16th October 1973 an Affidavit of Charles William Baker and an affidavit of Robert Edward Thomas Birch both filed 3rd July 1972 two affidavits of Tito Jacques Nardecchia an affidavit of Michael Leicester John Marshall an Affidavit of William Crozier and two Affidavits of Gerald Victor White sworn respectively



on 2nd June 1972 and 23rd August 1972 all filed this day and the exhibits therein respectively referred to that marked CWBL to the first mentioned Affidavit being the Certificate dated 29th August 1969 of the Minister of Housing and Local Government given pursuant to Section 19 (1) of the Leasehold Reform Act 1967 and a Certificate of the death on 8th February 1973 of Harold Lindsey Barker

AND UPON HEARING the evidence of Charles William Baker of Tito Jacques Nardecchia of Gerald Victor White and of Michael Leicester John Marshall taken orally before this Court

THIS COURT DID ORDER that the said Application should stand for Judgment

AND the said Application standing for Judgment this day accordingly in the presence of Counsel for the Plaintiff and for the Defendants Sir Frederick Charles Everson Peter Frederick John Lawson William John Crozier Robert Edward Thomas Birch and Ann Olivia Spencer

THIS COURT being of opinion that the Scheme set forth in the Schedule hereto is fair and practicable and does not give the above-mentioned Estates Governors of Alleyn's College of God's Gift at Dulwich a degree of control out of proportion to that previously exercised by them or to that required for the purposes of such Scheme DOTH in pursuance of the provisions of Section 19 of the said Leasehold Reform Act 1967 APPROVE the

said Scheme

THE SCHEDULE

SCHEME
of
MANAGEMENT

1. In this Scheme the following expressions bear the following meanings namely:-

(a) "the Estate" means (subject to the proviso to paragraph (g) below) the Dulwich College Estates situate in the London Boroughs of Southwark Lambeth and Lewisham and shown edged with a double green and black line on the plan being exhibit "G V W 3" to the Affidavit of Gerald Victor White sworn on the 23rd day of August 1972 recited in the Order of the High Court of Justice approving the Scheme in proceedings the reference to the Record whereof is 1970 A No 4055 excluding the alien freeholds shown on the said plan as "Land Conveyed"

(b) "the Estates Governors" means the Estates Governors of Alleyn's College of God's Gift at Dulwich

(c) "enfranchised property" means any property in respect of which the following conditions are satisfied namely:-

- (i) it was formerly the freehold of the Estates Governors and
- (ii) the freehold was acquired from the Estates Governors either pursuant to Part I of the Leasehold Reform Act 1967 after the approval of the Scheme by the High Court or (whether before or after such approval) on such terms



as to make it subject to the provisions of
the Scheme

(d) "the date of enfranchisement" means the date of
the conveyance whereby the freehold of an
enfranchised property ceased to be the freehold
of the Estates Governors

(e) "owner" in respect of an enfranchised property
means and includes every person (other than a
mortgagee not in possession) who is from time to
time occupying or interested in that property

Provided that for the purposes of

(i) Clause 2(a) so far as it relates to
reinstatement under Clause 5

(ii) Clause II except in its application to the
management charge

(iii) Clauses 12 and 13

the expression "owner" shall only include a person
holding an interest which is freehold or if leasehold
was at the time of its creation for a term of 7
years or more and in those Clauses the word
"ownership" shall be construed accordingly.

(f) "the Scheme" means this Scheme as varied from
time to time

(g) "the Managers" means the Estates Governors or
(as regards powers and rights transferred under
clause 13 of the Scheme) the body in whom such
powers and rights are for the time being vested

Provided that if at any time powers and rights under
the Scheme shall be vested in different bodies in

respect of different areas formerly forming part of the Estate then as regards each such area the expression "the Managers" shall mean the body in which such powers and rights over such area are then vested and the expression "the Estate" shall mean that area

2. (a) The Scheme shall apply to each enfranchised property as from the date of enfranchisement and shall be enforceable by the Managers against every person who shall for the time being be an owner in respect thereof as if such person had covenanted with the Managers to be bound by the Scheme

(b) The Managers shall be treated as the landlord for the time being for the purposes of the Scheme

3. (a) No material alteration shall be made to the external appearance of any building or structure for the time being on an enfranchised property and no new or additional building or structure shall be built or erected thereon so as to be visible at ground level from beyond the boundaries of the same without (in any such case) the prior written approval of the Managers

(b) Before or as a term of giving such approval the Managers may:

- (i) require the submission of drawings specifications and details of the proposed works
- (ii) impose such reasonable conditions for regulating the redevelopment use or



appearance of the property (including conditions relating to the time of commencement and completion of any works and the manner of carrying out the same conditions restricting the period of any authorised use and conditions calculated in the opinion of the Managers to preserve or improve the character of the neighbourhood from the point of view of architecture landscaping or town planning) as the Managers shall think fit

(c) All reasonable costs incurred by the Managers (including the fees of surveyors and other experts) in connection with the application for approval and the consideration thereof whether the same shall be granted or not shall be borne and paid by the applicant and shall be charged upon the enfranchised property

4. The exterior and structural parts of all buildings from time to time on an enfranchised property and all other structures thereon (including boundary walls and fences) shall be kept in good repair and properly cleaned and decorated in a proper and workmanlike manner in colours in harmony with other properties in the vicinity and all gardens thereon shall be kept properly cultivated and free from weeds and all gardens and other open spaces shall be kept free from litter and refuse

and in a clean and tidy condition

5. If any building or structure on an enfranchised property shall be destroyed or damaged by fire, tempest or other cause the same shall within a reasonable time be rebuilt or reinstated so that (unless the Managers shall have consented otherwise in writing) the exterior of the property shall as far as it is practicable and reasonable in the circumstances be restored to its former appearance

6. (a) Without the prior consent in writing of the Managers no enfranchised property shall be used for any purpose whatsoever other than that for which it could lawfully be used immediately before the date of enfranchisement and without prejudice to the generality of the foregoing no property or part of a property which could only lawfully be used for one occupation at that time shall be used for two or more occupations

(b) Without the prior consent of the Managers:

(i) no trees of any kind (other than fruit trees shrubs and seedlings) at any time growing on any enfranchised property shall be lopped topped cut down destroyed or removed

(ii) no temporary building trailer caravan boat or commercial vehicle and no other moveable object to which exception shall reasonably be taken by the Managers or by any neighbouring owners or occupiers



shall be placed or kept on any part of any enfranchised property so as to be visible at ground level beyond its boundaries and

(iii) no inscription placards posters advertisements or notices of any kind shall be placed or exhibited on any enfranchised property so as to be visible beyond its boundaries PROVIDED that this restriction shall not apply to notices of a usual character indicating that the property is for sale or to be let or to notices relating to a specific function or event exhibited for a period not exceeding 21 days

(c) No washing clothing or similar articles shall be hung out or exposed on any enfranchised property so as to be visible at ground level beyond its boundaries save only that the rear garden (if any) may be used for such purposes between the hours of 7.00 a.m. and 5.00 p.m. on Mondays to Fridays and 7.00 to 12.00 noon on Saturdays (Good Friday, Christmas Day and other public holidays excepted)

(d) Nothing shall be done upon any enfranchised property which may be or grow to be a nuisance annoyance or damage to any neighbouring owners or occupiers or which the Managers shall reasonably consider to be detrimental to the neighbourhood

7. No owner of any enfranchised property shall park or permit or suffer any resident therein or employee

or visitor to his property to park any vehicle on any private road on the Estate so as to cause an obstruction

8. (a) The Managers and all persons authorised by them may from time to time (but not more often than once a year unless in the meantime the Managers have reasonable grounds for suspecting a breach of any of the provisions of the Scheme) on giving reasonable prior notice enter any enfranchised property or any part thereof at any reasonable time for the purpose of ascertaining whether the Scheme is being complied with in respect of that property

(b) Any owner of an enfranchised property to whom notice of any breach of the obligations imposed by the Scheme shall be given by the Managers shall if in default 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 and whether or not there shall be any other person also liable the Managers and any persons authorised by them may enter the enfranchised property and take such steps and carry out such works as the Managers shall reasonably think necessary to make good the breach

(c) All reasonable costs and expenses incurred under sub-clause (b) of this clause by the Managers in case of default of the owner shall be recoverable by them and shall be charged upon the enfranchised property



9. (a) If any enfranchised property shall at the date of enfranchisement form part of a group of properties of which any not already enfranchised are and any already enfranchised shall have been subject to leases requiring lessees to contribute to the cost of maintenance of any private ways car parks garages forecourts enclosures lawns gardens boundary walls entrance gates sewers drains pipes wires cables or other things used or enjoyed in common by the occupiers of the said group of properties 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 things aforesaid or any of them shall be deemed to remain in force and shall bind the enfranchised property during the subsistence of the Scheme

(b) All sums payable under this clause shall be paid to and be recoverable by the Managers and shall be charged upon the enfranchised property.

10. (a) There shall be payable to the Managers in respect of each enfranchised property a periodic management charge towards the costs incurred by the Managers in respect of the matters specified in the Schedule hereto and in the reasonable opinion of the Managers not otherwise recoverable. The periods for which the management charge shall be payable shall be successive periods of five years from the

1st April 1971 and as regards any broken period from the date of enfranchisement the management charge shall be apportioned in respect of time accordingly

(b) The management charge payable in respect of each enfranchised property for each period shall be such proportion of the total costs of the Managers in respect of the matters aforesaid during the period in question calculated in accordance with paragraph (c) below as the net rateable value of the enfranchised property at the beginning of the fifth year of the period bears to the total net rateable value at the same date of all enfranchised properties and of all properties owned by the Estates Governors on the Estate

(c) The total costs of the Managers for each period in respect of the matters specified in the Schedule hereto shall be taken to be 125 per cent of the actual costs incurred in respect of the matters aforesaid during the first four years of the period

(d) The management charge for each period shall become due on the date three months before the end of that period and shall be payable on that date by any person who is then an owner of the enfranchised property and shall be a charge thereon

(e) The Managers shall keep an account of the debits and credits relevant to the calculation of the management charge and such account shall be audited by a chartered accountant as soon as practicable after the end of the fourth year of



each period The audited account shall be binding upon the Managers and all owners and shall be made available for inspection by owners at reasonable hours by prior appointment and copies shall be made available to owners upon payment of a reasonable fee

11. Any monies charged by the Scheme upon an enfranchised property shall be recoverable by the Managers forthwith from any owner of such property but shall not be deemed to have become due within the meaning of Section 101 of the Law of Property Act 1925 until the service of a notice by the Managers on an owner of the property requiring payment of the same Such monies shall bear interest at the rate of one per cent per annum over Bank of England Minimum Lending Rate from time to time from one month after the date of service of such notice and from the date of such service the Managers shall have (without prejudice to any other remedies against any owner or other person) such rights over the enfranchised property and for the recovery of principal monies interest and other monies as they would have had if they had been first legal mortgagees of the freehold thereof under a Mortgage created on the date of enfranchisement and protected by the deposit of documents relating to the legal estate affected PROVIDED ALWAYS that the charge arising under the Scheme shall be postponed to any legal or equitable charge or mortgage whether effected before or after the date of the Scheme

coming into force and being a first charge upon the premises either registered at H.M. Land Registry or under which the chargee or mortgagee is entitled to possession of the title deeds and the owner of any such charge or mortgage shall have the right to make further advances to rank in priority to the charge arising under the Scheme

12. Any document effecting or evidencing a change in the ownership of an enfranchised property or a certified copy thereof shall be produced to the Managers within two months and they shall be entitled to charge a reasonable fee for the registration of the same Pending production of any such document or copy and the payment of the said fee the Managers shall be entitled (without prejudice to their rights against the new owner) to continue to treat the former owner as an owner of the property

13. On the application of the Managers or on the application of not less than one hundred owners or (in the case of an application to exclude part of the Estate) on the application made with the leave of the High Court of any smaller number of owners within the said part the High Court may

(a) terminate or vary all or any of the provisions of the Scheme or exclude part of the Estate if a change of circumstances makes it appropriate and

(b) transfer all or any of the powers and rights conferred by the Scheme on the Managers to a



local authority or other body

14. (a) Any notice under this Scheme shall be in writing and may be served on the person on whom it is to be served either personally or by leaving it for him at his last known place of abode in England or Wales or by sending it through the post in a registered letter or by recorded delivery post addressed to him there or (in the case of an owner of an enfranchised property) by leaving the same for him at or affixing the same to such property

(b) Any notice to the owner or owners of an enfranchised property may be addressed to him or them by that designation only or generally to all persons interested without any name and shall be sufficient notwithstanding that any person to be affected by the notice is absent under disability or unascertained

(c) Service of any notice sent by post as hereby authorised shall be deemed to have been made on the day following that on which it was posted unless the notice is returned through the post office undelivered

15. Any requirement in the Scheme of any approval or consent to be given by the Managers shall be subject to the proviso that the same shall not be unreasonably withheld and the Managers shall not serve any notice under the Scheme except such as shall be reasonable in the circumstances and no premium or fine shall be required for any consent

16. (a) The rights and powers conferred on the Managers by the Scheme are conferred on the Managers for the purpose of enabling them to preserve the amenities of the Estate for the common benefit

(b) (i) The Managers shall form a consultative committee (to be known as "The Advisory Committee") of not less than 8 persons of whom half shall be representatives of the Managers and half shall be representatives of and nominated by such residents' or amenity societies as the Managers consider appropriate the number of representatives of each such society being determined by the Managers

(ii) the Managers shall convene meetings of The Advisory Committee not less than twice a year

(iii) prompt notice of all applications made or notices served under clauses 3(a) 4 or 6(a) or (b) hereof shall be given by the Managers to every member of The Advisory Committee and the original applications or notices and any supporting documents shall be made available for their inspection The Managers shall have regard to any representations made to them by the members of The Advisory Committee concerning such applications or notices or otherwise concerning the amenities of the estate



17. Any dispute or difference between the Managers and any owner

(a) under clauses 3 (a) and (b) 4 5 and 6 (a) (b) and (d)

(b) as to whether any matter or as to what proportion of the costs of any matter falls within the Schedule hereto

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 re-enactment thereof for the time being in force. It shall be open to any party to any such arbitration to call evidence of any representations made to the Managers by any Members of the Advisory Committee relating to the dispute or difference concerned.

AM
THE SCHEDULE above referred to

Matters the cost of which are to be taken into account in the calculation of the annual management charge so far as such costs are incurred with reference to the Estate but not with reference to the development or proposed development of any part of the Estate for the time being in the ownership of the Estate Governors

1. Operation of the Offices of the Secretary and General Manager
2. Remuneration and Superannuation of the Secretary and General Manager and of his staff so far as not

coming within any other item in this Schedule

3. Professional and other assistance referable to any item in this Schedule

4. Cleansing maintenance and repair of private roads paths ponds ditches drains and gullies

5. Tending and maintenance of hedges fences posts chains bollards and gates on or adjoining any private roads open spaces or woods

6. Mowing cleansing and maintaining the verges of private roads and paths and the open spaces and manor wastes

7. Silviculture including the maintenance of the Estate tree nursery and the inspection tending pruning removal and replacement of trees on the Estate

8. Expenses arising from the provisions of clause 10 (e) of the Scheme

9. All other matters (if any) referred to in paragraphs (b) or (c) of section 19 (8) of the Leasehold Reform Act 1967

10. All rates taxes assessments and impositions whatsoever payable in connection with or as a result of any of the matters aforesaid

11. Any insurance against damage by fire storm or other risks or in respect of any liability of the Managers to their employees or to the public or otherwise

AMH

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION (GROUP B)

MR JUSTICE WALTON

21st JANUARY 1974

Re ALDOUS APPLICATION

Re LEASEHOLD REFORM ACT 1967

A L D O U S

V

S K I N N E R

DUPLICATE

O R D E R

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