IN THE BIRMINGHAM COUNTY COURT **CLAIM NO: 6BM74906**

BETWEEN :-

20-20 HOUSING CO-OPERATIVE LIMITED

Claimants

And

MR ROBIN CLARKE

Defendant

ADDENDUM TO DEFENDANT'S APPLICATION

1.The Defendant applies to strike out the Claimant's Claim pursuant to CPR 3.4(2)(a)-(c) on the grounds that the Claim discloses no reasonable grounds for claiming possession, is an abuse of the Court's process, and or there has been a failure to comply with a rule, practice direction or court order. The Defendant further applies for an order that the case be referred to the Attorney-General in respect of Contempt of Court and Perjury by the Claimant and Claimant's witnesses.

2.The reasons for the application can be summarised as follows:-

(a) In the face of substantial evidence of lack of legitimacy of authority of "the Claimant" to act as Landlord of the Premises in question, neither the Particulars of Claim nor the Witness Statements give any basis for proof of that legitimacy; and on the contrary they contribute towards proof of lack of that legitimacy;

(b) The Particulars of Claim and the two Witness Statements of "the Claimant" give a manifestly deceitful gross misrepresentation of some of the most pertinent matters, to the extent of constituting Contempt of Court. And the two witnesses attended the Court Hearing with the intention of swearing their perjurous statements and the only reason they did not was that in the event they were not called by the Court to testify;

(c) Notwithstanding the contrary assertions, the Claim depends on the Claimant proving one of the grounds for possession specified in the Tenancy Agreement, but such proof cannot be forthcoming on the basis of the statements submitted by the Claimant.

(d) The Claimant has still failed to comply with the Court's Order to file their Reply to Defence and Defence to Counterclaim which is overdue now by three months after the date specified.

Conceptual clarifications

3.The Claimants have presented this case as being between an organisation as Claimant and an individual as Defendant. In reality it is a dispute within an organisation of co-owners, between one member as Defendant and three or four deceiving harassing members anonymously and secretively asserting themselves as "the Claimant", "20/20 Housing Co-operative Ltd.", untruthfully making themselves out as being the legitimate representatives of the organisation as a whole.

4.I myself speak with a unique special authority in 20-20. I am the only person who has been a member since 1985 (**Share Certificate herewith**). I am the only member who worked with all the founders at a time when there were no policies or procedures or even places to live in. In stark contrast to every one of the harassing secretive deceivers who hide behind the name of "the Claimant", "20/20" [sic], I, Robin Clarke, helped to bring 20-20 into existence. Uniquely, I was a member for over five years before becoming a tenant. It was even myself who identified 9 Augusta as a suitable property to buy.

5.The whole point of being a "fully-mutual" co-operative was that all the members would have maximal information and control over their housing, the housing of which they were the owners and not merely tenants. It was not in order that a handful clique of liars could be free to harass their victims beneath the illegitimate secrecy you will shortly see the proof of.

6.The committee and/or officers are not the owners, and are not the Landlord. The Landlord of the Premises is the membership as a whole.

7.It will be made clear herein that there would be more justification for the Defendant to be referred to as 20-20 Housing Co-operative, than for the Claimant to be so referred to.

Burden of proof of legitimate authority lies with the Claimant

8.The burden of proof lies with the Claimant to prove their legitimacy as derived from due accountability to the true Landlord of the Premises, that is the full membership of 20-20. It does not fall on the Defendant to counter-prove the negative that is their lack of legitimacy.

Proof of lack of legitimate authority of Claimant despite burden of proof falling on the other side

9. I will be willing to present fuller proof of the illegitimacy of "the Claimant", much of which is indicated in the Defence paras 3 - 11 and the book. But I think enough can already be presented here relatively briefly to show that the Claim should be struck out.

10. I shall begin with a clarification of what "the Claimant" is hiding behind the confusing term "the Claimant", "20/20" [sic] etc.

11. The Landlord, the Owner of the Premises, is the 20-20 Co-operative of all 50-odd shareholding members. The officers and management committee were delegated, about 17 years ago, the authority to exercise landlord powers on behalf of the Co-operative.

12. But the legitimacy of that authority is not unconditional and unabrogatable. Not least, the committee/officers are supposed to be accountable to the full membership. The legitimacy of the 20-20 management depends on its being accountable to the members. They are also supposed to act in accordance with their rules and the various other protocols.

13. And yet I shall here show (in line with Defence paragraphs 4 onwards) clear proof that a deliberate, systematic, total evasion of accountability has been set up from 2005 onwards; and that that evasion of accountability has occurred with a view to concealing the criminal violations of the Protection from Eviction Act 1977, which were also committed by members of "the Claimant"; and that there have also been other major knowing violations of the rules; and that above all, the regime of secrecy which was illegitimately introduced in 2005 totally perverts the intended nature and constitution of the organisation.

14. It follows that "the Claimant" have forfeited the legitimacy to represent themselves as being the authorised agents of the Landlord/Owner which is the 20-20 Co-operative membership as a whole.

15. The abridged evidence of evasion, in summary, consists of:

(* = here appended)
*Copies of Minutes of two 20-20 meetings
*My CPR Part 18 Request for Further Information
*Claimant's Solicitor's response to my Part 18 Request
*Letter from Nic Bliss about Homebuy Scheme
*20/20 [sic] & Balsall Heath HC initial application form
*CD of my two audio recordings from 20-20 meetings,
plus my transcripts thereof (p 58-61 of book)
Claimant's Witness Statement of Jacqueline Watson
*Report from BCHS Director Jon Stevens
My commentary thereon (book pages 40-41)
*Two letters from Chairman Lynn Mansell
Claimant's Witness Statement of Lynn Mansell
*Exceptional absence of reports at 2005 AGM
Internal self-evidence of this legal action .

16. So I'll begin. (But don't forget that the burden of proof is on them, not on me.) Firstly the "accepted" **Minutes of July and August 2005, herewith**. You will note how in both cases the "Minutes of last meeting" section contains a peculiar account of voting for and against the inclusion of some unspecified material. I say peculiar account because as the only member who worked with all the founders back in 1985 I can show you the archive of many meetings' minutes and there has never before in 200-plus meetings been such a vote as to what should be minuted. You will also note that it is self-evident that something importantly contentious must be involved, but that not even a hint of what it is is allowed through to the readers (that is, to the members who are the Landlord of the Premises). That is, the Landlord of The Premises was being kept in the dark by "The Claimant".

17. Secondly, **my CPR Part 18 Request for Further Information herewith** contained six questions, all highly relevant to the issue of whether "the Claimant" might be evading accountability to the Landlord.

18. You will note that **the reply of "the Claimant" herewith** gave:
(a) No answers to any of the six questions.
(b) No valid explanation for declining to give answers.
(c) No challenge to the truth of the statements of accountability-evading actions featured in the Request.

19. The court may therefore be inclined to draw the inference that those stated actions of evasion did in fact occur, that there was no acceptable justification for them, and that was why no answers were forthcoming.

20. I cannot show you any committee Minutes after those. You may infer the reason for that from that unanswered Part 18 Request. Namely, because in Sept/Oct 2005 an illegitimate regime of total secrecy was secretly imposed. When I had phoned Chrissie Muirhead* of BCHS she explained that the committee meetings were now secret and confidential. This needs to be set in the context that for many previous years it had been necessary to actively encourage members to get involved in the meetings (book page 37 and **letter from N. Bliss about Homebuy, herewith**). It was hardly surprising that the May 2006 "general" meeting was inquorate. (*Note: I do not have any reason to think Ms Muirhead was herself responsible for the secrecy, or any other abuses detailed herein.)

21. The whole point of being a fully mutual co-operative was that all the tenant-members would be as fully involved and informed as possible; it was not in order that a small clique of liars could secretly lord its arbitary powers at whim over the other members with impunity.

22. There may indeed be no rule obliging distribution of the Minutes, but then neither did the rules specify that the committeemen could include women, that the members should not be deceitful in their conduct of business, or that the language of proceedings and correspondence should not be Japanese. Some things go without saying and one such is most definitely that the owners-members of a fully mutual co-operative should continue to be kept fully informed and involved, and that a change from that arrangement should not be made secretly let alone without any consultation. Why would they make that change other than to conceal their criminal harassing and other abuses?

23. Thirdly, the ***20/20* [sic] *& Balsall Heath HC initial application form* herewith** reinforces the intended nature of the organisation, with a fundamental principle being maximisation of involvement of the Members. The notion that the committee could properly be acting secretively from the other Members is in absurd conflict with that application form.

24. Fourthly, **on the CD herewith** you can hear my recording of the August 2005 committee meeting voting to stop my recording (as secretary) (and you can read the transcript, book pages 58-9). You can hear the lack of any coherent justification for their preventing the other members – the members who are the Landlord of the Premises – from hearing what happens in the meeting.

25. Fifthly, **on the CD herewith** you can hear my audio recording and read my transcript (page 60) of the October 2005 "general" meeting (in reality just the same clique). You can hear them concurring in the absurd notion that they are not allowed to discuss anything else at that meeting. You can hear for yourself that rather than take the opportunity to put the truth on record they resolutely choose to avoid that opportunity instead. Why?

26. Sixthly, the Claimant's Witness Statement of Jaqueline Watson mentions in paragraph 23 that on 15th September 2005 *"Mr Clarke was removed from his post of Secretary and suspended from Committee meetings"*. That statement does of course invite you to presume that I had acted improperly. In line with the "20/20" and BCHS tradition of not telling the whole truth, she failed to mention the true context and that the reasons for that dismissal and suspension were without merit, as will now be shown.

27. The **'report' of Jon Stevens herewith** outlines the three false excuses which were concocted to dismiss me as Secretary, that is to exclude the only truth-teller-whistleblower from the committee. The falsity of all three excuses is made clear in pages 40-41 of the book.

28. Eighthly, the **two letters from the nominal Chairman Lynn Mansell herewith** likewise betray a determination to suppress the truth from being got out. The first was designed to quash the "Emergency General Meeting" for which I sent out notices at the beginning of September 2005. As you have already noted, the only "general" meetings these people are happy with are those limited to their censored agenda. Again an opportunity for accountability spurned rather than grasped. Again, <u>why</u>?

29. The other letter from Lynn Mansell threatened me with suing for libel in respect of my website www.2020housing.co.uk , even though that website was merely telling a rare dose of truth including links to download the audio recordings. Why did she not instead challenge the truth of the website contents? Because it was all true, that's why.

30. For the first time in 20 years there were no annual reports at the 2005 AGM (**agenda herewith**). Now why would the annual reports be absent in just that year when an unprecedented challenge to legitimacy had occurred?

31. Now please note the Claimant's Witness Statement of Lynn Mansell. Her paragraph 6 states: "The current Committee was duly elected at General Meeting held on 1st December 2005". And her paragraph 7 states: "At a Committee meeting on 16th March 2006, it was formally decided to issue a Notice to Quit terminating Mr Clarke's tenancy ...".

32. And yet she gave no hint that that Committee were "duly elected" in the context of the previous six months of their systematic evasion of accountability to the electorate, as particularised in the paragraphs above. That same "duly elected" committee then proceeded under the illegitimate regime of secrecy to make that decision to issue the NTQ.

33. It should be obvious that at the base of this matter has been a major challenge of the Defendant against the criminal harassment and other abuses of office by "the Claimant", and that Lynn Mansell had herself been very much a witness and party to that. And yet she chose to give you sworn testimony of a stupendously deceitful account with not the slightest hint of any of those matters, making themselves out as being just another perfectly respectable Social Landlord, supposedly wronged by an unreasonable tenant. So much for telling the truth and the whole truth, Lynn. Isn't that perjury? In the good cause of harassing a chronic invalid out of his home of 16 years of course.

34. It will be apparent that an identical deceit has been committed by "the Claimant" as a whole, in respect of the Claim as a whole.

35. And likewise, the general shareholder members of the Landlord, such as myself, have received from "the Claimant" zero information about the harassment and other abuses described in the Defence. And have received zero information about these illegitimate proceedings for possession. Let alone not being consulted about them, they, the Landlord of the Premises, have not even been informed of any of this.

36. Then we can add to all this that this vexatious action contains within itself a further proof of the moral degeneracy and unfitness for office of those who are conducting it—that they persist with an unjustified, deceitful attempt to evict the most longstanding member, who had been on the management for five years before becoming a tenant, and was secretary during many years, and who had made clear his critical health problems; and that they can consider it acceptable to persist in that eviction attempt with not the slightest effort to execute a proper procedure of proof of the grounds of the action. Their instigating of and persisting with this case testifies of itself their unfitness to be controlling anyone's housing. These people have no proper place in housing management and should be dismissed by the Housing Corporation immediately.

37. Julie Russell of Shakespeares is not really taking instructions from the Landlord/Owner 20-20 Housing Co-operative. She is taking instructions from a small clique of criminal liars ("the Claimant") who are pretending to act with due accountability and legitimacy supposedly as the management of 20-20, or 20/20 as they insist on mis-spelling the name of the organisation.

38. The directives of the clique instructing Ms Russell should no more be recognised as legitimate than those of Adolf Hitler or Saddam Hussein should have been.

39. The above is not my full evidence concerning the malgovernment and evasion of accountability. But I think you will agree that it suffices for showing that these people have forfeited the right to be considered legitimate agents of the Landlord of the Premises which is the members of 20-20 from whom they have been so assiduously evading accountability.

40. And so "the Claimant" is not acting with the true authority of the Landlord of the Premises.

41. "The Claimant" has not satisfied, and is not going to satisfy, even in the remotest, the burden of proof. And so the Claim must be struck out.

42. It is also therefore respectfully submitted that the Court should give a ruling such as:-

> "Where the landlord is a fully mutual housing co-operative, the landlord is the membership as a whole. The officers and management derive their legitimacy on condition of being accountable to that membership as a whole. To the extent that officers or management evade that accountability, or engage in serious abuses of their powers such as to harass tenants, they void their legitimacy as agents of the landlord. And thereby any legal proceedings instigated by those officers or management are also voided of legitimacy and must be struck out."

The Claimant gave a grossly misleading account and
The Claim discloses no basis for proof of legitimacy

43. The Claimant chose to represent to the Court that this was just another straightforward case of a legitimately-functioning Registered Social Landlord acting properly in taking action against a 'tenant' who had (supposedly) breached his tenancy agreement without good reason, and certainly not any reason possibly related to wrongful behaviour of the Claimant themselves.

44. The Particulars of Claim merely present routine assertions of legitimacy. There is no hint therein that there had been a major challenge by the Defendant, and no hint of the fact that accountability had been systematically evaded.

45. The Witness Statement of Lynn Mansell likewise gives only routine recitals of legitimacy. Again there is no hint therein that there had been a major challenge by the Defendant, and no hint of the fact that accountability had been systematically evaded.

46. The Particulars of Claim and the Statement of Lynn Mansell are thus examples of such deceitful evasion in themselves.

47. The Witness Statement of Jacqueline Rooker (JR) does very briefly mention in paras 23-25 that there was a dispute and challenge by the Defendant, but it is extremely misleading, with the effect of prejudicing against the Defendant.

(a) JR para 23 misleadingly states that *"Mr Clarke was removed from his post of Secretary and suspended from Committee meetings"*. That statement does of course invite you to presume that I had acted improperly. She failed to mention the context and that the reasons for that dismissal and suspension were specious, as was shown in pages 40-41 of the book.

(b) JR paras 24-25 assert that there was an independent inquiry and report which found against my allegations.

(i) But that report by "Helen White" was certainly <u>not</u> independent. It was commissioned by one of the parties, namely Lynn Mansell herself, and there was no organisation or address or contact means associated with "Helen White" other than via Lynn Mansell herself *. <u>It was no more independent than would have been a report secretly commissioned by myself.</u> (* See second letter from Lynn Mansell herewith.)

(ii) Furthermore, I had repeatedly pointed out other serious objections to the "Helen White" inquiry, in letters to Lynn White. And I refused to give evidence to that inquiry, on the basis that it was illegitimate. Not the slightest defence was offered against my objections to the "Helen White" report.

(iii) A full critique of the "Helen White" report is contained in the book pages 63-72. It shows that far from disproving my allegations of harassment and other malgovernmental abuses, the report actually added further evidential support to them.

48. The Claimants chose to give no reply to the six pertinent questions in my CPR Part 18 Request for Further Information, instead falsely asserting that they were irrelevant.

49. Then in their Reply to my Defence, well, they still have not yet filed any such Reply three months after the deadline the court ordered. It is suggested that that is because there is nothing they can usefully say in reply that would be compatible with their initial deceits.

50. And their concurrent Application to Strike Out the Claim likewise sidesteps the matter, with a long-winded compilation of irrelevant 'precedents' instead.

51. It should therefore be clear that "the Claimant" have already proved themselves incapable of satisfying the Burden of Proof of their legitimacy. Not only the Claim but even the totality of the Claimant's documents give no basis for proof of their legitimacy. And hence the Claim should be struck out.

Perjury by the Witnesses of the Claimant

52. The Claimant's Witness Lynn Mansell has at all material times been the Chairman of 20-20. The Claimant's Witness Jacqueline Rooker has at all material times been a worker at BCHS closely involved in the administration of 20-20, and is also a near neighbour of Lynn Mansell and other 20-20 personnel. It is therefore inconceivable that either of these witnesses did not have a clear awareness of what was going on in all these matters.

53. Of the documents giving evidence of evasion, two were my audio recordings of the Claimant's own meetings. The others were documents either authored by the Claimant or submitted by the Claimant as part of their supporting documentation.

54. It is therefore self-evident that all persons of "the Claimant" were very well aware of all these pieces of evidence of evasion and my challenges to it.

55. And yet they chose not to mention these facts which were highly detrimental to their own case, and which ought to have been mentioned in their assertions of legitimate authority in their statements.

56. It should be clear from the above that paragraphs 6 and 7 of Lynn Mansell's Statement constitute an outrageous Deceit against the Court. And that was in the context of my **letters to Lynn Mansell herewith** repeatedly saying that "Advice from solicitors will only be as good as the lies you tell them".

57. It is suggested that it is clear that the Claimant chose to deceive the Court by omitting to mention these crucial material facts. They reckoned to improperly gain control of my flat in Moseley to allocate to themselves or their relatives or other partners in crime.

58. The Witnesses Lynn Mansell and Jacqueline Rooker attended the Court on 13 July 2006 with the intention of attesting these misleading statements, fully aware that they would be giving a misleading account for the purpose that the chronic invalid Defendant, already the victim of their harassment, could be conveniently thrown out on the street without the any due process of proof of grounds. The only reason they did not attest their statements was that due to the filing of the Defence they were not called to testify.

59. There is therefore a prima-facie case that Lynn Mansell and Jacqueline Rooker committed Contempt of Court and intended to commit Perjury.

60. The Defendant therefore applies for the case to be referred to the Attorney-General.

61. And the Claim is therefore founded on a perjurous set of statements and hence is an outrageous abuse of the Court's process, and therefore the Claim should be struck out.

Security of Tenure, and the obligation to prove a ground

62. Paragraph 7 of the Claim made clear the understanding that the tenancy agreement required that the Claim for possession be on one of the grounds specified in Clause 4(2) of the agreement. Peculiarly, the Claimant's later submissions substituted a different, totally incompatible, story instead.

63. Claimant's Application paragraph 2i asserts that "the defendant has no security of tenure." But that will be disproved below.

64. Claimant's Application paragraph 11 asserts that "The claim in no way depends upon proof of these allegations." But I shall show below that, quite the contrary, the claim is wholly dependent on such proof.

65. By the same flawed reasoning, the Claimant's Skeleton Argument paragraphs 6, 7, 8 assert that the Claimant is entitled to possession without proving a ground.

66. It will be shown here that each and all of those assertions are untrue.

67. The Claimants' (second-edition-) argument is based on an absurd misrepresentation of the tenancy agreement (TA). A most basic principle of contract law is that defectively-written contracts have to be construed primarily on the internal evidence of what the parties' intentions were.

68. It will be shown below that the TA was composed with spectacular incompetence. And yet the intentions of the parties could not have been made more explicit.

69. The second-last paragraph of page 6 of the tenancy agreement states:

> "Tenants of the Co-operative .... do not enjoy Security of Tenure and other rights under the Tenants Charter".
>
> But that sentence is not saying, simply, that: "Tenants ..... do not enjoy security of tenure [full stop]". Rather it is merely making the observation that the Tenants Charter does not give them such security.

70. The very next sentence of the agreement explicitly makes clear that the tenants do have security of tenure, by virtue of the agreement itself:

> "However, members have discussed the Tenants Charter provisions and agreed that Tenants .... will have .... security as set out below:
> 4. The Tenant has the following rights:
> ..... (1)
> Security of Tenure (2) .... "
> [followed by two whole pages intended to describe the grounds relating to that security].

71. Furthermore, immediately after that lengthy list of grounds, at the end of page 8, are the words: " ... specifying the ground on which possession will be sought .... ". Yet again, the clear indication is that the possession is to be sought on one of those grounds, not on the mere basis of the NTQ.

72. Considering that 20-20 was designed by its founder-tenants to be a Co-operative of owner-manager-tenants who would be very much more-than-averagely-committed to their housing (in contrast to the sort of tenants to whom the Tenants' Charter and such-like would apply), it would be bizarre in the extreme if they meant to grant themselves any less security than that of the standard security of tenure given to non-Co-operative tenants.

73. And yet the Claimants' argument would have us believe that the security which the Co-operative members decided to give themselves amounted to no security at all, merely:

(a) a quorum of three people turn up to a meeting and one is outvoted by the other two: ("Shshh, Jules, how about I can have Robin's flat, I'll give you five grand for your vote"),
(b) a Notice to Quit is issued followed by a Claim specifying a totally bogus ground,

and then the 21-years Member Robin Clarke, who had been a shareholder and management member of the Co-operative for five years before obtaining any benefit from it by becoming a Tenant, has no defence against being thrown out of his home of 16 years a mere 14 days later.

74. And meanwhile the many thousands of housing association tenants, who do absolutely nothing for their tenancies (and even their rent is paid by HB), do have proper security of tenure in exchange for that zero consideration.

75. Various facts make clear that the agreement was very incompetently drafted and consequently failed to give a rigorously-articulated account of what the nature of the security was to be. But any reasonable person can infer what security was obviously intended, indeed they would simply take it as obvious that that was the meaning, without a second thought—as I did myself in fact.

76. Firstly it is obvious that the members, when drafting the key section headed "The Tenant's Rights", had forgotten about (or more likely never thought about) this semi-sentence tucked inconspicuously into the first page: "The tenancy begins on 2nd July 1990 and is a weekly tenancy which may be terminated by either the Co-operative or the tenant by giving 4 weeks notice in writing to the address given above." That crucial clause does not even have a whole sentence to itself. And the sentence is shared between two headings: "Date of start of Tenancy", and "Notice of Leaving". You will note that the words security of tenure, claim for possession, or grounds or eviction are totally absent from **all** of that. (You will also note that that sentence does not specify that an NTQ would inevitably cause the termination; rather only that it "may" cause it.)

77. And conversely, of those sentences that do explicitly seek to describe the security of tenure (all in the "The Tenant's Rights" section), none at any point make any reference to that front-page clause.

78. And it is surely significant that the only clauses referring to the grounds do so with reference to seeking a court order on those grounds. In contrast, Nothing in the agreement indicates that those grounds could be merely the criteria for a decision to serve a notice. On the contrary, the end of page 8 indicates that the list of grounds is the "ground[s] on which possession is sought".

79. If the intention had been that the grounds would be the necessary criteria for a decision to issue a NTQ, that could have been at least hinted at. But it was not.

80. And if the intention had been that the grounds would be merely grounds for serving the notice and thereafter the expired notice would be considered to force a judge to grant an unstoppable court order, that could have been at least hinted at. But it was not. Not in the slightest.

81. The claimant organisation has elaborate procedures for numerous less-important things, such as for complaints, for antisocial behaviour, for repairs requests, repairs reports, for harassment, for rent arrears, for allocations, for financial matters and for lettings. It is therefore very significant that neither the original Co-operative nor its illegitimate perversion into the current clique of charlatans has ever had even the slightest procedure for adjudication on the vastly more momentous question of whether any of those grounds might be proven against a tenant.

82. And there is absolutely nothing in any 20-20 document specifying limits or obligatory criteria for a decision to serve a NTQ. And nothing specifies that any reason or grounds for the NTQ must be stated anywhere (the TA only lists grounds "on which a possession order may be sought").

83. Indeed, the 20-20 ringleader Nic Bliss even has on his cch.coop website his model **"Breach of Tenancy Policy" (herewith)** which consists of no more than a list of breaches/grounds, devoid of any procedure or evaluation criteria, or what they could be grounds for.

84. And yet the claimant clique would still have you assume that by some non-existent procedure it has conducted a proper inquiry into whether any grounds have been proven against the Defendant.

85. Indeed, they assert something vastly more disgraceful still, namely that they do not give a damn whether or not they have a procedure or their action is shown to be properly justified, they want the Court to be forced to grant their eviction of a seriously ill invalid victim of their harassment from his home of 16 years, for no good reason, anyway.

86. There is one idiotically obvious explanation for that peculiar absence of a procedure, namely that the drafters of the agreement considered that it went without saying that the the proof of grounds would be too important for the members themselves to adjudicate on, and so their assumption was that the court would do it instead.

87. Indeed that would be in line with the universal norm in contract litigation in which allegations of breaches are tested in court rather than by some unspecified internal whim of one of the parties acting in secret.

88. From the above paragraphs 9 onwards, it is obvious that the security which the members were intending to grant themselves was to consist of the tenancies being terminable by the Co-operative only in the event of a court finding proper proof of the grounds listed on pages 7 and 8. Every normal neutral person reading that document would construe it as obviously meaning that, just as I did myself.

89. The clear implication for any normal neutral person reading the agreement is that for the tenancy to be ended, the grounds must be properly proven in a Court hearing rather than merely paraded in-passing as a pretence of a non-existent due process.

90. A proper understanding of the tenancy agreement must therefore involve a re-construal, such that clause 4(2) should properly have read:

> "Any attempted termination of a tenancy without the consent of the Tenant shall become a legally valid termination only if a Court finds at least one of the following grounds proven (in default of which the termination is void): ".

91. It is therefore respectfully submitted that the Court give somesuch ruling as:-

> "Even though the landlord is a fully mutual housing co-operative, nevertheless the tenancy agreement explicitly indicates an intention that security of tenure is granted. The only coherent and reasonable interpretation of the nature of that security is that clause 4(2) should have read: "Any attempted termination of a tenancy without the consent of the tenant shall become a legally valid termination only if a court finds at least one of the following grounds proven (in default of which the termination is void): " ".

92. We can furthermore conclude that the Defendant's tenancy has not yet been terminated. And that the assertion in Application para 65 that "since 15/5/2006 the Defendant has been a trespasser at the property" is untrue.

The claim discloses no basis for proof of any ground

93. Claim para 7 cites three grounds as of potential relevance to the case. The Claim wholly depends on allegations of breaches of three Clauses of the Tenancy Agreement, namely:-
(i) Supposedly Clause 4(2)(ii) was breached by the Defendant changing the lock.
(ii) Supposedly Clause 4(2)(vi) was breached by the Defendant changing the lock.
(iii) Supposedly Clause 3(12) was breached by the Defendant preventing access.

94. Claim para 10 gives particulars of the supposed breaches. But it can be shown that no real allegation of any breach can be supported by the facts as alleged, neither in Claim para 10 nor in any other part of the Claim.

Alleged breach of Clause 4(2)(ii)

(a) The term "structural alteration" and the word "structural" are universally understood to refer to the gross building parts such as load-bearing walls, roofs and floors. Therefore, changing the barrel of a lock could not constitute a structural alteration as specified in Clause 4(2)(ii) of the Agreement.

(b) It follows that no real allegation of breach of Clause 4(2)(ii) can be supported by the facts as alleged, neither in Claim para 10 nor in any other part of the Claim. Accordingly the Defendant applies for Claim para 7(ii) to be struck out.

Alleged breach of Clause 4(2)(vi)

(c) The word "damage" is used in Clause 4(2)(vi) with a universally-understood meaning which does not include changing of lock-barrels. Therefore, changing the barrel of a lock would not constitute damage as specified in Clause 4(2)(vi).

(d) It follows that no real allegation of breach of Clause 4(2)(vi) can be supported by the facts alleged, neither in Claim para 10 nor in any other part of the Claim. Accordingly the Defendant applies for Claim para 7(iv) to be struck out.

Alleged breach of access obligation in Clause 3(12)

(The fiction that the Defendant was preventing access originated in the course of the scheme of harassment and of false grounds for eviction being fabricated against him. It began with the false complaint of supposedly "obstructing" the new tenant Khalid el-Jid (book page 46-47). The nature of the "obstruction" was never specified, and quite rightly as there was none and Mr el-Jid visited his flat several times (but not surprisingly did not want to share a house with criminal alcoholics any more than I did). When subsequently they found the lock had been changed, the Claimants reckoned to exploit that as an excuse for abusing the flaw in drafting of the Tenancy Agreement so as to get the Defendant evicted without due process of proving a ground.

"The Claimant" made no attempt to take proper action in respect of their abuses indicated in paras 16-30 above, then simply ask either tenant to supply them with a key; that would not have suited their primary objective of getting the Defendant evicted. The cumbersome alternative of starting this deceitful and improper legal action was naturally preferred.)

(e) The Claim alleges only that access to the unoccupied Flat 3 was prevented by the Defendant changing the lock to the front communal door (Claim para 10).

(f) But it was impossible for the Defendant to thus prevent access to Flat 3. In this regard, please consider the following paragraphs with reference to **the floor plans herewith**.

(i) At all times the Claimant was well aware that the tenant of Flat 2, a Member of the Claimant's Management Committee, had a key to that lock (being the front door of where he lived), and there was no way the Defendant could prevent them obtaining access via the assistance of that Management Committee Member and tenant.

(ii) Indeed, in stark refutation of their own fiction, the Claimant gained access by exactly that means for the purpose of their own re-changing of that lock as referred to in Claim para 10(1).

(iii) And the Claimant is seeking to make out that it could not gain access even though it knew that it (in the person of its Committee Member Edward Cox residing in Flat 2) had a key all the time anyway.

(g) It follows that no real allegation of breach of Clause 3(12) can be supported by the facts alleged, neither in Claim para 10 nor in any other part of the Claim. Accordingly the Defendant applies for Claim paras 7(i) and 8 and 10 to be struck out.

(h) Furthermore, that Clause 3(12) has nothing to do with allowing access to Flat 3 (which is a different Premises), but is only about the need for access to the Premises in question, namely Flat 1. The front page of the TA in the section headed "Address" defines the Premises as "Flat 1, 9 Augusta Rd, ('the Premises') which comprises self-contained flat, kitchen, bathroom, living room, bedroom". And that "the Premises" means only Flat 1 is further confirmed by

(i) Clause 3(10): ".... of the Premises or in any installations therein or in the common parts."
(ii) Clause 4(2)(vi): ".... the Premises or adjoining property or common parts ....".
(iii) Clauses 2(7): "To keep the exterior of the Premises and any common parts in a good state of decoration"; in contrast to 3(8): "To keep the inside of the Premises in a good and clean condition and to decorate all internal parts of the Premises ...."
(iv) Clause 3(6): "Not to play any radio .... that it .... can be heard outside the Premises ....".
(v) And similarly by Clauses 2(1) and 3(1).

(i) Clause 3(12) was included in the list of obligations merely as a necessary exception to the otherwise total exclusivity of the Premises which the tenant is granted by Clause 4(1) which states that: "The Tenant has the right to occupy the Premises without interruption or interference from the Co-operative for the duration of the tenancy (except for the obligation to give access to the Co-operative's workmen or employees contained in this agreement)" – it is about getting through the door of Flat 1.

(j) Even if the Defendant had achieved the impossible and magically prevented access to Flat 3 by changing the lock of the communal door, that still would be nothing to do with the Defendant's Tenancy anyway; it would be legally equivalent to his putting a padlock on a vacant house elsewhere; it might be argued to constitute a tort of some sort, but could not be a breach of the Tenancy Agreement. And that's even if the thing alleged were not impossible anyway.

(k) It follows that no real allegation of breach of Clause 3(12) can be supported by the facts alleged, neither in Claim para 10 nor in any other part of the Claim. Accordingly the Defendant applies for Claim paras 7(i) and 8 and 10 to be struck out.

95. If the intention had been that mere changing of a lock would be a breach of tenancy, that could have been explicity stated; but it was not, and for good reason.

96. The preceding paragraphs prove that the Claim did not in reality plead any facts amounting to breaches of the TA; it merely gave an illusion of doing so.

97. It follows that it is impossible for proof of any ground for possession to be made out on the facts as pleaded by the Claimant. And it has been shown in the preceding section that the Claim is wholly dependent on such proof of grounds.

98. Therefore the Defendant applies for the entire Claim to be struck out.

No reply filed

99. The Claimant has still not filed a Reply to Defence and Defence to Counterclaim, three months after the deadline ordered by the Court. An obvious explanation of why this is the case is that the Claimants can find nothing useful to say that is compatible with the deceits of their initial statements.

100. Therefore the Defendant applies for the entire Claim to be struck out.

Statement of Truth

I believe that the facts stated in this Addendum to Defendant's Application are true.

Signed
Defendant ROBIN CLARKE

Dated

Current Address for Service:
Robin Clarke
9 Augusta Rd
Moseley
Birmingham
B13 8AJ