

Hampstead Garden Suburb Trust **Statement regarding Management Charge Litigation**

Eight trustees constitute the Trust Council; one each nominated by the Law Society, the Royal Institute of British Architects, the Royal Town Planning Institute and the Victorian Society, and four elected by the Members of the Trust.

One of the four elected Trustees resigned in May 2007, two resigned in September 2007 and one Trustee retired at the same time after three years service and did not wish to offer himself for re-election. Unusually, therefore, there were four vacancies and these were filled by election at the Trust's Annual General Meeting on 19 September 2007.

The Council met for the first time since the election on 23 October and elected Angus Walker as Chairman and Wilfred Court as Vice-Chairman.

The re-constituted Council then considered, among other things, its position with respect to the ongoing litigation about the Management Charge.

In December 2006 Angus Walker applied to the Leasehold Valuation Tribunal (LVT) for a variation in the Scheme of Management so as to relate the amount of the Management Charge to the property on which it is levied. After a complete hearing of the issues in principle but before coming to any decision on the merits of the application the LVT decided in August 2007 that the wording of the Act was unclear with respect to the Tribunal's powers. It concluded that it did not have jurisdiction over the application made to it and could therefore make no decision on it.

The LVT granted permission to appeal to the Lands Tribunal. Andrew Botterill was accepted as the appellant in October 2007. If the appeal were to be successful this would mean that Mr Walker's application would be revived and the LVT would be free to move to the decision – accepting or rejecting the application in principle on the basis of the evidence and submissions already presented - that it was apparently about to make in July. At its meeting on 23 October the Council decided that it did not wish to be a party to the appeal and the Lands Tribunal has been so informed.

The observations made and conclusions reached in the course of deliberation included the following:

- The appeal does not relate directly to the original application and is solely concerned with the interpretation of one subsection of the relevant legislation that determines whether the LVT has jurisdiction over an application made under this subsection.
- In its submissions to the LVT about jurisdiction the Trust had argued in favour of the same conclusion as Mr Walker – that the LVT has jurisdiction
- The Council did not believe that it should change this position nor attempt to modify the submissions already made by its legal representative but should be content for the Lands Tribunal to reach its decision on the evidence given and submissions already made to the LVT.
- The Council decided that it would again consider its position when the Lands Tribunal's decision is known.

The detailed evidence and arguments submitted to the LVT by the Trust and Mr Walker with regard to the original application, the LVT's jurisdiction, the decision to allow an appeal and the grounds for appeal may be seen at the Trust's Office by arrangement with the Trust Manager who is also available to answer any other questions related to this issue. The Trust Office telephone number is 020 8455 1066.