



Aviva Commercial Property



Mrs. Rebecca Harvey
1 Elsworthy Terrace Freehold Limited,
1 Elsworthy Terrace,
London
NW3 3DR

24 April 2018

Subsidence claim 1 Elsworthy Terrace

Dear Mrs Harvey,

We refer to your request back in February of this year via your insurance agents, Midway Insurance to reopen a previously closed claim for subsidence. Claim number 8834755 was lodged with us in February 2015 by the then freeholder Mountview Estates PLC in relation to damage reported by the lessee of the lower floor flat Mr Benjamin Phillips. This claim was in relation to cracks that had formed in a newly fitted and tiled bathroom. This claim was repudiated by our loss adjusters, Questgates and I enclose a copy of their letter dated the 18th March 2015, the contents of which are self-evident.

This claim has been reopened on several occasions and as a result the previous freeholders contested that it was not a mature tree within the grounds that was the cause of the damage, the damage was more likely to have been as a result of a failed drainage system. Our loss adjusters conducted a drainage survey on the 16th February 2017 which clearly confirmed that the drains were not at fault and we reverted to our previous position that the source of the damage was the unmaintained mature tree.

We understand that this claim was reopened by yourself in February this year as a result of an enfranchisement by the lessees and are obviously aware of the existence of the new freehold company which has purchased the freehold from Mountview Estates PLC. Having appointed Questgates again they have reaffirmed that the damage is being caused by the mature tree within the grounds to the front right hand side of the steps and that removal of this tree will be sufficient to



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stabilise this area. Given that the responsibility for this tree is with the lessee who originally lodged the claim in 2015 (as it is within the grounds demised to that lessee) we are left with no option but to continue to repudiate this claim.

Originally when our loss adjusters looked at it in 2015 the damage was slight [REDACTED] policy excess. Any increase in the quantum relating to damage will be attributable to the lessee's failure to maintain this tree and therefore would not be considered under an insurance claim.

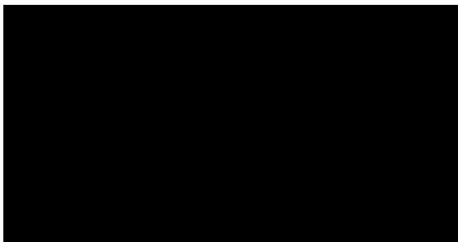
We would respectfully request that you impress upon the lessee the urgency of remedying this matter, as failure to do accordingly will cause underwriters to review their terms and this may include refusing to provide insurance including subsidence cover in the future. You may wish to consider enforcing the lease to remedy the matter before the failure of your lessee to act causes the insurance policy to fail and an ultimate breach of lease.

Kind regards



Alejandra Gardiner

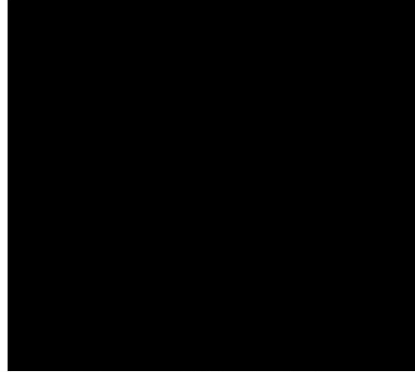
Claims Handler



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Moutnview Estates Plc
1 Elsworthy Terrace
London
NW3 3DR



Date: 18 March 2015

Dear Nigel

Re: Your Insurance Claim – 1 Elsworthy Terrace

We refer to all recent correspondence in relation to this claim and as means of an update, we can advise that following our inspection, we noted that the previous repairs undertaken due Subsidence caused by a Local Authority Plane tree now reduced have held firm and remain in good order.

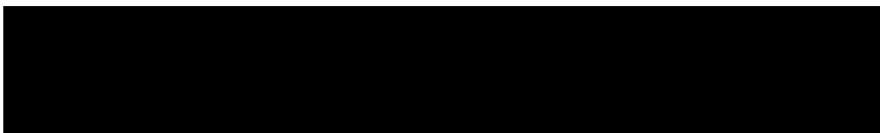
We did however notice some further slight Subsidence which has manifested below the bathroom window adjacent to the access steps and which is visible in cracked tiles to the wall internally. We also noticed some cracking to floor tiles; however this is due to them being installed inadequately to a suspended timber floor.

In summary of this wall damage, it is our opinion that this relates to a new incident of Subsidence, caused by a nearby mature tree within the grounds to the front right hand side of the steps.

Fortunately, as the damage is slight, we believe that the removal of this tree will be sufficient to stabilise this area and allow a scheme of localised re-pointing externally and some tile replacement to one wall internally.

In noting that the cost of tree works will be your responsibility, we would ask that you arrange for this as soon as possible to mitigate against further damage and would expect thereafter the cost of repairs to fall within [REDACTED] policy excess that would be applicable to this claim and also your responsibility to complete.

As damage is slight and falls within the cost of your excess at this time therefore, there is no claim for your Insurers to consider, however we hope our advice and guidance proves useful in resolving this specific issue.



We will now issue our final report and close our file. Should you have any queries in the meantime however, please do not hesitate to contact this office.

Yours sincerely

Dave Clare
QuestGates Ltd
Chartered Loss Adjusters & Claims Specialists