

CKFT Application Notice

You should provide this information for listing the application

1. How do you wish to have your application dealt with
 - a) at a hearing? } complete all questions below
 - b) at a telephone conference? }
 - c) without a hearing? complete Qs 5 and 6 below
2. Give a time estimate for the hearing/conference
_ (hours) 30 (mins)
3. Is this agreed by all parties? Yes No
4. Give dates of any trial period or fixed trial date CMC 26/08/03
5. Level of judge District Judge
6. Parties to be served 2nd and 5th Defendant

In the WEST LONDON COUNTY COURT Court Division	
Claim no.	<u>WL 203537</u>
Warrant no. (If applicable)	[Warrant No]
Claimant (including ref.)	<u>STEEL SERVICES LIMITED</u> <u>RLS/AS/STEEL</u>
Defendant(s) (including ref.)	<u>2. NOELLE YVONNE SILVIE</u> <u>KLOSTERKOTTER DIT RAWE</u> <u>5. [REDACTED]</u>
Date	<u>5th August 2003</u>

Note You must complete Parts A and B, and Part C if applicable. Send any relevant fee and the completed application to the court with any draft order, witness statement or other evidence; and sufficient copies for service on each respondent.

Part A

1. Enter your name, firm name, or name of solicitor
We⁽¹⁾ CKFT on behalf of the Claimant Steel Services Limited

2. State clearly what order you are seeking and if possible attach a draft
intend to apply for an Order that⁽²⁾

1. There be Judgment for the Claimant against the Second and Fifth Defendants under CPR Part 24.2.
2. The Defendants do pay the Claimant's costs of these proceedings

3. Briefly set out why you are seeking the order. Include the material facts on which you rely, identifying any rule or statutory provision
because⁽³⁾

The Claimant believes that the Second and Fifth Defendants have no real prospects of successfully defending the Claim and the Claimant knows of no other compelling reason why the case should be disposed of at Trial.



!!

Part B

We wish to rely on: tick one box

- the attached witness statement my statement of case
- evidence in Part C in support of my application

4. If you are not already a party to the proceedings, you must provide an address for service of documents

Signed 
Applicant's Solicitor

Position or office held Solicitor
(if signing on behalf of firm or company)

Address to which documents about this claim should be sent (including reference if appropriate)⁽⁴⁾

CKFT		if applicable	
25/26 Hampstead High Street		fax no.	0208 317 8751
London	Postcode <u>NW3 1QA</u>	DX no.	57567 Hampstead
Tel. no. <u>0207 317 8756</u>	Ref. <u>RLS.AS.Steel</u>	e-mail	<u>asalim@ckft.com</u>

The court office at 43 North End Road, West Kensington London W14 8SZ

is open from 10am to 4pm Monday to Friday. When corresponding with the court please address forms or letters to the Court Manager and quote the claim number.

Part C

We wish to rely on the following evidence in support of this application:

On 17th June 2003, the Residential Property Tribunal Service gave its decision on the Application under section 19 (2B) of the Landlord and Tenant Act 1985 (as amended). A copy of that decision is attached to this Application Notice at Appendix A.

Following the decision, on 24th June 2003, Martin Russell Jones, managing agents, issued a revised Major Work Apportionment setting out the revised estimate for the works and calculation of the percentages due from each of the Tenants at the property. A copy of the revised estimate and apportionment is attached to this Application Notice at Appendix B.

Despite the decision of the LVT and despite being served with the revised apportionments, the Second and Fifth Defendants have failed to pay the sums determined to be reasonable by the LVT.

Following the LVT decision, the Claimant considers that the Second and Fifth Defendants have no real prospects of successfully defending the Claim and the Claimant knows of no other reason why the case should be disposed of at Trial.

Accordingly, the Claimant asks the Court to enter summary Judgment against the Second and Fifth Defendants with an Order for payment of the Claimants costs of these proceedings.

Statement of Truth

The applicant believes that the facts stated in Part C are true
* delete as appropriate

Signed [Signature] Applicant's Solicitor

Position or office held Solicitor (if signing on behalf of firm or company)

Date 6th August 2003

IN THE WEST LONDON COUNTY COURT

Claim No : WL 203537

BETWEEN

STEEL SERVICES LIMITED

Claimant

- and -

AND OTHERS

Defendant

APPENDIX A

LVT/SC/007/120/02

DECISION BY THE RESIDENTIAL PROPERTY TRIBUNAL
SERVICE
ON APPLICATION UNDER SECTION 19(2B) OF THE
LANDLORD AND TENANT ACT 1985, AS AMENDED

Applicant: Steel Services Limited

Respondent: Ms N K-Dit Rawé

Re: Flats 1-35 Jefferson House, 11 Basil Street, London, SW3 1AX.

Application date: 2nd September 2002

Hearing dates: 5th February, 13th and 14th March, and 28th April 2003

Appearances:

Mr M Warwick,	of Counsel
Ms J Hathaway BSc MRICS,	Martin Russell Jones
Mr B Gale MRICS,	Brian Gale Associates
Mr M Jones MCI Bsc CNG,	Michael Jones Associates
	For the Applicant
Mr P Staddon,	of Counsel
Mr T Brock MRICS,	LSM Partners
Ms K-Dit-Rawé,	Flat 3
Ms C Tuplin	Trainee Solicitor, Oliver Fisher
	For the Respondent

Members of the Residential Property Tribunal Service:

Mrs J Goulden JP
Mr J Humphrys FRICS
Dr A Fox BSc PhD MCI Arb

IN THE WEST LONDON COUNTY COURT

Claim No : WL 203537

BETWEEN

STEEL SERVICES LIMITED

Claimant

- and -

AND OTHERS

Defendant

APPENDIX B

Revised Price

Jefferson House, Basil Street London, SW3

£

PART III

KILLEY & GAYFORD LTD
30 RADFORD WAY
BILLERICAY
ESSEX CM12 0DA

The work below comprises the required refurbishment and repairs, including services, to be carried out at Jefferson House. During this part the roof and other parts of the building may be described as being bays 1, 2, 3, 4 as if from left to right of the building looking at the front elevation.

3.00 ROOF COVERING

3.01 The roof at Jefferson House is of mansard construction with the front and rear slopes covered with a combination of natural, manmade slate and plain clay tiles. The top of the roof has an asphalt covering; in 4 bays all require re-covering.

3.02 Allow to provide a temporary, weather-tight covering (i.e. a "tin roof") to cover all areas of the existing roof to ensure that no water etc. enters the building during re-roofing.

3.03 Allow to provide adequate scaffolding (alarmed and with side shields) necessary for all roofing and other works. (Scaffolding to comply with all Acts and regulations specified in Part I (1.48) of this Specification.)

3.04 Allow to fix and provide a safe hoist during the works.

3.05 Strip off asphalt roof and dispose of from site.

3.06 Strip off all boarding beneath asphalt covering and dispose of from site.

New roof boarding

3.07 Make an allowance to renew/repair/replace/fix/supply 25% of structural timbers and associated ceilings of the existing roof.

Included in Preliminaries

E.W.I.

1,196.00
8,970.00

prov sum ~~7,500.00~~ 3,500

CARRIED TO COLLECTION £ ~~17,666.00~~ 13,666

MARTIN RUSSELL JONES

CHARTERED SURVEYORS

5 Watford Way,
Hendon Central,
London, NW4 3JL

Management Department
Telephone: 020 - 8202 3858
Fax: No: 020 - 8202 9513

STEEL SERVICE LIMITED
JEFFERSON HOUSE, 11 BASIL STREET, LONDON SW3

MAJOR WORKS APPORTIONMENT 24TH JUNE 2002

REVISED

APPORTIONMENTS

KILBY & GAYFORD INC VAT 502,831.26

FEES INC VAT 55,311.44

558,142.70

* Outstanding at 24th June 2003

Flat No	Percentage	Original	Revised
1	3.767	27,732.88	21,025.24
3	1.956	14,400.19	10,917.27
7	2.283	16,807.59	12,742.40
13	2.124	15,637.02	11,854.95
20	2.124	15,637.02	11,854.95
33	8.422	62,003.28	47,006.78
		<u>152,217.98</u>	<u>115,401.59</u>

* Given at 24 June 2003 County Court hearing.

MARTIN RUSSELL JONES

CHARTERED SURVEYORS

5 Watford Way,
Hendon Central,
London, NW4 3JL

Management Department
Telephone: 020 - 8202 3858
Fax: No: 020 - 8202 9513

STEEL SERVICE LIMITED
JEFFERSON HOUSE, 11 BASIL STREET, LONDON SW3

MAJOR WORKS APPORTIONMENT 24TH JUNE 2002
REVISED

APPORTIONMENTS
KILBY & GAYFORD INC VAT 502,831.26
FEES INC VAT 55,311.44
558,142.70

FLAT NO	PERCENT	S/C PER YEAR
1	3.767%	21,025.24
2	1.956%	10,917.27
3	1.956%	10,917.27
4	2.124%	11,854.95
5	1.780%	9,934.94
6	1.780%	9,934.94
7	2.283%	12,742.40
8	2.124%	11,854.95
9	2.124%	11,854.95
10	2.124%	11,854.95
11	1.956%	10,917.27
12	2.124%	11,854.95
13	2.124%	11,854.95
14	1.956%	10,917.27
15	2.283%	12,742.40
16	2.283%	12,742.40
17	2.187%	12,206.58
18	2.283%	12,742.40
19	2.124%	11,854.95
20	2.124%	11,854.95

These are original amounts entered
by Steel Services on its 29 November
2003 claim in West London County Court.

27,732.88

14,400.19

15,637.02

15,637.02

14,400.19

15,637.02

16,807.59

15,637.02

Given by Mr Silverstone of
CK FT at the 26 August 2003
West London County Court
hearing

MARTIN RUSSELL JONES

CHARTERED SURVEYORS

5 Watford Way,
Hendon Central,
London, NW4 3JL

Management Department
Telephone: 020 - 8202 3858
Fax: No: 020 - 8202 9513

21	2.124%	11,854.95	
22	1.956%	10,917.27	14400.19
23	1.956%	10,917.27	14400.19
24	1.956%	10,917.27	
25	1.956%	10,917.27	14400.19
26	2.283%	12,742.40	
27	1.956%	10,917.27	
28	1.956%	10,917.27	14400.19
29	2.124%	11,854.95	
30	2.124%	11,854.95	
31	2.124%	11,854.95	
32	8.757%	48,876.56	64469.57
33	8.422%	47,006.78	62003.28
34	9.252%	51,639.36	
35	7.592%	42,374.19	
	100.00%	558,142.70	

These calculations on the amount of the service charge - per flat - for the major works at Jefferson House **are based on**

- (1) The list of percentages for the 35 flats attached with the 7 August 2002 application to the LVT (filed by Ms Hathaway, MRJ) (see attached)
- (2) The 24.19% reduction allocated to **six flats** - as detailed in MRJ's "Major Works apportionment 24th June 2002 revised" given to me by **Mr Lanny Silverstone**, CKFT, in West London County Court at the 24 June 2003 hearing
- (3) Another schedule (also headed "Major Works apportionment 24th June 2002 revised") - **covering all 35 flats** - attached by **Ms Ayesha Salim**, CKFT, to her 6 August 2003 application to West London County Court for "summary judgement" - for the 26 August 2003 WLCC hearing. With this, the SAME schedule for **6 flats**, supplied at the 24 June 2003 hearing, was also included (see attached)
- (4) The sum claimed for each of the 14 flats included on the claim

1	2	3	4	5	6	7	8	9	10		
Flat #	% share of costs	Original sum demanded in July 2002	MRJ "Revised" amount at 26 Aug 03	Difference (#3 less #4)	% reduction (#5 as % of #3)	From a/cs - Contrib. at 31 Dec 02 (1)	From a/cs - Contrib. at 31 Dec 03 (1)	TOTAL PAID (#7 plus #8)	Amount outstanding relative to original demand (#3 less #9)	Position at 31 Dec 03 (17 months after 15 Jul 02 demand, and 13 months after 29 Nov 02 WLCC claim)	Total paid less "revised" amount at 26 Aug 03 (#9 less #4) +ve = overpayment
1	3.767	27,733	21,025	6,708	24.19		0	0	27,733	NO PAYMENT	n/a
2	1.956	14,400	10,917	3,483	24.19	14,400		14,400	0	Paid in full	3,483
3	1.956	14,400	10,917	3,483	24.19		2,255	2,255	12,145	(My flat) Part payment	-8,662
4	2.124	15,637	11,855	3,782	24.19		15,637	15,637	0	Paid in full	3,782
5	1.780	13,105	9,935	3,170	24.19		0	0	13,105	NO PAYMENT	n/a
6	1.780	13,105	9,935	3,170	24.19	13,092	12	13,104	1	Paid in full	3,169
7	2.283	16,808	12,742	4,065	24.19		0	0	16,808	NO PAYMENT	n/a
8	2.124	15,637	11,855	3,782	24.19	15,637		15,637	0	Paid in full	3,782
9	2.124	15,637	11,855	3,782	24.19	15,637		15,637	0	Paid in full	3,782
10	2.124	15,637	11,855	3,782	24.19	8,000	7,637	15,637	0	Paid in full	3,782
11	1.956	14,400	10,917	3,483	24.19	8,000	6,400	14,400	0	Paid in full	3,483
12	2.124	15,637	11,855	3,782	24.19	15,637		15,637	0	Paid in full	3,782
13	2.124	15,637	11,855	3,782	24.19		8,662	8,662	6,975	Part payment	-3,193
14	1.956	14,400	10,917	3,483	24.19	14,400		14,400	0	Paid in full	3,483
15	2.283	16,808	12,742	4,065	24.19	16,808		16,808	0	Paid in full	4,066
16	2.283	16,808	12,742	4,065	24.19	16,808		16,808	0	Paid in full	4,066
17	2.187	16,102	12,207	3,895	24.19	16,101		16,101	1	Paid in full	3,894
18	2.283	16,808	12,742	4,065	24.19	16,808		16,808	0	Paid in full	4,066

1	2	3	4	5	6	7	8	9	10		
Flat #	% share of costs	Original sum demanded in July 2002	MRJ "Revised" amount at 26 Aug 03	Difference (#3 less #4)	% reduction (#5 as % of #3)	From a/cs - Contrib. at 31 Dec 02 (1)	From a/cs - Contrib. at 31 Dec 03 (1)	TOTAL PAID (#7 plus #8)	Amount outstanding relative to original demand (#3 less #9)	Position at 31 Dec 03 (17 months after 15 Jul 02 demand, and 13 months after 29 Nov 02 WLCC claim)	Total paid less "revised" amount at 26 Aug 03 (#9 less #4) +ve = overpayment
19	2.124	15,637	11,855	3,782	24.19	15,637		15,637	0	Paid in full	3,782
20	2.124	15,637	11,855	3,782	24.19		11,855	11,855	3,782	Part payment	0
21	2.124	15,637	11,855	3,782	24.19		0	0	15,637	NO PAYMENT	n/a
22	1.956	14,400	10,917	3,483	24.19		14,400	14,400	0	Paid in full	3,483
23	1.956	14,400	10,917	3,483	24.19		14,400	14,400	0	Paid in full	3,483
24	1.956	14,400	10,917	3,483	24.19	14,400		14,400	0	Paid in full	3,483
25	1.956	14,400	10,917	3,483	24.19		14,400	14,400	0	Paid in full	3,483
26	2.283	16,808	12,742	4,065	24.19	16,808		16,808	0	Paid in full	4,066
27	1.956	14,400	10,917	3,483	24.19	14,400		14,400	0	Paid in full	3,483
28	1.956	14,400	10,917	3,483	24.19		15,254	15,254	-854	Paid in full	4,337
29	2.124	15,637	11,855	3,782	24.19	15,637		15,637	0	Paid in full	3,782
30	2.124	15,637	11,855	3,782	24.19	15,637		15,637	0	Paid in full	3,782
31	2.124	15,637	11,855	3,782	24.19	15,637		15,637	0	Paid in full	3,782
32	8.757	64,470	48,877	15,593	24.19		64,470	64,470	0	Paid in full	15,593
33	8.422	62,003	47,007	14,997	24.19		47,007	47,007	14,996	Large part payment	0
34	9.252	68,120	51,639	16,481	24.19		0	0	68,120	NO PAYMENT	n/a
35	7.592	55,895	42,374	13,521	24.19		0	0	55,895	NO PAYMENT	n/a
TOTAL	100.000	736,217	558,143	178,074		279,484	222,389	501,873	234,344		93,301

Key Coloured row indicates flat listed on the 29 November 2002, West London County Court claim
 (1) Supplied to me by the Institute of Chartered Accountants in England & Wales with its 29 August 2006 letter

Sum demanded by Ms Hathaway, Martin Russell Jones, in her 15 July 2002 letter
 This sum was the basis of the LVT hearings resulting in the 17 June 2003 determination

This 24.19% reduction falls very far short of the 17 June 2003 determination which was:

- 23%, or £169,500 (US\$299,00) disallowed because "improvements"
- 25.6%, or £144,745 (US\$255,200) no determination due to "lack of specification" – hence, cannot charge
- 19.3%, or £142,000 (US\$250,000) - the contingency fund for which the tribunal held the view that *the lease makes it clear that it was intended for this type of works*. However, the tribunal has no jurisdiction to enforce the use of the fund

Using the full amount of the contingency fund, leaves a sum that can be charged of **£235,947** (US\$416,000) – or 32% of the original sum demanded.

In other words, £500,000 (US\$882,000) of the global sum demanded was not considered reasonable.