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Date: 27 June 2016

Lambeth County Court
Court House
Cleaver Street
Kennington Road
London
SE11 4DZ

Ref: Jones v Southwark [2016] EWHC 457
(Ch)

Dear District Judge Zimmels,

London Borough of Southwark possession claims, Impact of decision in Jones v Southwark [2016] EWHC 457 (Ch)

I would like to update you following the letter (attached) that I sent you dated 25 April 2016, as the Council has revisited the calculation of the sums due to its tenants, including the period in respect of which refunds will be made, and this will increase sums due to tenants.

The Council is in the process of calculating the sums due and will credit tenants' rent accounts in the coming month.

In light of this, the Council will seek adjournments of all possession hearings in cases potentially affected. In cases where arrears substantially exceed the maximum sum which could be due, as set out below, or when a tenancy started after July 2013, the council intends to proceed.

The maximum liability due to each household is illustrated in the table below according to property size up to a maximum of seven bedrooms.

No of Bedrooms	Maximum water refund
Bedsit	£1,158.18
1	£1,182.88
2	£1,296.17
3	£1,878.50
4	£1,777.49
5	£1,619.30
6	£1,736.73
7	£1,999.22

In the cases which do proceed, when presenting the Defendant's rent account at the hearing, the Council will deduct the maximum sum which could be due, so that there can be no suggestion that Southwark Council is relying on debts which are not due.

We apologise to the court once again for any inconvenience caused.

I hope that this is of assistance.

Yours sincerely



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Date: 25 April 2016

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(Ch)

Dear District Judge Zimmels,

London Borough of Southwark possession claims, Impact of decision in Jones v Southwark [2016] EWHC 457 (Ch)

I would like to explain to the Court how Southwark Council proposes to deal with the implications of the above decision in possession claims over the next few months. I should be grateful if this letter could be cascaded to the other Judges at Lambeth County Court for information.

Background

For several decades, Southwark Council has paid Thames Water in full, in advance, for the water and sewerage services supplied to tenants who do not have a water meter. Southwark Council seeks to recover those charges from the tenants along with their rent and the other charges due under the tenancy agreement.

In a High Court claim commenced in October 2014, a tenant, Kim Jones, sought a declaration that Southwark Council was buying Thames Water's services, at a significant discount (the voids discount plus the commission), and "re-selling" them to tenants at a profit. She alleged that these arrangements breached the Water Resale Order 2006 (WRO), which states that a "water re-seller" may not charge tenants more than it has paid to the water company.

The High Court found in favour of Ms Jones, i.e. that Southwark Council had been "re-selling" Thames Water's services to tenants.

<http://www.bailii.org/ew/cases/EWHC/Ch/2016/457.html>

Southwark Council decided not to appeal the decision, and will calculate and return to tenants the sums agreed to have been overcharged between 5th April 2010 (i.e. 6 years prior to the date of the settlement) and 22nd July 2013 (when Southwark Council and Thames Water clarified their relationship), together with interest. The Council will deduct the administration charge permitted by the Water Resale Order, 1.5p per day, from the sum to be refunded. Where the tenant in question is in arrears, the refund will be set off to reduce or extinguish those arrears.

Implications for current claims

The Council has not yet calculated the sums due to the tenants affected. However, it is confident that the amount due to each household will not exceed £618.07. This is the most which would be repayable to the occupier of a seven bedroom property.

When presenting the Defendant's rent account at the hearing, the Council will deduct the sum of £618.07 from the arrears so that there can be no suggestion that Southwark Council is relying on debts which are not due. However if the sum due has been calculated and the credit applied to the Defendant's rent account by the time of the hearing this issue will of course fall away.

I hope that this is of assistance.

Yours sincerely



Mr Martin Hilder
Central Operations Manager