



Claim Form

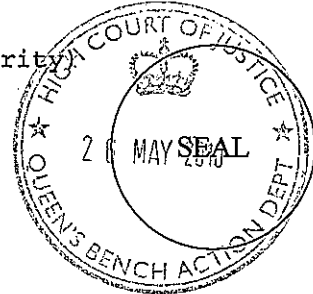
DEFENDANTS COPY

In the High Court Of Justice
 Queen's Bench Division
 Royal Courts of Justice

	<i>for court use only</i>
Claim No.	HQ10X 01920
Issue Date	26 MAY 2010

Claimant(s)

The Mayor of London (on behalf of the Greater London Authority)
 City Hall
 The Queen's Walk
 More London
 London SE1 2AA



Defendant(s)

(1) Rebecca Hall, (2) Brian Haw, (3) Barbara Tucker and (4) Persons Unknown
 all of
 Parliament Square Gardens
 Westminster
 London

Brief details of claim

An injunction requiring the First and Fourth Defendants and each of them to: (1) Forthwith and permanently dismantle and remove from the area shown in red on the plan all tents and other similar structures; (2) Forthwith cease to organise or take part in any assembly, display, representation, parade or possession within the area shown edged blue on the plan; (3) Forthwith leave the area shown edged blue on the plan in accordance with the lawful directions issued on behalf of the Mayor.

An injunction requiring the Second and Third Defendants and each of them to: (1) Forthwith and permanently dismantle and remove from the area shown in green on the plan all tents and other similar structures; (2) Forthwith cease to organise or take part in any assembly, display, representation, parade or possession within the area shown edged blue on the plan (3) Forthwith leave the area shown edged blue on the plan in accordance with the lawful directions issued on behalf of the Mayor.

Value not applicable

ASSIGNED TO MASTER Whitaker

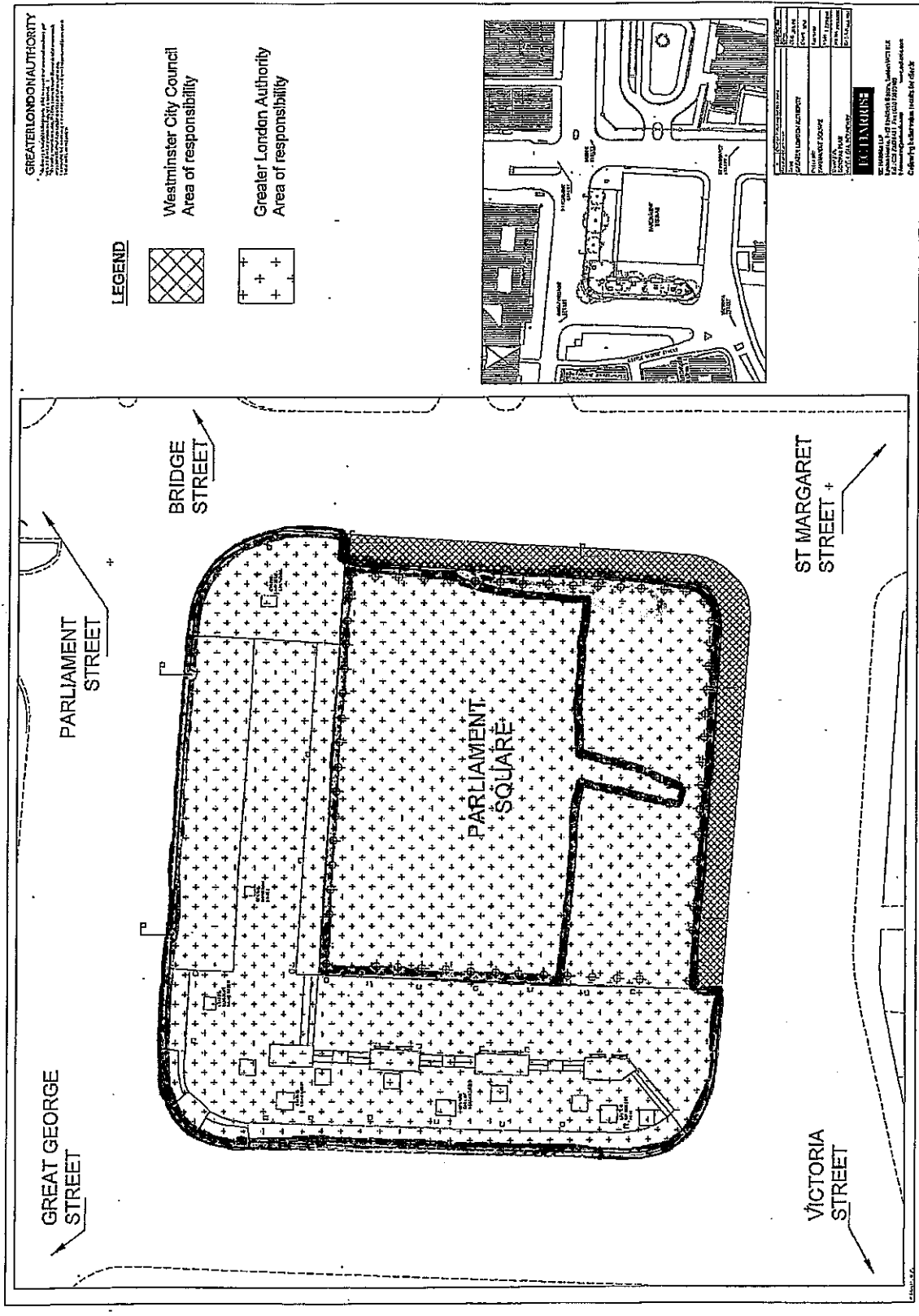
Defendant's name and address
 Rebecca Hall, Brian Haw,
 Barbara Tucker & Persons
 Unknown
 all of
 Parliament Square Gardens
 Westminster
 London

	£
Amount claimed	
Court fee	400.00
Solicitor's costs	
Total amount	400.00

The court office at Strand, London, WC2A 2LL

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

Approximate area occupied by the Democracy Village and Brian Haw's and Barbara Tucker's Peace Camp as at 09:00hrs Monday 24th May 2010



- Red line indicates approximate position of Democracy Village
- Green line indicates approximate position of Brian Haw's and Barbara Tucker's camp
- Blue line indicates the area required for possession

IN THE HIGH COURT OF JUSTICE

Claim No. []

QUEEN'S BENCH DIVISION

BETWEEN:-

THE MAYOR OF LONDON

(on behalf of THE GREATER LONDON AUTHORITY)

Claimant

v

- 1) REBECCA HALL**
- 2) BRIAN HAW**
- 3) BARBARA TUCKER**
- 4) PERSONS UNKNOWN**

Defendants

PARTICULARS OF CLAIM

1. The Defendants (except Brian Haw and Barbara Tucker whose position is dealt with separately at the end of these Particulars) have established and are now occupying an unauthorised protest camp which they call "democracy village" on Parliament Square Gardens ("PSG"). It comprises about 40 tents and associated facilities and covers the area shown red on the plan attached hereto ("the Plan"). The intent of the Defendants is for the protest camp to continue indefinitely.
2. The establishment and indefinite occupation of a tented "village" occupying, taking possession of and changing the use (from open space to protest campsite) of the central area of PSG is basically and fundamentally inconsistent with the function, lawful use and character of this important public square (in the heart of London and adjoining a World Heritage Site ("WHS")).
3. It is unauthorised, a trespass, a public nuisance, contrary to the Trafalgar Square and Parliament Square Garden Byelaws 2000 as amended ("the Byelaws") and inconsistent with the function, lawful use and character of PSG.

4. The effect of democracy village is: (1) to exclude the public (including others wishing to hold protests) from their lawful use of the central part of PSG; (2) to prevent the Greater London Authority ("the GLA") and the Mayor of London ("the Mayor") from exercising their necessary powers of control, management and care of PSG; (3) to cause significant damage to PSG; and (4) to cause harm to the interests of the public visiting the WHS in the immediate vicinity. These matters individually and collectively constitute a pressing social need for action to be taken to remove the democracy village and to restore PSG to its lawful function, use and character.

5. Despite being lawfully requested and required to remove the tents and other structures and to leave PSG:
 - a. orally (on numerous occasions from and including 1st May 2010); and
 - b. by requests made in letters which have been delivered by hand to occupants of the democracy village and by leaving such letters at or in tents on PSG on 1st May, periodically thereafter as further people arrived, and on 11th May and 24th May 2010

the Defendants have refused to do so, and the democracy village has expanded both in number of people and tents and in the area of PSG it covers.

6. The Defendants are deliberately and flagrantly flouting the law and the necessary inference in all the circumstances is that they will continue to do so until: (1) evicted pursuant to an order under CPR55; and/or (2) restrained by an injunction.

7. The Mayor acting on behalf of the GLA under s.384(8) of the Greater London Authority Act 1999 ("the GLAA 1999") and in the exercise of his powers under s.34 seeks: (1) an order for possession of PSG as shown edged blue on the Plan including the area shown in red on the Plan; and/or (2) an injunction requiring the Defendants to remove the tents (and all other equipment and materials associated with democracy village) from PSG; and to leave the PSG forthwith in accordance with the lawful directions which have been given to them so as to prevent continuation of the breach of the Byelaws, the public nuisance and the harm thereby caused.

Legal Framework

8. PSG is vested in Her Majesty as part of the hereditary possessions and revenues of Her Majesty: see s.384(1) GLAA 1999.
9. S.384(3) provides that the care, control, management and regulation of the PSG are functions of the GLA. Under s.384(5), the GLA has the duty to “well and sufficiently light, cleanse, water, pave, repair and keep in good order and condition” the PSG.
10. The effect of these provisions is that the Mayor has a superior claim to possession of PSG to that of the Defendants and may maintain an action for trespass against them. The Mayor will rely by analogy on *Manchester Airport v. Dutton* [2000] QB 133 as approved in *Secretary of State for the Environment, Food and Rural Affairs v. Meier and others* [2009] UKSC 11; [2009] 1 WLR 2780.
11. S.385(1) provides that the GLA may make and enforce such byelaws to be observed by persons using PSG as “the Authority considers necessary for securing the proper management of [PSG] and the preservation of order and the prevention of abuses there.”
12. The GLA has lawfully made the Byelaws under s.385(1). A breach of the Byelaws is an offence: s.385(3).
13. Byelaw 3 provides that:

“No person shall within the Squares-

....

(6) fail to comply with a reasonable direction given by an authorised person to leave the Squares.”
14. The following acts are expressly prohibited by byelaw 5 (other than in accordance with permission given in writing by the Mayor):
 - (i) Camping or erecting a tent (byelaw 5(7));
 - (ii) Making or giving a public speech or address (byelaw 5(9));
 - (iii) Organising or taking part in any assembly (byelaw 5(10));

- (iv) Going on any shrubbery or flower bed (byelaw 5(13));
- (v) Exhibiting any notice (byelaw 5(3));

15. The requirement for permission for organising or taking part in any assembly is consistent with the Human Rights Act 1998 and the European Convention on Human Rights (“the Convention”). The Claimant will rely on *Blum v. DPP* [2006] EWHC 3209 (Admin) [2007] UKHRR 233.

16. The right to protest is protected by article 11 of the Convention:

“(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others.....

(2) No restriction shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others....”

17. Any interference with the right must be necessary in a democratic society to fulfil a pressing social need.

Protests at PSG

18. The GLA, the Mayor and the Police regularly give permission, subject to conditions, for public protests, meetings and marches using PSG. There is no blanket ban on the exercise of article 11 rights in this location.

19. No camped protest on the grassed area of PSG has ever been authorised and none has occurred. The only camped protest known to the Mayor was with permission on a small area of Trafalgar Square for three days in 2005. Mr Haw and Barbara Tucker have permission from the Metropolitan Police for a small camped protest on the pavement (part of Westminster City Council’s highway land) within Parliament Square not on the grassed area.

The Facts

20. The Democracy Village was established on 1st May 2010.

21. Permission was not sought in advance from the Mayor or the GLA under the Byelaws or at all (or from the Police under s.133 of the Serious Organised Crime and Police Act 2005).

22. The Mayor and the GLA originally understood the intention to be to keep the democracy village in place until the result of the General Election on 6th May 2010. It now appears that the Defendants intend to occupy PSG and to continue the protest until HM Government withdraws British troops from Afghanistan – which is likely to be for an indefinite period given the recently reaffirmed policy of HM Government.
23. The democracy village has progressively grown to about 40 tents and 4 larger multi-use tents. There is a wide range of ancillary equipment and structures.
24. Officers acting lawfully on behalf of the Mayor and the GLA have required the Defendants to leave PSG and to remove their tents and other equipment on several occasions (see paragraph 5 above). Those lawful instructions have not been complied with. Failure to comply with these directions is itself a breach of byelaw 3(6) and a criminal offence.
25. On 20th May 2010, Bindmans LLP acting on behalf of “Rebecca Hall and others of the democracy village” sought permission under the Byelaws to carry on the activities on PSG subject to such “reasonable conditions” as may be discussed. The Mayor and the GLA understood this application to be for an indefinite camp of broadly the size now in existence subject to such reasonable conditions as may be imposed.
26. On 24th May 2010, the Mayor refused permission.
27. The Mayor recognises that the camping and the indefinite nature of the protest and its location near to Parliament are considered by the Defendants to be intrinsic features of their protest. He has therefore approached his decision making in the light of paragraph 37 of the decision of the Court of Appeal in *Tabernacle v. Secretary of State for Defence* [2009] EWCA Civ 23; (2009) 106 (7) LSG 18.
28. However, notwithstanding the Defendant’s rights under article 11 to which the Mayor has attributed very significant weight, he does not consider it appropriate to permit an indefinite camped protest on PSG as currently in place principally because:
 - (1) the establishment of a tented “village”: occupying, taking possession of and changing the use (from open space to a protest campsite) of a substantial majority of the grassed area of PSG is basically and fundamentally inconsistent with the

function, lawful use and character of this important public square in the centre of London and adjoining a World Heritage Site;

(2) as is made clear by the statutory scheme and in particular s.384(3) and (4) and s.385(1), PSG is held and managed as open space for the use of the public. It also provides an important part of the setting of the World Heritage Site. As open space, the grassed area is supposed to be available for lawful public uses;

(3) until the establishment of the Democracy Village it was so used: (a) by tourists and visitors to the area; (b) by local workers as a valued open space; (c) by others holding lawful protests; and (d) by others taking advantage of the world renowned setting;

(4) these activities are effectively prevented indefinitely as a result of the presence of the democracy village. The basic function and lawful use of PSG is therefore indefinitely ousted by the occupation by democracy village; which thereby causes a public nuisance;

(5) further the taking possession and changing the use of this area prevent the Mayor and the GLA from exercising their powers of control, management and care of PSG and complying with their statutory duty under s.384(4). That duty was imposed by Parliament in recognition of the importance of PSG. The inability to comply with the statutory duty has contributed to an ongoing deterioration of its appearance and complaints from members of the public, the Speaker of the House of Commons, the Home Office, the Foreign and Commonwealth Office and Westminster City Council;

(6) further the establishment of a camped village here is inappropriate given the nature of the environment and the facilities available. It is inconceivable that even a temporary planning permission for a tented village would be given in this location given its self-evident deficiencies including: (a) safe access; and (b) sanitation;

(7) Democracy Village has caused and continues to cause significant damage to PSG including damage to the grassed area itself, damage to the plant beds and graffiti which will cost significant sums to rectify.

and

(8) it causes harm to the interests of the public using and visiting the WHS in the immediate vicinity by changing the character of the PSG from an important and beautiful, well managed and maintained open space providing the setting for the WHS to a campsite.

Further Particulars of these matters are contained in the witness statement served with these proceedings.

The Claim

Trespass

29. The public has a right to ordinary and reasonable use of PSG in accordance with law. The ambit of that right is lawfully constrained by the Byelaws.
30. The right does not extend to: (1) occupying and/or taking possession of PSG; (2) changing the use of PSG from open space to protest campsite; and/or (3) creating a tented village of indefinite duration on it to the exclusion of others.
31. By reason of the matters set out in paragraph 28, the Defendants are not making ordinary or reasonable use of PSG in accordance with law. Further, they are in breach of the Byelaws and in particular byelaw 5(3), (7), (9), (10) and (13). Deliberate and continuous breach of a lawful byelaw constitutes unreasonable use of PSG.
32. Further the matters complained of constitute a public nuisance.
33. The Defendants have been lawfully required to leave in accordance with byelaw 3 and have refused to do so.
34. They have substantially exceeded the ambit of their rights to be on PSG and they are therefore trespassers. The Claimant will rely by analogy on *DPP v. Jones* [1999] 2 AC 240.
35. By reason of the matters set out in paragraph 28 above, there is a pressing social need to evict them.

Injunction

36. It is clear that the Defendants intend that democracy village will remain in place indefinitely irrespective as to: (1) the refusal of permission by the Mayor; (2) the flagrant and deliberate

breaches of the Byelaws; (3) the public nuisance being caused; (4) physical damage being caused to PSG; (5) the intrinsic unsuitability of this location for an indefinite protest village; (6) the impact on the rights and interests of others by their actions; and (6) the basic fact that the creation of a tented "village" here is inconsistent with the function, lawful use and character of PSG.

37. The Court will be invited to draw the inevitable inference that the Defendant's unlawful activities will continue unless and until effectively restrained by law and that nothing short of an injunction would be effective to restrain them.

38. The Mayor considers it necessary in the public interest to take action to secure an injunction against the Defendants for reasons summarised above and that there is a pressing social need to prevent the continuation of the democracy village.

39. The circumstances are substantially different from those in:

(1) *Westminster City Council v. Haw* [2002] EWHC 2073 (QB) where an injunction was refused against a single protester on the pavement of Parliament Square. There the Court did not consider there was a pressing social need to justify interference with the Mr Haw's article 10 rights primarily because of the limited extent of the protest; and

(2) *Tabernacle v. Secretary of State for Defence* – where a byelaw prohibiting camping outside Aldermaston violated article 11 because it prevented occasional camping by way of protest which had been going on for 23 years and where the temporal extent (one weekend a month) and the impact on others was limited.

40. The Mayor and the GLA may pursue criminal proceedings and/or proceedings for damages arising from the unlawful activities and the damages caused thereby in due course.

Brian Haw and Barbara Tucker

41. Brian Haw and Barbara Tucker have a lawful protest on the pavement as shown on the Plan. Their article 11 rights are appropriately vindicated and given effect to by the consent they have from the Metropolitan police.

42. They have however extended the area of their occupation from that permitted by the conditions imposed by the Metropolitan Police. They now occupy an area of PSG shown green on the Plan in breach of the Byelaws.

43. Their use of the green land is a trespass, a public nuisance and possession and an injunction should be ordered against them for the same reasons as set out above.

AND THE CLAIMANT CLAIMS AGAINST THE DEFENDANTS AND EACH OF THEM

1. An order for possession of Parliament Square Gardens shown edged blue on the plan served herewith; and/or
2. An injunction requiring the First and Fourth Defendants and each of them to:
 - (1) Forthwith and permanently dismantle and remove from the area shown in red on the plan served herewith all tents and other similar structures;
 - (2) forthwith cease to organise or take part in any assembly, display, representation, parade or possession within the area shown edged blue on the Plan served herewith; and
 - (3) forthwith leave the area shown edged blue on the Plan served herewith in accordance with the lawful directions issued on behalf of the Mayor.
3. An injunction requiring the Second and Third Defendants and each of them to:
 - (1) Forthwith and permanently dismantle and remove from the area shown in green on the plan served herewith all tents and other structures;
 - (2) Forthwith cease to organise or take part in any assembly, display representation, parade or possession within the area shown edged blue on the Plan served herewith; and
 - (3) Forthwith leave the area shown edged blue on the Plan served herewith in accordance with the lawful directions issued on behalf of the Mayor,
4. Costs
5. Such further or other relief as the Honourable Court may determine.

STATEMENT OF TRUTH

I believe / The Claimant believes that the facts stated in these Particulars of Claim are true.

I am duly authorised by the Claimant to sign this statement.

Signed:

A handwritten signature in black ink, appearing to read 'Richard Hanson', written over a horizontal line.

Name: Richard Thomas Hanson

Position: Partner

Dated: 26 May 2010

Address for service:

Eversheds LLP
One Wood Street
London
EC2V 7WS
ALLWOOR/145180.000017

Approximate area occupied by the Democracy Village and Brian Haw's and Barbara Tucker's Peace Camp as at 09:00hrs Monday 24th May 2010

