

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case ref: LON/00BK/LBC/2006/0021

**Property: Flats 4, 31, 45, 46, 55, 72, 82, 85 & 108 Forset Court
140 Edgware Road, London W2 2RD**

**Landlord and Tenant Act 1985 section 27A
Commonhold and Leasehold Reform Act 2002 section 168(4)**

Applications:

- (1) Determination of liability to pay service charges**
- (2) Determination that a breach of covenant has occurred**

**Applicant: Forset Court Management Limited
Respondents: The Tenants of the Property**

Tribunal:

**Mr D.R.Hebblethwaite (Chairman)
Mr N. Cleverton
Mr J.Mills**

DECISION OF THE TRIBUNAL

1. On 8 May 2006 the Tribunal received applications under section 168(4) of the 2002 Act to determine whether breaches of covenant had occurred by the Respondents (and other lessees at Forset Court, since withdrawn). The alleged breaches were non payment of service charges. Then on 17 July 2006 an application was submitted under section 27A of the 1985 Act that the Respondents (and the other lessees, as in the earlier application) were liable for the service charges specified in the application.
2. On 25 September 2006 Directions were issued on behalf of the Tribunal. These included a direction that the Respondents should on or before 13 October 2006 send a statement to the Applicant clarifying which items of expenditure were challenged, with reasons and relevant documents, which would then be regarded as the Respondents' cases. The Tribunal was advised that no such statement had been received by the Applicant.
3. On 11 December 2006 a Hearing took place at 10 Alfred Place London WC1E 7LR. The Applicant was represented by Mr M.Palfrey of counsel. Also present and asking to be heard by the Tribunal were Mr M.Nadeem, a solicitor representing his daughter the lessee of Flat 31, and Mr S.Yusuf, on behalf of the lessees of Flats 72 and 85. In his discretion the Chairman permitted them to make representations during the course of the Hearing.

4. Mr Palfrey told the Tribunal that Forset Court comprised, above a ground floor of commercial premises, 117 flats over 8 floors. The Applicant had the head lease of the residential premises, acquired in September 2005 on the basis of being entitled to receive the service charges due from March 2005 onwards. Interim payments on account of budgeted expenditure were due in March and September in each year. The 9 flats comprised in the Property had failed to pay from March 2005 and the Applicant sought orders that the Respondents were liable to pay the charges and that by not paying were in breach of covenant. The Applicant is owned by Residential Land Limited.
5. Both Mr Nadeem and Mr Yusuf submitted that the hearing should be adjourned until the conclusion of County Court proceedings in which the Applicant's predecessor has been sued over the removal of the goods lift at the property. The Chairman ruled that the Tribunal had jurisdiction to deal with the applications and would not adjourn.
6. Mr Palfrey called Mr N.Lyde of Symon Smith and Partners, the Applicant's agents, who went through the 2005/2006 budget. Initially there was no 2006/2007 budget before the Tribunal but subsequently it was put forward as being exactly the same as that for 2005/2006. Mr Lyde explained that the budget had been largely based on the actual expenditure for the previous year 2004/2005 coupled with what was expected for the year ahead. Mr Lyde went through each item on the budget and was questioned by the Tribunal. The Chairman permitted questions from Mr Nadeem and Mr Yusuf. Asked why the accounts for 2005/2006 had not yet been prepared, Mr Lyde said that these had been delayed largely as a result of a number of lessees not paying interim charges and because of the applications before the Tribunal. Mr Lyde also confirmed the Residential Land Limited is now the lessee of about half of the flats and is offering them for letting on assured shorthold tenancies. He admitted that one of the items "statutory compliance admin fee" had been based on what they thought was coming in by way of new obligations which had not in fact yet come in.
7. Mr Palfrey then called Mr K.Barron, a surveyor from Residential Land Limited. He dealt with questions about the lifts in particular, and confirmed the ownership of flats by his company - 57 out of 117 flats. He stated that Residential Land Ltd. paid the same service charges as other lessees and that they employed two people to deal with their tenants and did not use the portage charged to lessees in the service charge.
8. The Chairman invited Mr Nadeem to sum up the points he would like the Tribunal to consider. He repeated his request that the Tribunal adjourn its decision until the conclusion of County Court proceedings. He also referred to the corridors in the premises where the previous lessor had taken the end to create extra living space, thereby blocking out windows and removing natural light. He asked the Tribunal to inspect.
9. Mr Palfrey submitted that the court case was a dispute over the goods lift and had no connection with day to day expenses, and that there was no benefit in an inspection. He submitted that the service charge budgets before the

Tribunal were realistic, reasonable and based on professional guidance. The Respondents had not challenged to whom or by whom or when the service charge was payable, nor the amounts payable, either as requested in the directions of the Tribunal or at the Hearing.

10. The Chairman thanked everyone present for their assistance, and then the Tribunal went on to consider its decision. It decided not to adjourn, on the basis that the decisions it had to make were not affected by the court case that had been cited. It decided not to inspect as it did not feel that it was necessary to do so. The Tribunal then considered the service charge estimates that were before it. It considered that they were reasonable with the exception of the statutory compliance admin fee. It took into account not only the evidence heard at the Hearing but also the fact that none of the Respondents had actually challenged any of the items of expenditure, as per the Directions.
11. Accordingly the Tribunal's **Decision** in respect of each application is
 - (1) **The Respondents are liable to pay the service charges for both 2005/2006 and 2006/2007 as claimed by the Applicant with the deletion in each case of the item for statutory compliance admin fee.**
 - (2) **A breach of covenant has occurred on the part of the Respondents by their non-payment of the service charges.**

Decision dated 27 December 2006

David Hebblethwaite
Chairman

A handwritten signature in black ink, reading "David Hebblethwaite". The signature is written in a cursive, flowing style. Below the signature, there is a short horizontal line.