RESIDENTIAL PROPERTY TRIBUNAL SERVICE

SOUTHERN RENT ASSESSMENT PANEL
& LEASEHOLD VALUATION TRIBUNAL

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

Case No.	**CHI/00LC/LSC/2006/0023**
Property:	**Flat 2 Huckleberry Close** **Lordswood** **Chatham** **Kent** **ME5 8EB**
Applicant:	**Huckleberry Close Residents Society Limited**
Respondent:	**Ms Anne Bodycomb**
Dates of Hearing:	**28th June 2006** **1st November 2006**
Members of the Tribunal:	**Mr. R. Norman (Chairman)** **Mr. N. Cleverton FRICS** **Ms L. Farrier**
Date decision issued:	

RE: FLAT 2 HUCKLEBERRY CLOSE, LORDSWOOD, CHATHAM, KENT, ME5 8EB

Background, inspection and hearing

1. The Applicant made a claim in the County Court for service charges and the matter was transferred to the Leasehold Valuation Tribunal for determination.

2. An inspection and hearing took place on 28th June 2006. Present at both were Mr. Fancourt who is a Director of the freeholder Three Keys Properties Limited and Secretary to Huckleberry Close Residents Society Limited ("the Applicant"), Ms Anne Bodycomb ("the Respondent") and her father.

3. At the hearing it was found that insufficient evidence was before the Tribunal for a decision to be made and in order to progress the matter directions, which were outlined to the parties at the hearing, were given.

4. One of the directions was that on receipt of the statements and supporting documents from the parties the Tribunal would consider whether the matter could then be determined on the basis of the evidence received at the hearing on 28th June 2006 and the contents of those statements and supporting documents without the need for a further hearing and that if the Tribunal considered that course of action to be appropriate, the parties would be given the opportunity to request a further hearing if they wished to do so.

5. Further statements and documents have been received and the parties have not requested a further hearing. On the 1st November 2006 the Tribunal considered the matter.

6. At the inspection on the 28th June 2006 we found that No 2 Huckleberry Close ("the subject property") is a ground floor flat with a sitting room, kitchen, two bedrooms and a bathroom with bath, wc and wash hand basin. The flat is in one of four blocks of purpose built flats built in about 1955. Each block contains 6 flats giving a total of 24 flats.

7. The Respondent pointed out to us the guttering which she said still leaked, and the stores at the rear of the property; an end wall of which is at an angle and coming away from the rest of the building. She considered the external decoration of the rendering to be poor.

8. There is an area of grass around the four blocks which the Respondent stated had not been cut from October 2005 to April 2006. There was rubbish on part of the grassed area.

9. Mr. Fancourt pointed out the porch on the block containing the subject property and the porches on other blocks which he said had been repaired to make them watertight and in particular the original flat roofs had been replaced with pitched roofs to improve the weatherproofing. The Respondent stated that the lights over the porch did not work.

10. Inside the porch we could see that a ceiling is needed to cover the concrete beams which are exposed and decoration of the hall and staircase is needed but Mr. Fancourt explained that internal decoration of the common parts had not been done and had not been charged for. The Respondent's father Mr. Bodycomb stated that the lease required that decoration be carried out and that it was included in the 1999 specification of major works. He also stated, and Mr. Fancourt agreed, that there had been no cleaning but it was also agreed that the Respondent had not been charged for cleaning. We explained that in relation to this case our jurisdiction was concerned with whether money which was being claimed from the Respondent was in respect of charges which had been reasonably incurred and that work charged for had been carried out to a reasonable standard. Our jurisdiction did not extend to whether work needed to be done provided the Respondent had not been charged for it.

11. The Respondent stated that the door entry intercom had not been replaced but may have been repaired. She was not sure whether it was working. There was no smoke detection.

12. Mr. Bodycomb provided us with a copy of a document headed "INVOICE" dated 19th January 1999 from Nationspaces Developments Ltd. showing a balance due of £6,825.89 and enclosing an analysis of tenders in respect of the 1999 major works.

13. Mr. Fancourt produced a copy specification for the 2004 major works.

14. At the hearing on the 28th June 2006 it was agreed by those present that the main challenge was in respect of the major works. In 1999 there were proposals for carrying out major works. These were in the hands of Mr. Speed the builder at that time. He was going to carry out major works but died and the works did not proceed. Mr. Fancourt stated that his company, Three Keys Properties Limited, acquired the freehold in he thinks 2003 and there were some moneys that had been paid in relation to the works in early 2004.

15. The Respondent bought the subject property and the vendor said that £6,825.89 had been paid, presumably to Nationspace Developments Ltd. in accordance with the invoice produced, and that sum was added to the purchase price. The Respondent had received the specification for the 2004 major works but had not gone through it and had not noticed the difference in price between the 1999 and the 2004 specifications. She simply assumed it was a re-run of the 1999 major works which she had paid the vendor for on purchasing the subject property. From the documentation now produced it appears that the Respondent was asked for about £11,700 then later she was asked for a smaller sum which as far as we could tell was because she had been credited with the £6,825.89 paid by the former lessee of the subject property and which she had then paid to him as part of the purchase price. The evidence from Mr. Fancourt supported this in that as far as he was aware the subject property's contribution in anticipation of the 1999 major works had been paid and that sum had been credited to the Respondent together with interest deemed to have been earned. The 1999 major works never went ahead.

16. Mr. Fancourt agreed that the site was in poor condition and that work was needed. A surveyor had been employed to draw up a specification for the work and the appropriate notices had been served.

17. At the hearing the consultation procedure was explained. Mr. Fancourt appreciated the importance of that procedure under Section 20 of the Landlord and Tenant Act 1985 and accepted that it applies.

18. Mr. Fancourt did not know how the 1999 specification compared with the new 2004 specification. He had not seen the 1999 specification before the hearing. We could see that there was matters such as the repair to the storage buildings which were in the 1999 specification but apparently not in the 2004 specification. Mr. Fancourt explained that his main concern had been to make the blocks watertight which was more important. The Respondent did not know what was included in work to the communal areas but assumed from information from the vendor when she purchased the subject property that redecoration of internal areas and work to the floor in the communal areas had been included. She had no other evidence of this. It is possible that some of the work could have included repairs to the leaking porches but there was no mention of porches in the 1999 specification.

19. The cheapest quote for the major works was accepted and as far as Mr. Fancourt knew all the work had been completed, the snagging had been done (by another company) and all had been put right. There had been retention of part of the contract price against IDP the contractors. As to the complaint about the guttering, Mr. Fancourt said it would be checked out and corrected as it was part of the major works.

20. In her letter received 12th April 2006, the Respondent stated that she had never known any grass to be cut but stated at the inspection and confirmed at the hearing that the

grass had been cut up to October 2005 and then from April 2006. She also stated that one of her neighbours cuts some of the grass near her flat.

21. As to the remainder of the service charges, the Respondent challenged for the year ended 31st December 2004 the charge of £1,025 for gardening, in the year ended 31st December 2005 the charge of £600 for gardening, the charge of £60 + £2,870 for system survey and installation respectively of the door entry system and management fees of £2,400.

22. As to gardening Mr. Fancourt stated that he had employed a cheaper contractor. The charge included clearing rubbish. £1,800 a year for gardening had been agreed up to 2003 but the lessees wanted to pay less and it was agreed to reduce the number of visits made by the gardening contractors. He pointed out that how often the visits were necessary depended on the time of year. He had pictures of dead trees and rubbish to illustrate the work which had needed to be done.

23. As to the door entry systems, letters from Central Communications in respect of all 4 blocks and a report were produced. The Respondent stated that the handsets were renewed and that that was all that was done but she could not be certain what work had been carried out in the other blocks.

24. As to management fees, Mr. Fancourt explained that these were calculated at £100 per unit per annum with no VAT.

25. Following the directions given at the hearing on the 28th June 2006 the Applicant provided a statement and supporting documents and the Respondent wrote a letter in reply. We considered those documents along with the documents we had previously received, the evidence we heard at the hearing and the matters we had noted at our inspection.

Determination

26. The amount claimed by the Applicant in the County Court in respect of this matter was £5,320.57.

27. The statement provided by the Applicant in response to the directions did not contain anything in support of a claim for interest, an administration fee or a court fee. Accordingly we were not satisfied that these items could be claimed by the Applicant and deducting those items leaves £4,724.82.

28. As to the major works, when the Respondent received information about the 2004 major works she assumed these were the works proposed in 1999 and that she had nothing more to pay. Consequently she did not seek to challenge them. We were satisfied that credit had been given for the sum of £6,825.89 paid by the previous lessee of the subject property in respect of the major works proposed in 1999 and which sum formed part of the price when the Respondent purchased the subject property. The works proposed in 1999 and those in 2004 were not identical. Some items had been removed and others had been added. In the 1999 specification there was no mention of work to the porches but the inclusion of such work in the 2004 specification increased the cost and we have no evidence that the work was not necessary. Certainly keeping the premises weatherproof should be a prime consideration. The Respondent had pointed out problems with the guttering. At the hearing Mr. Fancourt

said that would be attended to, in the evidence submitted later it was stated that that had been done and nothing was received from the Respondent to contradict that. The Respondent considered that the painting of the external rendering was poor but on inspection of it we found that although it was not perfect it was adequate. The repair of the store at the rear of the property (which needs to be repaired or rebuilt), internal decoration, flooring, the ceiling inside the porch and smoke detection were not included in the 2004 specification and the Respondent has not been charged for them. Our jurisdiction in respect of this case does not extend to deciding whether additional works should be carried out but only whether the charges for work done and the standard of that work were reasonable. On the evidence produced to us we found that the cheapest quote had been accepted and that none of the charges for work were excessive. We had no reason to doubt that the 2004 major works were carried out to a reasonable standard and that the charge made for them was reasonably incurred.

29. The Respondent was concerned that no internal cleaning had been carried out but no claim was being made for her to pay for any cleaning.

30. The management fees of £100 per unit per annum with no VAT we found were reasonable.

31. As to the charges for gardening, the Respondent stated that there had been no grass cutting from October 2005 to April 2006. It could well be that there was no need to cut the grass during that time and in any event the charges we are concerned with are up to 14th October 2005. The charges were not just for cutting the grass but included other work, in particular the removal of rubbish. We saw some photographic evidence to support this and there was some rubbish present when we inspected. The managing agents need to keep an eye on any problems of accumulation of rubbish and the charges made for its removal and for gardening. Invoices have now been produced for £250 and £775 giving a total of £1,025 in 2004 and two, each for £300 giving a total of £600 for 2005. The detail, particularly in the invoice dated 16th August 2004 suggests accuracy and there was no evidence that the work was not needed or that the charges were unreasonable.

32. As to the door entry system, we now have an invoice for £2,870 for installation of a new system and a quote for the survey and estimate was sent to the lessees on the 7th February 2005. It was not challenged at the time and appears to be a reasonable sum. We have not found evidence of an invoice for the sum of £60 and therefore we were not satisfied that that sum was reasonably incurred.

33. The sum payable by the Respondent is therefore:

	£
Major works, Invoice 82 dated 19th January 2005:	3,878.15
Invoice 22 dated 22nd June 2004:	355.00
Invoice 65 dated 18th March 2005:	491.67
	4,724.82
Less 1/24th (the Respondent's proportion) of the unproved charge of £60 for the door entry system survey:	2.50
Total:	4,722.32

34. The sum of £4,722.32 is to be paid by the Respondent to the Applicant within 28 days of the date this decision is issued.

R. Norman
Chairman