

LON/00BH/LIS/2005/0073

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATIONS UNDER SECTIONS 27A & 20C OF THE LANDLORD &
TENANT ACT 1985**

Applicant: Linkace Properties

Represented by: Antlow Properties Ltd

Respondent: Mr F W Taylor

Re: Flat 15 Orchard Court, 184 Vicarage Road, London, E10

Hearing date: 6 and 7 December 2005, 5 April 2006, 10 April 2006

Appearances: Mr C Spitz
Mr M Matyas

For the Applicants

Mr F W Taylor

For the Respondent

Members of the Residential Property Tribunal Service:

Mrs B M Hindley LLB
Mr D L Edge FRICS
Mr O N Miller BSc

1. This is an application to determine the reasonableness and, therefore, the payability of service charges for the years ending 31 December 1996 – 2006.
2. On the morning of the first day of the hearing scheduled for 6 and 7 December 2005, the Tribunal inspected the subject property. They found it to be 2 three storey blocks, circa 1930, one positioned behind the other. The first block comprised six flats and the rear nine. Both blocks had replacement UPVC windows but the communal entrance doors were the original timber double doors. The site, whilst tidy enough, had an unkempt air with some debris by the front entrance gate and a car with no wheels in front of the rear block. The Tribunal observed that the doors to the tank housing on the roof of the rear block were open.
3. In the afternoon of 6 December the hearing commenced. It was established, early on, that the respondent now agreed the service charges up to and including the year ending December 1999, with the exception of major works in that period charged to him at £5,739.37p.
4. On the morning of 7 December the parties asked for time to reach an agreement but, having failed, the hearing recommenced at 12 noon.
5. With the hearing uncompleted in the afternoon it was not possible for the Tribunal to reconvene until 5 April 2006. On that day progress was slow because required supporting documentation was not in the applicants' bundle.
6. The hearing, therefore, continued on 10 April and, again, much time was taken up because of the late production by the applicants of further necessary documents. At the end of that day the Tribunal directed that the applicants should produce further required documentation to enable a determination to be made at a reconvened meeting of the Tribunal on 22 May.
7. The requested material was received from the applicants on 4 May. However, the Tribunal was unable to make its determination on 22 May, as planned, since it became apparent that the applicants had not, as directed, sent copies of the new material to the respondent.
8. Accordingly, the Tribunal sent the material to the respondent who replied on 8 June. On the morning of 7 July, when the Tribunal reconvened again, they received a further letter from the respondent but he was informed that this had no bearing on the application under consideration.

Major Works (1995 – 1996)

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9. Major works were invoiced in the service charge year ending December 1996 at £17, 639. 63p.
 10. Consideration of the major works had commenced in November 1995 and a letter of consultation had been sent to all leaseholders in connection with proposed 'renovation works to Orchard Court'. These included masonry repairs, window and door repairs and pipe work and drain repairs.
 11. A schedule of works was, apparently, enclosed together with an unspecified number of estimates. The letter said that it was intended to instruct Nick Head 'as he is the most reasonable'. A letter attached from Nick Head showed the total cost to be £59,860. 02p but the priced specification included totalled only £29,389. 16p.

12. On 16 January 1996 a letter was sent to all leaseholders stating that Nick Head had omitted a charge of £6,000 for scaffolding, plant and tools. This made his quotation 'no longer attractive'.
13. The letter also informed leaseholders that the roofs were in urgent need of attention and that these, together with works to the tank rooms, were also to be included.
14. 'Another quote' from A and R Builders apparently made their estimate 'the most reasonable' and it was, therefore, intended to instruct them.
15. Nick Head's new quotation, inclusive of VAT, was shown at £58,058. 91p. A and R Builders, for the same works, quoted £53, 854. 92p, no VAT being payable.
16. On 25 February 1996 a meeting of the lessees, the managing agents and A and R Builders took place at which the lessees requested that double glazed windows and rear doors should be installed and that a quotation for these works should be obtained. An undated note of the meeting produced to the Tribunal noted that a verbal estimate of £15,000 was obtained.
17. At the same meeting it appeared that the leaseholders had agreed to the builder's suggestion of the use of heavy duty felt, carrying a 25 year warranty, rather than that carrying a 10 year warranty. This increased the total cost by £1,800.
18. On 10 June 1996 leaseholders were informed that the builder would commence the roof and tank room works on 24 June 1996.
19. From a letter dated 2 August 1996 from Johnson Gillies, Chartered Surveyors and Property Consultants, employed by the leaseholders, it appeared that little progress was made.
20. On 27 December 1996 A and R Builders submitted an invoice covering works to the tank rooms and roofs totalling £12,896 plus additional costs of £3,350 and £875, seemingly incurred as a result of the involvement of Messrs Johnson Gillies. The total cost invoiced was £16, 217.
21. Having carefully examined the sequence of events the Tribunal was satisfied that the notice of 16 January 1996 constituted a valid Section 20 notice and that the final account in the sum of £16, 217 was reasonable, reasonably incurred and, therefore, payable.
22. Additionally, from the evidence produced at the hearing, the Tribunal was satisfied that the total invoiced for repairs for the year ending 31 December 1996, in the sum of £17,639. 63p was reasonable, reasonably incurred and, therefore, payable.

Service Charges for the year ending 31 December 2000

Major Works

23. On 18 September 2000 the leaseholders were informed by letter that replacement windows were to be installed. They were told that 'the adjusted tender prices, incorporating all window replacements and omitting repairs and decorations to windows' would be as follows:
 1. London Building Decorating Ltd £67,535+ VAT
 2. Springdale Ltd £66,046 +VATand that Springdale Ltd were to carry out the works.

24. The letter stated that 'the nature of the works are clear from the documents enclosed'. The documents enclosed included a priced specification from Springdale Ltd of considerable works of repair to the window cills, the rendering, the pipe work, the tank housing, the bay roofs, drainage works, boundary walls and fencing, external decoration and concrete paving plus a PC sum for replacement double glazed windows at £27,950.
25. Moreover, the amounts specified in the notice were not supported by the tender documents of the two contractors which showed, respectively, £51, 825 + VAT and £50,664 + VAT.
26. At the hearing the Tribunal spent a considerable amount of time in an attempt to reconcile the various figures and proposed works. These had been questioned initially by the respondent in a letter dated October 2000. He had received a response on 4 October 2000 which informed him that 'the difference in price is calculated by including the above mentioned Section G minus the costing of the window repairs'.
27. At the hearing Mr Spitz identified the items of window repairs and other associated works which would have been omitted. These items, when totalled by the Tribunal, amounted to £23,171. The item for replacement windows in the specification was £27,950 – a difference of £4,779. This, when added to the original tender price of £50,664 came to £55,443 + VAT – considerably less than the amount of £66,046 + VAT stated in the purported Section 20 notice of 18 September 2000.
28. On this basis the Tribunal was satisfied that the purported Section 20 notice was so inaccurate and confusing as not properly to describe the works and was, therefore, invalid.
29. Major works were invoiced in the year ending 31 December 2000 at £30,358 01p. This was made up of £25,000. 01p inclusive of VAT to Springdale Ltd on 22 December 2000 and a further sum of £3,055, charged in respect of a payment to the leaseholder of Flat 2 who had installed double glazing of his own, a drainage survey costing £1,128 + VAT and Ord Carmel and Kritzler's (the surveyors for the major works) fees of £1,175 inclusive of VAT.
30. In view of the Tribunal's decision as to the invalidity of the Section 20 notice the totality of these costs is reduced to £1000 being the amount then chargeable under Section 20 of the Landlord and Tenant Act 1985, as amended.

Service Charges for the year ending 31 December 2001

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Major Works (Continuing) £65,118. 61p.

30. Amounts included within this figure relating to the Section 20 works were

£1,762. 50p	Ord Carmel and Kritzler 21/6/00 Overlooked and resubmitted 11/7/01 Draft specification for external repairs and decorations
£998. 75p	Ord Carmel and Kritzler 25/7/01 Overseeing works & agreeing final account
£763. 75p	Ord Carmel & Kritzler 30/1/01 Inspection of works in progress & valuation of work

56. Whilst the Tribunal accepts hourly rates of £45 and £15 to be reasonable they did not accept 69.5 and 46 hours to be reasonable time spent in the preparation of the application. The Tribunal did accept that, in the face of the respondent's refusal to pay service charges, it was necessary to bring the application but in their opinion good management dictated that it should have been brought much sooner. Further, they noted that the respondent had been willing to drop his objection to some costs once they were fully explained. On the other hand the Tribunal's determination, disallowing considerable costs, demonstrated that the respondent's unwillingness to pay invoiced service charges without further explanation was not unreasonable.
57. Accordingly, in all these circumstances, and adopting a pragmatic view, the Tribunal considers costs and disbursements totalling £750 to be just and equitable.
58. Mr Spitz also requested the reimbursement of the application and hearing fees, totalling £500, on the basis that the respondent had unreasonably refused to pay the service charges and the application had, therefore, to be made.
59. The Tribunal declined to make the requested order.
60. Accordingly, the Tribunal determines, as set out at Annex B, the service charges either admitted or found to be reasonable and, therefore, payable for the years ending 31 December 1996 – 2006.

Chairman



Date

28/7/06.

ANTLOW PROPERTIES LTD

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**TIME SHEET – 15 ORCHARD COURT, 184 VICARAGE ROAD, LONDON E10 5DY
Up to 27 April 2006; LVT REF: LON/00BH/LIS/2005/0073**

DATE	DESCRIPTION	PRIM.	SUPP.	EXP.
19/07/2005	Prepare & issue Application form	7.00	5.50	
28/07/2005	Study file & prepare list of documents	4.50	4.50	
01/08/2005	Completed & sent form for PTR	0.50		
10/08/2005	PTR, including travel	3.00		£12.30
18/08/2005	Study LVT Directions	1.75		
23/08/2005	Issued cheque for hearing fee	0.50		
29/08/2005	Prepare S.O.C	4.00	3.00	
14/09/2005	Ditto	2.00		
26/09/2005	Finish S.O.C & send, recorded delivery	3.50	4.00	£7.00
18/10/2005	Study Respondents S.O.C	2.75		
27/10/2005	Prepare & send bundles, special delivery	4.00	4.00	£87.70
07/11/2005	Study Respondents bundle of documents	2.50	1.00	
01/12/2005	Study Respondents letter to LVT & respond	0.75		
01/12/2005	Reconcile Respondents bundle with Applicants	3.50	3.50	
05/12/2005	Prepare reply & comments to Respondents SOC & bundle	5.00	5.00	
13/12/2005	Study file & prep. answers to questions raised at hearing	2.25	1.50	
21/12/2005	Continue preps. & sought clarification from surveyor	3.00	0.75	
16/01/2006	Study & reconcile surveyor's reply	1.50		
15/02/2006	Sought additional clarification from surveyor	0.75		
06/03/2006	Study & reconcile new surveyor's reply	3.50	2.00	
12/03/2006	Finalised answers, notes, calculations & spreadsheets	3.00	1.00	
30/03/2006	Copied docs., & prepared new bundles for resp. & panel	4.00	4.00	£29.00
25/04/2006	Prepare documentation requested by the panel at the hearing	3.50	3.50	
28/04/2006	Contin. preps. & sent documentation to LVT	2.75	2.75	
TOTAL		69.50	46.00	£136.00

COSTS SUMMARY

Total Primary	69.50 hours @ £45.00 =	£3,127.50
Total Supporting	46.00 hours @ £15.00 =	£690.00
Costs & disbursements		£136.00
Total charges to date		£3,953.50

Schedule of Service Charges payable as determined by the Leasehold Valuation TribunalService Charge Year ending 31/12/1996

Insurance	525.13
Electricity	150.00
Cleaning common parts	576.35
Repairs/Major Works	17,639.63
Management @ 15%	<u>2,833.67</u>
	21,724.78
Accountancy fee	<u>47.00</u>
	21,771.78 x 1/16 = £1,360.74 for Flat 15

Service Charge Year ending 25/12/2000

Insurance	1,316.70
Electricity	98.13
Cleaning	1,414.78
Repairs	135.00
Gardening	323.13
Accountancy (inc VAT)	58.75
Major Works	1,000.00
Management @ £100 per flat (x15)	<u>1,500.00</u>
	5,523.36 x 1/16 = £345.21 for Flat 15

Service Charge Year ending 25/12/2001

Insurance	1,493.10
Electricity	104.40
Cleaning	1,408.84
Repairs	237.00
Gardening	323.18
Accountancy (inc VAT)	58.75
Major Works	5,077.25
Management @ £100 per flat (x15)	<u>1,500.00</u>
	10,202.52 x 1/16 = £637.66 for Flat 15

Service Charge Year ending 25/12/2002

Insurance	1,699.42
Electricity	106.80
Cleaning	1,266.53
Gardening	423.03
Accountancy	94.00
Repairs & renewals	2,742.66
Management @ £100 per flat (x15)	<u>1,500.00</u>
	7,832.44 x 1/16 = £489.53 for Flat 15

Service Charge Year ending 31/12/2003

Insurance	2,416
Electricity	112
Cleaning	1,323
Gardening	494
Accountancy	106
Repairs & renewals	2,331
Management @ £100 per flat (x15)	<u>1,500</u>
	8,282 x 1/16 = £517.63 for Flat 15

Service Charge Year ending 25/12/2004

Insurance	2,671
Electricity	963
Cleaning	1,636
Gardening	494
Accountancy	106
Repairs & renewals	14,102
Management @ 15% on £19,972	<u>2,996</u>
	22,968 x 1/16 = £1,435.50 for Flat 15

Service Charge Year ending 25/12/2005

Insurance	2,830
Cleaning	1,282
Gardening	576
Accountancy	118
Repairs & renewals	2,216
Management @ £100 per flat (x15)	<u>1,500</u>
	8,522 x 1/16 = £532.63 for Flat 15

Budget for Service Charge Year ending 25/12/2006

Insurance	2,850
Cleaning	1,500
Electricity	100
Repairs & renewals	3,000
Management @ £100 per flat (x15)	<u>1,500</u>
	8,950 x 1/16 = £559.37 for Flat 15