

# **RESIDENTIAL PROPERTY TRIBUNAL SERVICE**

## **LEASEHOLD VALUATION TRIBUNAL**

**LANDLORD & TENANT ACT 1985 9AS AMENDED): SECTION 27A  
AND SECTION 20C (FIRST APPLICATION) AND  
SECTION 20ZA (SECOND APPLICATION)**

### **FINAL DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

**Case No:** CHI/23UC/LSC/2006/0005

**Property:** The Croft,  
Carpenters Lane,  
Cirencester,  
Gloucestershire, GL7 1EE,

#### **Appearances**

**Applicant:** Elizabeth Bowler (represented by Mr Richard Newman of  
(First Application) the CAB) and Respondent (Second Application)

**Respondent:** The Croft Cirencester Management Company Limited  
(First Application) (represented by Mr Nicholas Wood of Blake Laphorn  
Linnell Solicitors) and Applicant (Second Application)

**Other Attendees:** Also present were members of the Croft Cirencester  
Management Company Limited and/or their representatives

**Date of Application:** 6<sup>th</sup> January 2006

**Pre-trial directions:** 20<sup>th</sup> January 2006

**Hearing:** 7<sup>th</sup> August 2006

**Members of the  
Tribunal:** Mr A D McC Gregg (Solicitor Chairman)  
Mr J S McAllister FRICS  
Mr D Wills

#### **Inspection and Hearing**

**Adjourned:** 7<sup>th</sup> August 2006

#### **Final Determination**

**(Written Representations Only):** Friday 22<sup>nd</sup> September 2006

1      **Background**

This determination follows the hearing and interim decision and directions dated the 8<sup>th</sup> of August 2006 that were given at Cirencester on the 7<sup>th</sup> of August 2006.

Both parties have requested a determination of the outstanding matters in writing. The Applicant's request was by way of letter from the CAB dated the 11<sup>th</sup> of August 2006 and the Respondent's request was through their solicitors, Messrs Blake Laphorn Linnell, again dated the 11<sup>th</sup> August 2006.

2      **Further Papers Submitted to the Tribunal**

The Respondent's letter of the 11<sup>th</sup> August 2006 included a breakdown of the total costs incurred in the Garden Scheme together with a number (but not all) of copy invoices.

The Applicant made further representations and submissions in a further statement dated the 1<sup>st</sup> of September 2006 in which she accepted liability to meet her share of the original estimate of £15,000 for the Garden Project. Also submitted with her statement were three character references which the Tribunal has also read.

The Respondent submitted a further statement and second witness statement from Simon Arnold dated the 19<sup>th</sup> of September and all the above were carefully considered by the Tribunal.

The Respondent submitted its Section 20ZA Application dated the 8<sup>th</sup> of August 2006. This was received and considered by the Tribunal on the 22<sup>nd</sup> of September 2006.

3      **The Issues**

First Application

- a) The issues remain as before, namely under Section 27A of the Landlord & Tenant Act 1985 regarding the Applicant's liability to pay a service charge in respect of the period between the 1<sup>st</sup> of April 2005 and the 31<sup>st</sup> of March 2006.
- b) Under Section 20C of the Landlord & Tenant Act 1985 in respect of costs incurred by the Landlord (Respondent) for legal and other advice relating to the disputed service charge.

Second Application

Under Section 20ZA the Respondent has applied to the Tribunal for it to grant dispensation to the landlord from the consultation requirement of Section 20 of the Landlord & Tenant Act 1985 (as amended).

4      **The Determination**

In giving directions on the 7<sup>th</sup> of August 2006 the Tribunal ordered that the Respondent should file with the Tribunal Office the appropriate form of application under Section 20ZA of the Landlord & Tenant Act 1985 together with the appropriate fee within 48 hours.

The Respondent filed such an application on the 8<sup>th</sup> of August and this was received at the Tribunal Office on the 10<sup>th</sup> of August and duly sent to all parties. Only one response was received to that application from Mrs Wellfair and that response was of no substantive bearing on the application itself.

Furthermore all parties were aware that the Tribunal was to reconvene and consider the issues on the 22<sup>nd</sup> of September 2006.

**5      Application Under Section 20ZA of the Landlord & Tenant Act 1985 (As Amended) (Second Application)**

The Tribunal had noted from the hearing on the 7<sup>th</sup> of August 2006 that this issue was not a matter of contention between the parties. Accordingly the Tribunal has to decide, whether, taking into account all the relevant circumstances it was reasonable to dispense with the consultation requirement with regard to the qualifying works i.e. The Garden Project.

The Tribunal accepted the application under Section 20ZA and a dispensation was given notwithstanding that the strict consultation process had not been adhered to. In so doing the Tribunal also noted that throughout the planning of the Garden Project all parties had been kept informed of the progress of it.

**6      Application Under Section 27A of the Landlord & Tenant Act 1985 (As Amended) First Application)**

The Tribunal then directed its mind to the application under Section 27A of the Landlord & Tenant Act 1985 and concluded that the works carried out under the Garden Project were of a reasonable standard in all the circumstances and furthermore that the costs of it had been reasonably incurred.

The Tribunal noted that the original application related to the sum of £15,000 (see Page 7 of the Applicant's bundle). Furthermore the Applicant now accepts her liability for her proportion of that figure (see further representations dated the 1<sup>st</sup> of September).

The Tribunal therefore has to consider whether the additional expenditure of £1,002.37 is reasonable though the Applicant contends that the figure in dispute is £1,502.37 and the difference of £500 appears to be made up by the cost of the plants themselves.

The Tribunal is of the view that the correct overall figure for this project is £16,002.37 and that the cost of the plants is not part of the original Garden Project and is therefore outside their remit.

The Tribunal therefore accepts the Respondent's evidence on that point.

Following the original inspection on the 7<sup>th</sup> of August and the careful consideration of the specification and plans, the Tribunal has concluded that the work carried out was of a reasonable standard and reasonably incurred and that the sum of £16,002.37 is the appropriate service charge in this case.

7     **The Application Under Section 20C of the Landlord & Tenant Act 1985 (As Amended) (First Application)**

The Tribunal was not prepared to make an Order requested by the Applicant, Mrs Bowler, on this matter and accordingly no adjudication is made thereon. They agreed with the evidence submitted by the landlord that in all the circumstances the landlord should not be prevented from recovering its reasonable costs incurred in dealing with these two applications, assuming, of course, that the landlord is able to recover such costs under the terms of Mrs Bowler's lease of her flat, dated the 3<sup>rd</sup> of November 1995.

Signed .....  
Andrew Gregg (Chairman)

Dated 4<sup>th</sup> October 2006