

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**  
**LEASEHOLD VALUATION TRIBUNAL**

**S27A LANDLORD & TENANT ACT 1985**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

<b>Case No:</b>	<b>CHI/45UG/LSI/2004/0024</b>
<b>Property:</b>	<b>Flat 8, Mill Park, Mill Road, Burgess Hill, East Sussex</b>
<b>Applicant:</b>	<b>Ayling &amp; Strudwick on behalf of K.D.Grover</b>
<b>Respondent:</b>	<b>Mr R S Hargreaves</b>
<b>Date of Application:</b>	<b>11<sup>th</sup> May 2004</b>
<b>Provisional directions:</b>	<b>17<sup>th</sup> June 2004</b>
<b>Date of Hearing:</b>	<b>12<sup>th</sup> August 2004</b>
<b>Date Decision issued:</b>	<b>1<sup>st</sup> September 2004</b>
<b>Members of the Tribunal:</b>	<b>Mr R T A Wilson LLB (Chairman) Mr A O Mackay FRICS Mr J N Cleverton FRICS</b>

## **MILL PARK, MILL ROAD, BURGESS HILL, EAST SUSSEX**

### **1. The Application.**

This is an application made on behalf of the freeholder of Mill Park, Dr K D Grover (the Landlord) under Section 27A of the Landlord and Tenant Act 1985 (The Act) for a determination as to the reasonableness of service charges for the year ended the 24<sup>th</sup> June 2004. The Respondent to the application is Roger Hargreaves the lessee of Flat 8. A Mrs S J Fairhurst is also joined in the proceedings as an Applicant but on reviewing the case papers, the Tribunal concluded that Mrs S J Fairhurst was challenging the service charge on behalf of her mother one of the other lessees in the building. As Mrs Fairhurst was not a lessee she did not possess the locus standi to be a party to the proceedings in her own right.

### **2. Inspection.**

We attended at Mill Park, Mill Road, Burgess Hill on the 12<sup>th</sup> August 2004 and inspected the property in the presence of the Landlord's representatives Mr Anthony Sharp and Mr Richard Bull of Messrs. Ayling and Strudwick, the Landlord's Managing Agents. We saw a two-storey block of 8 Flats built on the corner of Mill Road and Park Road, Burgess Hill, circa 1976. Building works were clearly in evidence comprising of underpinning works to the whole of the east elevation of the building. Our inspection identified cracks to the northern elevation which were pointed out to us by Mr Hargreaves. We noted the rather worn appearance of the paint on the external windows. The block appeared to be only in a fair condition. The gardens showed signs of neglect.

### **3. The Hearing.**

The hearing, which took place at the Phoenix Room, Martlets Hall, Civic Way, Burgess Hill, followed the inspection. The Landlord was again represented by his managing agents Mr Sharp and Mr Bull. Mr Hargreaves was also in attendance.

### **4. Scope of the Hearing.**

4.1 The application required the Tribunal to determine the reasonableness of the service charge for the year ending the 24<sup>th</sup> June 2004.

4.2 Mr Sharp presented the Tribunal with a copy of the maintenance account for the year ending the 24<sup>th</sup> June 2004. Following questions from the Tribunal Mr Sharp accepted that only certain heads of expenditure contained in the account could properly be regarded as service charge namely the following items: -

<b>Communal Electricity</b>	<b>87.74</b>
<b>Buildings Insurance</b>	<b>2953.30</b>
<b>Repairs &amp; Maintenance</b>	<b>2409.08</b>
<b>Gardening</b>	<b>775.92</b>
<b>Cleaning</b>	<b>680.00</b>
<b>Window Cleaning</b>	<b>150.00</b>
<b>Bank Charges less interest</b>	<b>30.53</b>
<b>Management Fees inc. VAT</b>	<b>1034.00</b>
	<hr/>
<b>TOTAL</b>	<b><u>£8120.57</u></b>

It was these charges, which the tribunal was asked to consider

## **5. Applicant's Evidence.**

- 5.1 The Tribunal was told that each flat in the building was let on an identical lease for a term of 99 years from the 24<sup>th</sup> June 1976 and a copy of this lease was with the Tribunals' papers. The lease contained the usual service charge provisions requiring the Landlord to maintain the structure and fabric of the building subject to receiving service charges from each lessee. We were told that each lessee was responsible for 1/8 of the total expenditure; there being eight flats in the building.
- 5.2 Mr Sharp's firm were appointed managing agents when the flats were constructed in 1976 and had managed the building since then. The block was now approximately 28 years old and inevitably the need for maintenance was increasing. As managing agents, they had to strike a balance between keeping costs down and maintaining standards. Mr Sharp accepted that standards could be improved but inevitably the cost would also increase. When questioned by Mr Hargreaves, Mr Sharp acknowledged that sometimes building work took too long to commence and too long to finish but he maintained that this was due to shortage of labour and the general lethargy that builders in the Mid Sussex area displayed.
- 5.3 Mr Sharp told the Tribunal that he had vouchers and a computer read out to support each item of expenditure included in the maintenance account. The computer read out was handed to the Tribunal and we were able to verify that there were postings to cover the expenditure claimed. The vouchers themselves were not available for inspection.

5.4 Mr Sharp stated that the insurance premium had risen considerably in the year because of the subsidence problems and it was not possible to obtain alternative quotations whilst the insurance building works were progressing.

5.5 Insurance premium aside, Mr Sharp maintained that all the costs incurred in the year were reasonably incurred and were consistent with the going rate for the area. He produced a chart containing a comparison of service charges for other properties in his portfolio. Service charges for Mill Park compared favourably in comparison to other comparable properties and were inline with market figures. In the circumstances he invited the Tribunal to find all of the charges reasonable and thus payable by the lessees.

## **6. The Respondent's Evidence.**

6.1 Mr Hargreaves told the Tribunal that his dispute related to the Landlord's refusal to provide the residents of Mill Park with copies of survey reports and work details relating to the problems caused by subsidence at Mill Park.

6.2 Whilst he considered the standard of service provided by the Landlord's agents was poor, he confirmed that his dispute did not relate either to the maintenance charges or the managing agents. He had never disputed the charges for the year ending 24<sup>th</sup> June 2004 and did not believe them to be in themselves unreasonable. It was his view however, that the standard of work was poor. For example work was often outstanding for a considerable period of time and there was very little dialogue generally between the residents and the Landlord.

6.3 He felt that the cleaning of the common ways was haphazard and not to a high standard and he also felt that the windows were not cleaned frequently enough and when they were, the job was not well done. In general he felt that the managing agents rarely visited the property and were reactive and not proactive.

6.4 When questioned by Mr Sharp, Mr Hargreaves accepted that he would be prepared to pay a little more by way of service charge if the standard of service were higher. However, in his opinion the service was not up to scratch particularly in the areas of cleaning. He was also disappointed that the reserve fund had been depleted.

## **7. The Consideration.**

7.1 We have already mentioned that the Landlord's application is limited in scope covering as it does only certain items of expenditure incurred in the service charge year ending 24<sup>th</sup> June 2004. The Tribunal is being asked to adjudicate only on the reasonableness of these specified charges as set out in paragraph 4.2

7.2 In our view, the evidence put before us establishes: -

1. Although the lessees are clearly dissatisfied with the standard of management, their main areas of discontent lie not in the amount of the service charge but by the lack of information and by what they perceive to be a poor level and quality of service.
2. Mr Hargreave's dispute with the managing agents does not relate to the management charges. It relates to the managing agents alleged refusal to release information relating to the underpinning work.

7.3 Even though the Landlord's application is not challenged by any one leaseholder, we considered each item of expenditure as set out in paragraph 4.2 above to determine if the item of expenditure was recoverable under the service charge provisions of the lease, and whether in our opinion it had been reasonably incurred. Having carried out this review we considered that all the service charges identified in paragraph 4.2 had been reasonably incurred and where appropriate the standard of work was reasonable having regard to the amount of money claimed.

7.4 The 3 largest items of expenditure are:-

1. Management Fees
2. Repairs and Maintenance and
3. Buildings Insurance,

7.4.1 In our experience Management Fees of just over £1000 per annum (inclusive of VAT) are slightly lower than we would expect for a comparable building in the mid Sussex area. This figure equates to £110 per flat per annum (plus VAT), which in our opinion is low when compared with standard charges for a development such as this one. Whilst we accept that the management of the property may not be as proactive as the lessees would wish, we are of the view that the standard is nonetheless consistent with a charge of this magnitude.

7.4.2 We were also satisfied with the explanations given to us by Mr Sharp over the costs for repairs and maintenance. That is to say that the work needed to be done and the cost of the work was reasonable.

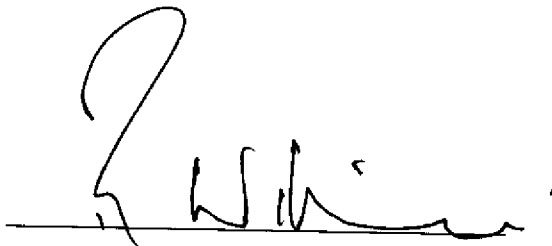
7.4.3 We also accepted the managing agent's comments in relation to Buildings insurance. In our experience the premium is within the parameters that we would expect given the claims record of the property.

7.5 The remaining figures contained in the service account are relatively modest; the amounts were not challenged and in our opinion were reasonably incurred. We relied on our collective knowledge and expertise in making these assessments.

## **8. The Decision.**

For the reasons stated above the Tribunal determines that:-

1. The charges specified in paragraph 4.2 above, £8120.57 in total, were reasonably incurred on behalf of the Landlord as service charge for the year ended 24<sup>th</sup> June 2004.
2. The liability of Mr Hargreaves to contribute to the above service charge is 1/8 part of the total costs namely £1015.07 credit being given for any payments already made by Mr Hargreaves toward this liability
3. The due date for payment of the above sum shall be calculated by reference to the provisions of the lease and in particular having regard to Schedule 5 paragraph 5 thereof.

A handwritten signature in black ink, appearing to read 'R T A Wilson', written over a horizontal line.

**R T A WILSON (Chairman)**