

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
& LEASEHOLD VALUATION TRIBUNAL**

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/29UC/LSC/2005/0096

Property: Greencroft, Oxenden Square, Herne Bay, Kent CT6 8TN

Applicant: Ms W.M. Hickman
Greencroft,
Oxenden Square,
Herne Bay,
Kent.
CT6 8TN

Respondent: Mr. J.W. Purdy
c/o Circle Residential Management Ltd.,
West One House,
St. George's Road,
Cheltenham,
Gloucestershire,
GL50 3DT.

Date of Hearing: 5th June 2006

Members of the Tribunal: Mr. R. Norman (Chairman)
Mr. R. Athow FRICS MIRPM
Ms. L. Farrier

Date decision Issued:

RE GREENCROFT, OXENDEN SQUARE, HERNE BAY, KENT, CT6 8TN

Background

1. Ms W. M. Hickman is the lessee of the subject property and made an application for a determination of liability to pay service charges.
2. A Pre-Trial Review was held on the 16th January 2006 and was attended by Ms Hickman accompanied by Mr. Otterpole and by Mr. M. Paine of Circle Residential Management Ltd., the managing agents, on behalf of Mr. J.W. Purdy who Mr. Paine confirmed is the freeholder of the subject property.

3. At the Pre trial review Mr. Paine on behalf of the Respondent accepted that the application should be extended to deal with administration charges in addition to service charges.

4. The Pre trial review was held at the request of Mr. Paine and directions were made including one made at his request. However, the Respondent has not complied with the directions and as a result we have not received from him or from anyone on his behalf any evidence of any sums alleged to be owed by the Applicant to the Respondent.

Inspection

5. On the 5th June 2006 we inspected the subject property in the presence of the Applicant.

Hearing

6. A hearing was held on the 5th June 2006 at which the Applicant was present but there was no appearance by the Respondent or anyone on his behalf.

7. Throughout the proceedings the Respondent had been represented by Mr. Paine of Circle Residential Management Ltd.

8. We have received a letter dated 30th May 2006 from Circle Residential Management Ltd. enclosing copies of letters dated 25th March 2006 and 30th May 2006 from Circle Residential Management Ltd. to the Applicant. We note from that correspondence that Mr. Paine considered the matter to be settled and would not be attending the hearing. Also that he was pleased to be able to advise the Applicant that he could give her his absolute guarantee that he had admitted that enough fees and service charges had been collected to discharge the fees relating to the abortive collective enfranchisement application, which removed all disputed charges from the Applicant's Greencroft account balance. In his letter of the 30th May 2006 to the Applicant, Mr. Paine stated that the Applicant's account balance was in good order and made no mention of anything owed by the Applicant to the Respondent or to Circle Residential Management Ltd. It is clear from that correspondence that nothing at all is owed by the Applicant to the Respondent or to Circle Residential Management Ltd. and that is supported by the lack of evidence from the Respondent. Had the Respondent wished to continue to claim anything from the Applicant then the Respondent could have taken the opportunity to comply with the directions and to submit evidence but he did not do so. Neither did he or anyone on his behalf attend the hearing.

9. In view of the contents of those letters and in the absence of evidence from the Respondent that anything is owed by the Applicant to the Respondent we cannot find that the service charges or administration charges in respect of 2002 to 2006 were reasonably incurred and taking into account that the Applicant has made payments we determine that as at the 5th June 2006 the Applicant owes nothing at all to the Respondent or to Circle Residential Management Ltd.

10. There is before us an application for an order under Section 20C of the Landlord and Tenant Act 1985. We find that it is just and equitable in the circumstances to make such an

order because the Applicant was justified in bringing these proceedings to clarify the position and neither the Respondent nor anyone on his behalf complied with the directions given at the Pre-Trial Review or provided us with any evidence. We therefore make an order that all or any of the costs incurred or to be incurred by the Respondent in connection with these proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicant.

A handwritten signature in black ink, appearing to read 'R. Norman', with a stylized flourish at the end.

R. Norman
Chairman

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
& LEASEHOLD VALUATION TRIBUNAL**

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

APPLICATION FOR PERMISSION TO APPEAL

Case No. CHI/29UC/LSC/2005/0096

Property: Greencroft, Oxenden Square, Herne Bay, Kent CT6 8TN

Applicant: Mr. J.W. Purdy
c/o Circle Residential Management Ltd.,
West One House,
St. George's Road,
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RE GREENCROFT, OXENDEN SQUARE, HERNE BAY, KENT, CT6 8TN

An application has been received from Circle Residential Management Ltd. representing the Applicant for permission to appeal the Leasehold Valuation Tribunal's determination in this case.

The Tribunal has considered the application and has determined that permission should not be granted for an appeal to the Lands Tribunal for the following reasons.

The Tribunal was aware of correspondence between Circle Residential Management Ltd. and Ms Hickman and referred to it in the determination.

The Tribunal was not satisfied that agreement had been reached between the parties and the application was not withdrawn.

Ms Hickman and Mr. Paine of Circle Residential Management Ltd. who represented Mr. Purdy were aware that the hearing had not been cancelled but neither Mr. Purdy nor anyone on his behalf attended the hearing.

The Tribunal made its determination; making findings of fact on a balance of probabilities after considering all the evidence provided by the parties.

There is no justification for an appeal and permission is refused.

A handwritten signature in black ink, appearing to read 'R. Norman', with a stylized, flowing script.

R. Norman
Chairman.