

**EASTERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

CAM/42UG/LSC/2006/0021

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTIONS 20C and 27A LANDLORD AND
TENANT ACT 1985.**

Applicant:	Mark E C Foley and Lisa Foley
Respondent:	Alan Catchpole
Property:	Flat 1 Admirals Hall, Broke Place Park, Nacton, Suffolk IP10 0ET
Date of Application:	4 May 2006
Date of Hearing:	10 August 2006
Venue:	The Council Chambers, The Town Council, Felixstowe, Suffolk IP11 2AG
Appearances for Applicant:	In Person
Appearances for Respondent:	In Person
Also in Attendance:	Mr E Watts Mr C Loyd MRICS Mr P Owen FRICS Miss Catchpole
Members of the Tribunal:	Mr John Hewitt Chairman Mr John Dinwiddy FRICS Mr Roger Rehahn
Date of Decision:	11 August 2006

Decision

1. Partway through the hearing the Applicants withdrew the application under s27A and the related application under s20C of the Landlord and Tenant Act 1985 relating to the Property having agreed terms of settlement with the

Respondent, which were reported to the Tribunal as being in the terms set out in the Appendix hereto.

Background

2. The Applicants have made an application received 4 May 2006 pursuant to s27A of the Act. The Applicants have also made an application under s20C of the Act.
3. The Applicants are the lessee (by assignment) of the Property which is a ground floor flat within a listed country house. The lease is dated 1 October 1989 and was granted by Brookside Holdings Limited to William Jack Godfrey and Ursula Maria Godfrey for a term of 99 years from the date of grant.
4. The lease of the property provides for the contribution by the tenant of service charges incurred by the landlord. The contributions payable are:

Estate Areas:	4%
Amenity Areas	10%
Common Parts	12.70%

Or, at the lessor's option such proportion of the cost to the lessor of providing the services being the reasonable and proper proportion attributable to the demised premises

The amount payable is referred to in the lease as the Maintenance Rent Payment.

The lease also provides for sums to be paid in advance on account of service charges to be incurred with provision for the preparation of a year end account and a balancing payment/credit as the case may be. The amount payable in advance is £300 per annum, or such greater sum as the landlord's managing agents specify in a notice given in compliance with paragraph 3 of Part II of the Second Schedule to the lease. The on account payment is payable in two equal instalments on the usual quarter days in June and December in each year.

5. Evidently the reversion expectant on the termination of the lease is now vested in the First Respondent who thereby constitutes the lessor. At the hearing Mr Catchpole made it clear that he was the sole proprietor of the freehold interest and that his wife ought not to have been cited as a Respondent. This was accepted by the Applicants.

6. It appears from the application form and the materials in the hearing bundle that the principal questions in issue for the Tribunal to determine relate to service charges claimed as follows:-
 1. The quantum of the reasonable and proper proportion of the expenditure incurred by the lessor on services attributable to the Property, and

 2. The amount payable in respect of specific costs claimed by the lessor in the accounts as follows:-

2004	
£10,190.40	Strutt & Parker Managing Agents costs
£136.60	Firesite – alarm testing
£1020.03	Framlingham Electrical safety checks
£358.38	Dynolocks
£470.00	James Aldridge
2005	
£7,677.70	Strutt & Parker Managing Agents costs
£382.46	Firesite – alarm testing
£734.38	CJ Electrical
£240.00	Broke Hall
2006 (Budget)	
£6,067.81	General Service Charge
£1,374.07	Common Areas Service Charge
£3,000.00	Legal fees
£15,000.00	External decorations
Unspecified	Strutt & Parker fees re service charge dispute

7. Subsequent to the issue of these proceedings the Respondent had made an application to the Leasehold Valuation Tribunal pursuant to Part IV of the Landlord and Tenant Act 1987 in which he seeks a variation of the leases of

all 8 apartments at Admirals Hall as regards the service charge regime and the proportions attributable to each apartment.

8. Prior to the start of the hearing the Tribunal was able to inspect Admirals Hall, the rear common parts and part of the Estate in the company of the parties.

The Hearing

9. The hearing commenced at 11:15 and was opened by the Chairman. The Applicants appeared in person and were accompanied by Mr Eric Watts (Flat 6) as an observer. The Respondent, Mr Catchpole, appeared in person and was accompanied by his daughter, Mr Charles Loyd of Strutt & Parker and Mr Peter Owen of James Aldridge Chartered Surveyors.
10. Shortly after the commencement of the hearing the Respondent wished to table an open offer to settle the matters in issue with the Applicants. The initial offer was rejected as inadequate. An improved offer was tabled and following detailed negotiations between the parties it was reported to the Tribunal that terms of settlement had been arrived at. Those terms were recorded in writing and signed by the parties and countersigned by the Chairman. As a matter of record only the terms of settlement as reported to the Tribunal and as signed by the parties are reproduced in the Appendix hereto.
11. Having agreed terms, the Applicants informed the Tribunal that they wished to withdraw their application under s27A of the Act and the related application under s20C.
12. In the circumstances the Tribunal is not required to make a substantive determination on the application and this Decision merely serves to record the basis on which the application was withdrawn.

John Hewitt

Chairman

11 August 2006

The Appendix

Terms of settlement as reported to the Tribunal

1. The Applicants accept the services charges payable by them for the years 2004 and 2005 are as set out on pages 72 to 75 of the hearing bundle.
2. The parties agree that the percentages of service charges attributable to the Applicants for the year 2006 shall be as set out on page 73 of the hearing bundle, and budgeted on pages 113 and 115 of the same.
3. The Respondent agrees that his claim for professional services for these proceedings shall be capped at £5000 in the 2006 general accounts and the Applicants agree not to make any challenge to the sum claimed.
4. The parties mutually withdraw all allegations that they have made in connection with these proceedings.
5. The Respondent agrees to grant to the Applicants a non-exclusive easement to park two vehicles adjacent to the north west corner of the Building, to the extent that he may grant it and meanwhile agrees not to raise any objection to the present arrangements.
6. The Respondent shall grant to each of the lessees of flats 3-7 a permanent non-exclusive right for that lessee to park one motor vehicle on the gravelled and fenced land in front of the pond at the rear of the Building conditional upon that lessee agreeing to accept that for the service charge year 2006 his or her percentage contributions to the service charges shall be as set out page 73 of the hearing bundle.
7. For the avoidance of doubt, it is acknowledged that the lessee of flat 2 has the use of the two parking spaces on the flagstones in front of the rear entrances of

the Building (as presently used and exercised) and that the lessee is Mr Catchpole.