

Eastern Region

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Mr Keith Nials
LRG
PO Box 898
Aylesbury
Buckinghamshire
HP20 9FG

Your ref:
Our ref: CAM/11UB/LAC/2009/0005

Date: 13-Apr-2010

Dear Mr Nials

**RE: LANDLORD & TENANT ACT 1985 - SECTION 27A(1)
COMMONHOLD & LEASEHOLD REFORM ACT 2002 - SCHEDULE 11, PARAGRAPH 5**

PREMISES: 49 HILTON AVENUE, AYLESBURY, BUCKINGHAMSHIRE, HP20 2EZ

The Tribunal has made its determination in respect of the above application(s) and a copy of the document recording its decision is enclosed. A copy of the document is being sent to all other parties to the proceedings.

Any application from a party for leave to appeal to the Lands Tribunal must normally be made to the Leasehold Valuation Tribunal **within 21 days** of the date of this letter. If the Leasehold Valuation Tribunal refuses leave to appeal you have the right to seek leave from the Lands Tribunal itself.

If you are considering appealing, you are advised to read the note attached to this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read "Mrs Jeong-ae Ahn".

**Mrs Jeong-ae Ahn
Case Officer**

GUIDANCE NOTE ON APPEAL FROM THE LVT

Introduction

1. The decision of the Leasehold Valuation Tribunal (LVT) is final and there is no power for the LVT to revisit or reconsider that decision. If a party to a decision is dissatisfied with the decision of an LVT the statutory remedy is to appeal to the Lands Tribunal¹. This guidance explains how a party may appeal.
2. A decision and reasons may be issued together. Alternatively, a decision may be issued and reasons sent at a later stage. Appeal rights run from the date the written reasons are sent to a party.

Permission to appeal

3. In order to appeal, a party must obtain permission to do so. Application for permission must first be made to the LVT. If the LVT refuses permission the application may be renewed to the Lands Tribunal.
4. An application for permission from the LVT must be made within the period of 21 days starting with the date on which the reasons for the decision were sent to the party seeking to appeal.² The LVT has power to extend the time for seeking permission to appeal but no extension will be granted unless there is good and sufficient reason for it. **The LVT can only give an extension of time if the request is made before the expiry of the initial 21 days.**³
5. An application for permission to appeal and/or for an extension of time to seek permission should be made in writing should and clearly identify the decision concerned (including any reference number). An application for permission should also contain:
 - (a) the name and address of the applicant;
 - (b) the name and address of every respondent;
 - (c) the grounds of appeal against the decision in respect of which leave to appeal is sought;
 - (d) where the applicant is represented, the name, address and profession of the representative; and
 - (e) the signature of the applicant or his representative and the date the application was signed.
6. On receipt of an application for permission the LVT will serve a copy on every other party. To facilitate the process it would assist if sufficient copies were provided with the application for this purpose.

P.T.O.

1 Commonhold and Leasehold Reform Act 2002, s.175

2 Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003 (SI 2003/2099), reg.20.

3 SI 2003/2099, reg.24.

7. The LVT will give the parties written notification of its decision. If permission to appeal to the Lands Tribunal is granted by the LVT the applicant's notice of intention to appeal must be sent to the registrar of the Lands Tribunal so that it is received by the registrar within 28 days of the grant of permission by the LVT.⁴ If the LVT refuses to give permission to appeal, a renewed application for permission may be made to the Lands Tribunal within 14 days of that refusal.⁵ (Details as to the power of the Lands Tribunal to permit a notice of appeal or application for permission to appeal to be made outside the relevant time limit are given on the appropriate Lands Tribunal notice obtainable from the Lands Tribunal).

Costs

8. The Lands Tribunal may not order a party to the appeal to pay costs incurred by another party in connection with the appeal unless that party has, in the opinion of the Lands Tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the appeal. In such a case the Lands Tribunal may not award costs in excess of £500

The Lands Tribunal may be contacted at:

*43-45 Bedford Square
London
WC1B 3AS*

*Tel: 0207 612 9710
Fax: 0207 612 9723*

*E-mail: lands@tribunals.gsi.gov.uk
www.landtribunal.gov.uk*

March 2007

⁴ In cases of urgency the Lands Tribunal may reduce this period by direction. An urgency direction may also permit the application to the LVT for permission to appeal to stand as notice to the Registrar of the Lands Tribunal of an intention to appeal. The Lands Tribunal Rules 1996 (S.I. 1996 1022) rule 6 as amended.

⁵ The Lands Tribunal Rules 1996 (above) rule 5C as amended.

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

Property: 49, Hilton Avenue, Aylesbury, Buckinghamshire, HP20 2EZ
Applicant: Mr K Nials
Respondent: Vale of Aylesbury Housing Trust (VAHT)
Case Number: CAM/11UB/LAC/2009/005

Application for a determination of the reasonableness and liability to pay service charges (Section 27A Landlord and Tenant Act 1985)

Application for a determination as to liability to pay and reasonableness of a variable administration charge or for a fixed administration charge (Schedule 11 to the Commonhold and Leasehold Reform Act 2002)

An application by the tenant for the limitation of service charge arising from the landlord's costs of proceedings (section 20C Landlord and Tenant Act 1985)

Tribunal: Mrs H C Bowers BSc(Econ) MRICS MSc
Mr J J Sims LL.M
Mrs N Bhatti

DECISION

The Tribunal determines that the service charge due and payable from the Applicant to the Respondent in respect of the service charge year 2007/8 is £130.15; for service charge year 2008/9 is £339.09 and to be incurred for 2009/10 is £353.82.

The Tribunal makes an order pursuant to section 20C of the Landlord & Tenant Act 1985 that 50% of the costs incurred or to be incurred by the Respondent in connection with these proceedings before the Tribunal are to be recharged as relevant costs payable by the Applicant.

REASONS

The Applications:

1. On 21st August 2009 the Applicant applied for a determination pursuant to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (the "2002 Act") for a determination as to liability to pay and reasonableness of a variable administration charge or for a fixed administration charge. The relevant paragraph of the lease for the subject premises was paragraph 6.4 of the Sixth Schedule.

2. A second application was submitted by the Applicant on 14th October 2009 for a determination pursuant to section 27A of the Landlord and Tenant Act 1985 (the "1985 Act") for a determination of the reasonableness and liability to pay service charges in respect of the Property incurred in the service charge years 2007- 2008 and 2008-2009 and to be incurred in the service charge year 2009 – 2010.

3. In addition there is an application by the Applicant pursuant to section 20C of the 1985 Act for the Tribunal to make an Order to prevent a landlord from recovering any costs in relation to the initial applications to be recovered as part of the service charge.

The Law:

4. Part 1 of Schedule 11 to the 2002 Act states:

"1 (1) In this part of the Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly

- (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
- (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
- (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
- (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease"

5. In the 1985 Act section 18 states:

"(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent –

(a) which is payable directly or indirectly for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and

(b) the whole or part of which varies or may vary according to the relevant costs

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord or a superior landlord in connection with the matters for which the service charge is payable.

(3) For this purpose

(a) costs include overheads and

(b) costs are relevant costs in relation to a service charge whether they are incurred or to be incurred in the period for which the service charge is payable or in an earlier period"

6. Section 19:

"(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period –

(a) only to the extent that they are reasonably incurred; and

(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly."

7. Section 27A:

"(1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to –

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to a leasehold valuation tribunal for a determination whether if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and if it would, as to –

(a) the person by whom it would be payable,

(b) the person to whom it would be payable,

(c) the amount which would be payable,

(d) the date at or by which it would be payable, and

(e) the manner in which it would be payable."

The Lease:

8. The Tribunal were provided with a copy of the lease for the property. The lease is dated 22nd April 2002 and the original parties to the lease were Aylesbury Vale District Council as the lessor and Keith Nials as the lessee. The lease is for a term until 12th April 2106 at a ground rent of £10 per annum.

9. Under clause 2(1) of the lease the lessee covenants to pay the service charge.

10. Clause 3 of the lease requires the lessor to keep in repair the structure and the exterior of the building, including the roof, foundations, drains gutters and external pipes; to keep in repair the sewers, drains, gas and water pipes, cables, wires, water storage and expansion tanks and appurtenances in, on or under the building; to keep in repair the passages including any handrails and balustrades, landings and staircases and any other area inside or outside the building; to insure the building; to light the interior of the common parts of the building; to decorate the common parts of the building and to impose covenants of a similar nature as the subject lease onto long leases to be granted under the right to buy provisions.

11. The building is defined in the lease as "the land and buildings numbered 41 to 55 (odd numbers only) Hilton Avenue, Aylesbury".

12. The fourth schedule to the lease sets out the service charge arrangements. The fourth schedule clause 1(ii) states that "Service charge" means one eighth part of the expenditure of such service".

13. The sixth schedule to the lease sets out the costs, expenses, outgoings and other matters in respect of which the lessee is required to contribute.

The Property:

14. The Tribunal had an opportunity to inspect the exterior and the internal common parts of the building which includes 49 Hilton Avenue (the subject property) on the 28th January 2010 prior to the commencement of the hearing. Mr Lowe from the Respondents was in attendance. Mr Nials, the Applicant and Miss Campbell another leaseholder and an ex-board member from the board of VAHT were also in attendance.

15. The subject development at Hilton Avenue comprised of three blocks of flats and eight bungalows accessed from Cantley Close. Each of the three blocks of flats are four storey high and comprise four maisonettes on the ground and first floor and four maisonettes on the second and third floors. In total there are eight maisonettes in each block. The common parts within the blocks are to a basic standard. The blocks are within large, open communal grounds that are mainly laid down to grass.

The Hearing:

16. A hearing was held on Thursday 28th January 2010 at the Holiday Inn, Aylesbury. Mr Nials represented himself at the hearing and was accompanied by Miss Campbell. Mr Grundy, counsel, represented the Respondent. The Tribunal heard evidence from Mr Bell, the Home Ownership Manager for the Respondent.

17. A preliminary point was consider by the Tribunal at the start of the hearing in respect of the first application dated 21st August 2009 for a determination pursuant to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (the "2002 Act") for a determination as to liability to pay and reasonableness of a variable administration charge or for a fixed administration charge. From consideration of the papers it appeared to the Tribunal that there had been some confusion by the Applicant by the use of the wording "Administration Charges" in the service charge account. This point was confirmed by both parties and

therefore the matter for the Tribunal to consider was only in respect of the reasonableness of service charges under section 27A of the 1985 Act and for an order under section 20C of the 1985 Act.

Matters in Issue:

18. At the hearing it was identified that there were four main areas of dispute between the parties:

- Whether there was a duplication of the Administration Fee and the Housing Management Fee and whether the current tiered system of charging was a reasonable approach.
- The mis-calculation of the Building Insurance Fee
- That there was some duplication of the site, estates and building repairs.
- Whether the grounds maintenance should be re-charged at 1/34th or 1/8th

19. The service charge years in dispute are 2007-8; 2008-9 and 2009-10.

Administration Charge/Management Charge

20. In 2007/8 the Administration Charge was £92.13 and the Housing Management Fee was £42.78. For the 2007/8 the Respondent made a 50% deduction and therefore only claimed half of these figures. In 2008/9 the Administration Fee was £94.78 and the Housing Fee was £42.78. In 2009/10 the proposed Administration Fee was £83.87 and the Housing Management Fee was £44.28.

21. Mr Bell explained that in 2007/8 there was a two tier system of dealing with the administration fee. A fee for blocks with 1 to 4 units and another fee for blocks with five or more units. This was based upon the concept that smaller blocks were in the nature of a house split into four units and that larger blocks were based on a more traditional block of flats. Audits were undertaken and according from advice received the respondent adopted a more industry standard approach for the 2008/9 and 2009/10 service charge years with a three tier level of charging. The three levels were for blocks with 1 to 4 units; blocks with 5 to 8 units and blocks with nine or more units. It was explained that charges were based on the number of units and not upon the number of leaseholders in a block. It was further noted that by the nature of the large portfolio that there had to be some degree of generalisation.

22. Mr Bell provided a detailed explanation as to how the administration fee and management fee were derived. It was explained that there was no duplication of items in the Administration Charge or the Management Charge.

23. Mr Nials explained that he did not consider that the three tier system of charging for the management fee was fair. It was suggested that the Respondent did not have a thorough knowledge of their portfolio and as such the three tier method of charging was unreasonable.

24. An issue was also raised in respect of the audit fees. In 2007/8 a sum of £2,937.50 was expended in respect of Grant Thornton as an audit fee, this was identified in the 2008/9 Administration Fee calculation, but it was confirmed that this sum was not charged to the service charge accounts and as such not recovered from the leaseholders. In the 2008/9 service charge year there were two audit fees charged to the Administration Fee calculation. The first was an accrual of £3,000 to Grant Thornton for the 2008/9 audit fee. The second

sum was £5,175 that was paid to KPMG as an "additional audit fee". In the Administration Fee calculation this second sum is annotated as "Audit requested by leaseholder representative group". The Tribunal were provided with a copy of the KPMG audit report that was finally issued on 20th March 2009. In the introduction to the audit report it is stated that the context of the report was at the request of the Chief Executive of Respondent Trust and the Leaseholders Representative Group via the Board.

25. The KPMG audit report appears not to be an audit of the service charge accounts, but an audit into the principles and practices associated with the service charge mechanism throughout the whole of the Respondent's portfolio. Included in the detailed findings of the report there is noted that for the 2007/8 service charge year the administration fee that was based on a two tier system was requested by the leaseholders. There is a recommendation that "The Trust should consider reviewing the individual administration fees payable between large and small properties". In response it is noted in the report that the administration fee had been split into three bands. In an appendix to the report the auditors note that the leaseholders' representative group considered that the original split of the administration charge was inconsistent. It further states that in response to the leaseholder's concerns that the administration fee had now been split into three bands.

26. There was considerable discussion in respect as to who had requested the KPMG audit. Mr Nials suggested that the leaseholders had not requested the KPMG and as such should not be responsible for the costs. It was submitted on the behalf of the Respondent that it was not relevant as to who had instructed KPMG to carry out the audit, it was an issue as to whether the costs incurred were reasonable.

Decision

27. The details of how the Administration Fee and the Housing Management Fee were calculated were clearly explained and the Tribunal are quite satisfied that there was no duplication of any figures. Overall when the figures are taken together and with our knowledge of management fees from our past experience, the Tribunal are satisfied that these figures are not excessive and as such are reasonable. It is perhaps unfortunate that there is not just one figure that comprises both of these elements, as this may reduce the level of confusion with recipients of the service charge demands.

28. In respect of the tiered system for the recovery of the administration charge the Tribunal has had consideration of the comments from the KPMG audit report. The independent audit made the recommendation that the tiered system of charging should be reviewed and the recommendation to split the charge into three bands comes from the Respondent rather than an independent audit recommendation.

29. We appreciate that with a large portfolio it is necessary to make some generalisations but from what we observed the subject block of 8 flats did not appear to produce an over excessive management burden on the landlord in respect of its architectural attributes. It was noted in particular that this block had no lift and had very basic common parts. There is some merit in the Respondent undertaking a fuller audit of its whole portfolio to take a more accurate approach to this apportionment issue. However, in dealing with the current issue when we step back and look at the reasonableness of the actual sum charged to the Applicant we consider that this figure is not excessive.

30. The next issue to determine is whether the KPMG audit fee was a reasonable sum to be included in the service charge accounts and recoverable from the leaseholders. In the opinion of the Tribunal it is not relevant as to who had requested this work. The issue to determine is whether this was a reasonable charge. The Respondent had recently taken over the management of the large property portfolio. In undertaking large structural portfolio changes, in the opinion of the Tribunal it is reasonable for an audit to be undertaken to ensure that processes are in place to ensure a robust service charge mechanism. It is an activity that should benefit all parties and goes to the question of good management of the portfolio. In the opinion of the Tribunal it does not matter that the audit did not occur in the first year. In fact it would seem to be a reflection on best practice after the first year's activities. As such the Tribunal determine that the KPMG audit costs are a sum that was reasonably incurred.

Building Insurance

31. It was explained that there had been a letter dated 29th February 2009 indicating that Acumus had quoted a premium of £50,400, including Insurance Premium Tax, for the building insurance of the whole of the Respondent's portfolio. There was a subsequent invoice from Acumus dated 29th April 2008 for a sum of £56,969.64, but that this was for a period of thirteen months instead of twelve months. An adjusted figure of £52,587.36 reflected the period for twelve months, but it appeared that the Insurance Premium Tax had been charged twice. There was a subsequent letter from the Respondent dated 23rd November 2009 that acknowledged that there had been an error had been made and that there would be a downward adjustment in the 2010/2011 service charge account.

32. Mr Nials stated that the auditors had not identified the error. There was a general query about the level of the insurance and that there had been no access to policy documentation and therefore could not ascertain if there were any differences between the policies that had been tendered. Reference was made to a lower quotation from JLT at a figure of £47,766.

33. Mr Bell acknowledged that there had been errors in the calculations and confirmed that there would be an adjustment to the 2010/2011 service charge account to deal with the issue of overcharging.

Decision

34. The main issue appears to be that the Insurance Premium Tax had been charged twice and from correspondence it was identified that the estimate (£50,400) was lower than the sum actually charged (£52,587.36). Mr Bell accepted that there had been an error and had made an apology. There had been further correspondence and it was agreed that there would be a refund due to the applicant. As yet this refund has not been made, but will be made in due course.

35. As to the level of the premium, it is perfectly legitimate for a leaseholder to try to show that an insurance premium is too high. However, it is established law that the landlord is under no obligation to select the cheapest insurance; the issue is whether the charge has been reasonably incurred. In looking at this question in the context of alternative quotations, an important question to consider is whether the alternative insurance is on broadly the same terms as the actual insurance and therefore is truly comparable. We had no evidence

before us in respect of alternative policies and therefore were unable to carry out a full comparison of the quotations provided. Accordingly, we do not make any adjustment to the level of the insurance premium to be charged. However, we note the undertaking made by the Respondent to refund any overcharge in the insurance premium in the forthcoming service charge year.

Recharging Proportions

36. In the 2007/8 service charge year the applicant had been charged $1/34^{\text{th}}$ of the relevant costs for repairing and maintaining the building and the curtilage. In 2008/9 and proposed for 2009/10 the apportionment was $1/32^{\text{nd}}$.

37. There was some clarification as to what was meant by "General Services" and "Building Services" in the 2007/8 year and a change to "Site related charges". It was explained that "Building Services" related to "costs within the building and that "General Services" and "Site related charges" referred to costs incurred in relation to the communal grounds. We were assisted with the production of a site plan that showed the three blocks of flats and the two groups of bungalows and the surrounding open land around the buildings. It was explained that as there were 32 units within the whole of the site, then each lessee was to pay $1/32^{\text{nd}}$ of the costs relating to the communal grounds.

38. Mr Grundy suggested that the apportionment of $1/32^{\text{nd}}$ was the same as $1/8^{\text{th}}$ of $1/4^{\text{th}}$ of the whole site costs. There would be economies of scale if contracts for the grounds maintenance were carried out on a whole site basis, rather than several small contracts dealing only with the grounds immediately surrounding a block, which would involve more contract administration. It was highlighted that in 2008/9 the Respondent had only sought a $1/34^{\text{th}}$ of the site costs and that this was a financial benefit to the Applicant.

39. Mr Nials stated that in his opinion the grounds maintenance could be calculated on an area around an individual block and re-charged to that block on a $1/8^{\text{th}}$ basis as set out in the lease. It was acknowledged that the lease plan did not clearly identify an area around the block as the curtilage of the block, but Mr Nials would be happy to pay a $1/8^{\text{th}}$ of the costs for the area around his block. It was noted that as the grounds were open, then individuals, other than the occupiers of the site, had the benefit of using the grounds.

Decision

40. The lease specifically refers to the Applicant's apportionment as $1/8^{\text{th}}$ of the costs relating to the building and curtilage. It is on this basis that the Tribunal determines that the recovery of costs should be made.

41. It is noted that there is no clear definition in the lease as to the extent of the curtilage. Given the nature of the site then a practical and reasonable approach to deal with grounds maintenance would be that the contracts are undertaken on a whole site basis and the such costs of the contracts could be split into the relevant area around the individual block and then the costs could be apportioned in accordance with the terms of the lease, i.e. on a $1/8^{\text{th}}$ basis. To carry out separate work contracts for each select area around the individuals blocks is not a practical approach and may incur a higher level of expenditure. In practice

this may mean no difference to the sums actually claimed from the Applicant on a 1/32nd approach.

Site Repairs and Estates Issues

42. Mr Nials identified a number of work sheets that applied to the site maintenance and queried these documents. In some instances it was suggested that there was a duplication of work, that the work had not been carried out and in one instance the description of the works related to some work carried out by some shops on Dunstan Lane, which Mr Nials suggested was not part of the site.

43. Mr Bell confirmed that he was unable to give evidence as to the detail of the invoices that had been queried and had no specific information to assist the Tribunal. He also confirmed that due to logistical reasons only contracts in excess of £500 were checked by a property inspector.

Decision

44. Now we turn to the issue of the specific work sheets in respect of the site/ground charges. We have no detailed evidence as to what these invoices relate to and we are unable to carry out a forensic investigation of all the invoices, as this is not the task of the Tribunal in the absence of full evidence on all the issues. From the description on the work sheets it would appear that there was some doubts as to whether the works would be within the definition of the specific building and as to whether the works relate to the site. There is also some doubt as to whether the works were carried out or whether there was any duplication of the work. Unfortunately the evidence is not clear on these points. Accordingly the Tribunal has had to take a global approach to this issue. We consider that there was some limited evidence to suggest that there was some misallocation of some of these charges, although it is impossible for us to fully identify the extent of this issue.

45. In respect of the 2007/8 service charge year the Tribunal makes no deduction as to the level of the grounds and building repairs and maintenance as the Respondent had already made a 50% deduction from the service charge that was payable. For the 2008-9 service charge year the actual site costs were £75.71 and building costs were £46.25, we determine that a 10% nominal deduction should be made to reflect the poor possibility of double counting or of items that have been misallocated. The reduction equates to £7.57 for the site costs and £4.63 for the building costs. In respect of the 2009/10 service charge year the proposed site costs were £71.36 and building costs were £51.92. We make no allowance for the proposed charges as the overall level would appear reasonable and the respondent should ensure that all invoices and worksheets are properly accounted for to avoid any doubt as to the correct allocation of charges.

46. It should be noted by the parties that the Tribunal considers that best practice for dealing with future service charges is that any future work sheets are clearly identified and clear definitions are made in respect of site and building costs so that a clear identification can be made as to what the costs relate to and how they may be allocated.

Section 20C

47. The Applicant submitted that there had been a whole catalogue of errors and problems and that the only way to pursue these matters was by making an application to the LVT. It was stated that the Leaseholder Representative Group had tried to assist the Respondent in trying to sort out problems relating to the service charge. Accordingly, the Respondent should not be able to recover any charges for this matter in future service charges.

48. Mr Grundy responded by stating that the Respondent had not ignored the enquiries of the leaseholders. The outcome of this case would have ramifications upon the recovery of the service charge from all the leaseholders. The Applicant's case had been difficult to deal with. The Respondent submitted that the LVT had the discretion to limit by 50% any costs arising from this issue and to be recovered in future service charges.

Decision

49. Although in this case the Respondent has generally been successful, it is noted that there has been poor communication between the parties and that some of the explanations given to the Applicant have appeared to be confusing. In some instances the Respondent's processes need further refinement to ensure a better level of management. There have been instances of poor management and this has been reflected in some of the concessions made by the Respondent and by the findings of the Tribunal. We also note that from the Applicant's position that there has been a reluctance to accept the explanations provided by the Respondent and this has also contributed to the case coming before the Tribunal. Accordingly the Tribunal makes an order pursuant to section 20C of the Landlord & Tenant Act 1985 that 50% of the costs incurred or to be incurred by the Respondent in connection with these proceedings before the Tribunal are to be recharged as relevant costs payable by the Applicant.



Helen C Bowers – Chairman

Date: 12 - 4 - 10.