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LON/00BH/LIS/2005/0073

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON  
APPLICATIONS UNDER SECTIONS 27A & 20C OF THE LANDLORD &  
TENANT ACT 1985**

**Applicant:** Linkace Properties  
**Represented by:** Antlow Properties Ltd  
**Respondent:** Mr F W Taylor  
**Re:** Flat 15 Orchard Court, 184 Vicarage Road, London, E10  
**Hearing date:** 6 and 7 December 2005, 5 April 2006, 10 April 2006

**Appearances:** Mr C Spitz  
Mr M Matyas

**For the Applicants**

Mr F W Taylor

**For the Respondent**

**Members of the Residential Property Tribunal Service:**

Mrs B M Hindley LLB  
Mr D L Edge FRICS  
Mr O N Miller BSc

1. This is an application to determine the reasonableness and, therefore, the payability of service charges for the years ending 31 December 1996 – 2006.
2. On the morning of the first day of the hearing scheduled for 6 and 7 December 2005, the Tribunal inspected the subject property. They found it to be 2 three storey blocks, circa 1930, one positioned behind the other. The first block comprised six flats and the rear nine. Both blocks had replacement UPVC windows but the communal entrance doors were the original timber double doors. The site, whilst tidy enough, had an unkempt air with some debris by the front entrance gate and a car with no wheels in front of the rear block. The Tribunal observed that the doors to the tank housing on the roof of the rear block were open.
3. In the afternoon of 6 December the hearing commenced. It was established, early on, that the respondent now agreed the service charges up to and including the year ending December 1999, with the exception of major works in that period charged to him at £5,739.37p.
4. On the morning of 7 December the parties asked for time to reach an agreement but, having failed, the hearing recommenced at 12 noon.
5. With the hearing uncompleted in the afternoon it was not possible for the Tribunal to reconvene until 5 April 2006. On that day progress was slow because required supporting documentation was not in the applicants' bundle.
6. The hearing, therefore, continued on 10 April and, again, much time was taken up because of the late production by the applicants of further necessary documents. At the end of that day the Tribunal directed that the applicants should produce further required documentation to enable a determination to be made at a reconvened meeting of the Tribunal on 22 May.
7. The requested material was received from the applicants on 4 May. However, the Tribunal was unable to make its determination on 22 May, as planned, since it became apparent that the applicants had not, as directed, sent copies of the new material to the respondent.
8. Accordingly, the Tribunal sent the material to the respondent who replied on 8 June. On the morning of 7 July, when the Tribunal reconvened again, they received a further letter from the respondent but he was informed that this had no bearing on the application under consideration.

#### Major Works (1995 – 1996)

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9. Major works were invoiced in the service charge year ending December 1996 at £17,639.63p.
10. Consideration of the major works had commenced in November 1995 and a letter of consultation had been sent to all leaseholders in connection with proposed 'renovation works to Orchard Court'. These included masonry repairs, window and door repairs and pipe work and drain repairs.
11. A schedule of works was, apparently, enclosed together with an unspecified number of estimates. The letter said that it was intended to instruct Nick Head 'as he is the most reasonable'. A letter attached from Nick Head showed the total cost to be £59,860.02p but the priced specification included totalled only £29,389.16p.

12. On 16 January 1996 a letter was sent to all leaseholders stating that Nick Head had omitted a charge of £6,000 for scaffolding, plant and tools. This made his quotation 'no longer attractive'.
13. The letter also informed leaseholders that the roofs were in urgent need of attention and that these, together with works to the tank rooms, were also to be included.
14. 'Another quote' from A and R Builders apparently made their estimate 'the most reasonable' and it was, therefore, intended to instruct them.
15. Nick Head's new quotation, inclusive of VAT, was shown at £58,058. 91p. A and R Builders, for the same works, quoted £53, 854. 92p, no VAT being payable.
16. On 25 February 1996 a meeting of the lessees, the managing agents and A and R Builders took place at which the lessees requested that double glazed windows and rear doors should be installed and that a quotation for these works should be obtained. An undated note of the meeting produced to the Tribunal noted that a verbal estimate of £15,000 was obtained.
17. At the same meeting it appeared that the leaseholders had agreed to the builder's suggestion of the use of heavy duty felt, carrying a 25 year warranty, rather than that carrying a 10 year warranty. This increased the total cost by £1,800.
18. On 10 June 1996 leaseholders were informed that the builder would commence the roof and tank room works on 24 June 1996.
19. From a letter dated 2 August 1996 from Johnson Gillies, Chartered Surveyors and Property Consultants, employed by the leaseholders, it appeared that little progress was made.
20. On 27 December 1996 A and R Builders submitted an invoice covering works to the tank rooms and roofs totalling £12,896 plus additional costs of £3,350 and £875, seemingly incurred as a result of the involvement of Messrs Johnson Gillies. The total cost invoiced was £16, 217.
21. Having carefully examined the sequence of events the Tribunal was satisfied that the notice of 16 January 1996 constituted a valid Section 20 notice and that the final account in the sum of £16, 217 was reasonable, reasonably incurred and, therefore, payable.
22. Additionally, from the evidence produced at the hearing, the Tribunal was satisfied that the total invoiced for repairs for the year ending 31 December 1996, in the sum of £17,639. 63p was reasonable, reasonably incurred and, therefore, payable.

Service Charges for the year ending 31 December 2000

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Major Works  
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23. On 18 September 2000 the leaseholders were informed by letter that replacement windows were to be installed. They were told that 'the adjusted tender prices, incorporating all window replacements and omitting repairs and decorations to windows' would be as follows:
  1. London Building Decorating Ltd £67,535+ VAT
  2. Springdale Ltd £66,046 +VAT
 and that Springdale Ltd were to carry out the works.

24. The letter stated that 'the nature of the works are clear from the documents enclosed'. The documents enclosed included a priced specification from Springdale Ltd of considerable works of repair to the window cills, the rendering, the pipe work, the tank housing, the bay roofs, drainage works, boundary walls and fencing, external decoration and concrete paving plus a PC sum for replacement double glazed windows at £27,950.
25. Moreover, the amounts specified in the notice were not supported by the tender documents of the two contractors which showed, respectively, £51, 825 + VAT and £50,664 + VAT.
26. At the hearing the Tribunal spent a considerable amount of time in an attempt to reconcile the various figures and proposed works. These had been questioned initially by the respondent in a letter dated October 2000. He had received a response on 4 October 2000 which informed him that 'the difference in price is calculated by including the above mentioned Section G minus the costing of the window repairs'.
27. At the hearing Mr Spitz identified the items of window repairs and other associated works which would have been omitted. These items, when totalled by the Tribunal, amounted to £23,171. The item for replacement windows in the specification was £27,950 – a difference of £4,779. This, when added to the original tender price of £50,664 came to £55,443 + VAT – considerably less than the amount of £66,046 + VAT stated in the purported Section 20 notice of 18 September 2000.
28. On this basis the Tribunal was satisfied that the purported Section 20 notice was so inaccurate and confusing as not properly to describe the works and was, therefore, invalid.
29. Major works were invoiced in the year ending 31 December 2000 at £30,358 01p. This was made up of £25,000. 01p inclusive of VAT to Springdale Ltd on 22 December 2000 and a further sum of £3,055, charged in respect of a payment to the leaseholder of Flat 2 who had installed double glazing of his own, a drainage survey costing £1,128 + VAT and Ord Carmel and Kritzler's (the surveyors for the major works) fees of £1,175 inclusive of VAT.
30. In view of the Tribunal's decision as to the invalidity of the Section 20 notice the totality of these costs is reduced to £1000 being the amount then chargeable under Section 20 of the Landlord and Tenant Act 1985, as amended.

**Service Charges for the year ending 31 December 2001**

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**Major Works (Continuing) £65,118. 61p.**  
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|---|---|
| 30. Amounts included within this figure relating to the Section 20 works were |   |
| £1,762. 50p   | Ord Carmel and Kritzler 21/6/00<br>Overlooked and resubmitted 11/7/01<br>Draft specification for external repairs and decorations |
| £998. 75p   | Ord Carmel and Kritzler 25/7/01<br>Overseeing works & agreeing final account  |
| £763. 75p   | Ord Carmel & Kritzler 30/1/01<br>Inspection of works in progress & valuation of work  |

£1,104. 50p	Drain Spec 22/11/01 Extra drainage works as per quote
£1,797. 16p	Springdale 19/10/01 Balance payment + VAT
£552. 25p	Ord Carmel and Kritzler 8/11/01
	Inspection of major works for release of retention & 'administering contract for drainage'
£5,679. 95p	Drain Spec 9/10/01 Drainage repairs
£33,158. 21p	Springdale 27/7/01 On account payment
£4,116. 61p	Springdale payment certificate 12/11/01
£15,185. 02p	Springdale payment certificate 9/2/01
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£65,118. 70p	

31. The Tribunal was informed that Ord Carmel and Kritzler's fees totalling £4,077.25p + Vat were invoiced at the rate of £75 per hour. These the Tribunal considered to be reasonable, reasonably incurred and, therefore, payable. However, as the amounts of £5,679. 95p and £1,104. 50p had been incurred without the service of a required Section 20 notice, these amounts the Tribunal reduced to £1000 in total.

Service charges for the year ending December 2002

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Repairs and renewals £5,121 29p  
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32. The respondent asked for clarification as to how this amount was calculated. Mr Spitz explained that this sum was made up of £2,364. 68p on 20/3/02 for replacement windows by Springdale in Flat 5 and £220. 31p for supervision of this work by Ord Carmel and Kritzler. An invoice dated 18/3/02 totalling £5,107. 34p covered this work together with works of repair (drain blockages and other works) amounting to £2,522. 35p. There was, therefore, a small discrepancy which Mr Spitz was unable to explain. However, with no Section 20 notice served (see paragraph 30 above) the Tribunal determined the recoverable amount to be £2,742. 66p.

Service charges for the year ending December 2003

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Repairs and Renewals £2,331  
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33. The respondent asked for clarification of how this amount was calculated. Invoices were produced for ten separate items totalling £2,330. 76p and the Tribunal was satisfied that this amount was reasonable, reasonably incurred and, therefore, payable.

Service charges for the year ending December 2004

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Repairs and Renewals £20,228.(including Major Works @ £12,502)  
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34. On 4 September 2003 a purported Section 20 notice was served proposing 'works' at a cost of £8680 + VAT (Redwood Builders (UK) Ltd) or £14,274 +

VAT (Tefnut (Builders) Ltd). The specification for these works, in fact entitled Interim Schedule of Dilapidations and Wants of Repair, had been provided by Ord Carmel and Kritzler and Mr Wernick, a surveyor appointed by the Court in respect of Flat 16, as a result of a complaint by the lessees regarding the condition of the block.

35. The notice informed the lessees that Redwood Builders (UK) Ltd were to be instructed. In fact it appeared that Redwood's tender included a variation, of £2,303 inclusive of VAT, to the originally priced schedule.
36. The Tribunal was informed that Thameside Engineering had, in fact, carried out the works at the agreed cost of £12,502 inclusive of VAT and rendered an invoice in that amount on 30/11/04. That invoice was produced at the hearing.
37. The amount outstanding - £7,726 - Mr Spitz explained related to damp proof surveys and consequential works in five flats belonging to the freeholder (£6,111.25p), rubbish removal (£870), drain clearance works (£535) and vandalised lights (£195) in all totalling £7,711.25p.
38. The Tribunal asked for sight of the damp proof surveys and these were provided after the hearing. The reports were provided by Injectorseal although the works were, apparently, carried out by Abbey Home Treatment Co.
39. Mr Spitz asserted that because, in each case, it was mentioned that external structural defects could have caused the dampness, the charge for the works was legitimately posted to the service charge account.
40. The Tribunal noted that the possibility (suggested in the reports) that the cause could have been external was never investigated and the alternative reason for the problem (condensation) was, under the terms of the lease, the responsibility of the individual leaseholder.
41. The respondent, having been sent the surveys, commented that no receipts for the works had been produced, only quotes and invoices, and he also disputed the propriety of the service charge bearing the costs of damp proofing of individual flats.
42. Accordingly, of the £20,228 the Tribunal was satisfied that £14,102 was reasonable and reasonably incurred after the service of a valid Section 20 notice. However, they were not satisfied that the £6,111.25p was either reasonable or reasonably incurred. They accepted as reasonable and reasonably incurred the costs mentioned above of £870, £535 and £195.

#### Service Charges for the year ending December 2005

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Repairs and Renewals £2,216  
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43. After the hearing the applicants provided, as requested by the Tribunal, the invoices to substantiate this amount. These consisted of twelve items of expenditure. Six of the works had been carried out by A and R Builders, four by A and V Home Maintenance Co and two by others.
44. In his letter of 8 June 2006, the respondent commented on the numbers of contractors employed to do a variety of small works.
45. The Tribunal was satisfied that these costs were reasonable, reasonably incurred and, therefore, payable.

#### Budget for Service Charges for the year ending December 2006

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46. The total amounted to £9,450 including £3,000 for general repairs and £2,000 for management fees.
47. As a budget the Tribunal found this to be reasonable but, at the respondent's instigation, they then examined the management fees charged by the respondents for the years ending 31 December 2000 until the present.

#### Management Fees

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48. At the hearing the Tribunal requested sight of a contract between the freeholders (Linklace Properties Ltd). This was produced after the hearing and indicated that Antlow Properties had become the managing agents on 1 November 1994 for an initial period of three years.
49. On 29 August 2000 Antlow Properties had informed the freeholders that the management charges would increase with effect from 25 December 2000 to either £100 per annum per flat or 15% of overall expenditure, whichever was the higher.
50. For the years ending 2005 and 2006 an increase to £2000 per annum was sought.
51. The Tribunal found the charges until 2005 to be reasonable, reasonably incurred and, therefore, payable. However, the increase to £2000 they considered, on the basis of their experience of the hearing, not to be justifiable and, therefore, not to be reasonable. They noted that under the terms of the lease the charges were apportioned at 1/16 despite there being only fifteen flats.

#### Application under Section 20C of the Landlord and Tenant Act 1985

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52. At the end of the hearing the Tribunal was minded to consider the respondent's application under Section 20C but asked for written representations to be provided. Mr Spitz indicated that the hours spent were likely to be in the region of 100 – 150 split between himself at £45 per hour and Mr Matyas, his assistant, at £15 per hour.
53. The applicants provided the requested breakdown under cover of a letter of 28 April 2006 and this is now attached at Annex A.
54. The Tribunal sent a copy to the respondent and he raised 'serious objections to the whole of the time sheet' in his letter dated 8 June. In particular he queried 12.5 hours to complete the application form and 9 hours to study the file nine days after posting the application form.
55. The Tribunal was of the opinion that the extended length of the hearing (3.5 days) was caused both by the applicants' failure to produce the requisite documents necessary in their initial bundle and their inability to reconcile invoiced service charge accounts for the years in question with supporting invoices and documentation. An example of the difficulty faced by the respondent and the Tribunal can be found at paragraph 26 above and was symptomatic of the attitude of the respondents to legitimate queries relating to expenditure.

56. Whilst the Tribunal accepts hourly rates of £45 and £15 to be reasonable they did not accept 69.5 and 46 hours to be reasonable time spent in the preparation of the application. The Tribunal did accept that, in the face of the respondent's refusal to pay service charges, it was necessary to bring the application but in their opinion good management dictated that it should have been brought much sooner. Further, they noted that the respondent had been willing to drop his objection to some costs once they were fully explained. On the other hand the Tribunal's determination, disallowing considerable costs, demonstrated that the respondent's unwillingness to pay invoiced service charges without further explanation was not unreasonable.
57. Accordingly, in all these circumstances, and adopting a pragmatic view, the Tribunal considers costs and disbursements totalling £750 to be just and equitable.
58. Mr Spitz also requested the reimbursement of the application and hearing fees, totalling £500, on the basis that the respondent had unreasonably refused to pay the service charges and the application had, therefore, to be made.
59. The Tribunal declined to make the requested order.
60. Accordingly, the Tribunal determines, as set out at Annex B, the service charges either admitted or found to be reasonable and, therefore, payable for the years ending 31 December 1996 – 2006.

Chairman

R. J. Handley

Date

28/7/06.



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**TIME SHEET – 15 ORCHARD COURT, 184 VICARAGE ROAD, LONDON E10 5DY**  
**Up to 27 April 2006; LVT REF: LON/00BH/LIS/2005/0073**

DATE	DESCRIPTION	PRIM.	SUPP.	EXP.
19/07/2005	Prepare & issue Application form	7.00	5.50	
28/07/2005	Study file & prepare list of documents	4.50	4.50	
01/08/2005	Completed & sent form for PTR	0.50		
10 /2005	PTR, including travel	3.00		£12.30
18/08/2005	Study LVT Directions	1.75		
23/08/2005	Issued cheque for hearing fee	0.50		
29/08/2005	Prepare S.O.C	4.00	3.00	
14/09/2005	Ditto	2.00		
26/09/2005	Finish S.O.C & send, recorded delivery	3.50	4.00	£7.00
18/10/2005	Study Respondents S.O.C	2.75		
27/10/2005	Prepare & send bundles, special delivery	4.00	4.00	£87.70
07/11/2005	Study Respondents bundle of documents	2.50	1.00	
01/12/2005	Study Respondents letter to LVT & respond	0.75		
01/12/2005	Reconcile Respondents bundle with Applicants	3.50	3.50	
05/12/2005	Prepare reply & comments to Respondents SOC & bundle	5.00	5.00	
13/12/2005	Study file & prep. answers to questions raised at hearing	2.25	1.50	
21/12/2005	Continue preps. & sought clarification from surveyor	3.00	0.75	
16/01/2006	Study & reconcile surveyor's reply	1.50		
15/02/2006	Sought additional clarification from surveyor	0.75		
06/03/2006	Study & reconcile new surveyor's reply	3.50	2.00	
12/03/2006	Finalised answers, notes, calculations & spreadsheets	3.00	1.00	
30/03/2006	Copied docs., & prepared new bundles for resp. & panel	4.00	4.00	£29.00
25/04/2006	Prepare documentation requested by the panel at the hearing	3.50	3.50	
28/04/2006	Contin. preps. & sent documentation to LVT	2.75	2.75	
<b>TOTAL</b>		<b>69.50</b>	<b>46.00</b>	<b>£136.00</b>

**COSTS SUMMARY**

Total Primary	69.50 hours @ £45.00 =	£3,127.50
Total Supporting	46.00 hours @ £15.00 =	£690.00
Costs & disbursements		£136.00
<b>Total charges to date</b>		<b>£3,953.50</b>

Schedule of Service Charges payable as determined by the Leasehold Valuation TribunalService Charge Year ending 31/12/1996

Insurance	525.13
Electricity	150.00
Cleaning common parts	576.35
Repairs/Major Works	17,639.63
Management @ 15%	<u>2,833.67</u>
	21,724.78
Accountancy fee	<u>47.00</u>
	21,771.78 x1/16 = £1,360.74 for Flat 15

Service Charge Year ending 25/12/2000

Insurance	1,316.70
Electricity	98.13
Cleaning	1,414.78
Repairs	135.00
Gardening	323.13
Accountancy (inc VAT)	58.75
Major Works	1,000.00
Management @ £100 per flat (x15)	<u>1,500.00</u>
	5,523.36 x 1/16 = £345.21 for Flat 15

Service Charge Year ending 25/12/2001

Insurance	1,493.10
Electricity	104.40
Cleaning	1,408.84
Repairs	237.00
Gardening	323.18
Accountancy (inc VAT)	58.75
Major Works	5,077.25
Management @ £100 per flat (x15)	<u>1,500.00</u>
	10,202.52 x 1/16 = £637.66 for Flat 15

Service Charge Year ending 25/12/2002

Insurance	1,699.42
Electricity	106.80
Cleaning	1,266.53
Gardening	423.03
Accountancy	94.00
Repairs & renewals	2,742.66
Management @ £100 per flat (x15)	<u>1,500.00</u>
	7,832.44 x 1/16 = £489.53 for Flat 15

Service Charge Year ending 31/12/2003

Insurance	2,416
Electricity	112
Cleaning	1,323
Gardening	494
Accountancy	106
Repairs & renewals	2,331
Management @ £100 per flat (x15)	<u>1,500</u>
	8,282 x 1/16 = £517.63 for Flat 15

Service Charge Year ending 25/12/2004

Insurance	2,671
Electricity	963
Cleaning	1,636
Gardening	494
Accountancy	106
Repairs & renewals	14,102
Management @ 15% on £19,972	<u>2,996</u>
	22,968 x 1/16 = £1,435.50 for Flat 15

Service Charge Year ending 25/12/2005

Insurance	2,830
Cleaning	1,282
Gardening	576
Accountancy	118
Repairs & renewals	2,216
Management @ £100 per flat (x15)	<u>1,500</u>
	8,522 x 1/16 = £532.63 for Flat 15

Budget for Service Charge Year ending 25/12/2006

Insurance	2,850
Cleaning	1,500
Electricity	100
Repairs & renewals	3,000
Management @ £100 per flat (x15)	<u>1,500</u>
	8,950 x 1/16 = £559.37 for Flat 15