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**Residential  
Property**  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
DIRECTIONS BY LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL**

LANDLORD AND TENANT ACT 1985 Sections 27A & 20C (as amended by  
C&LRA 2002)

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Ref :LON/00AM/LSC/2007/0457

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Premises: 125/127 Holmleigh Road, London N16 5QG

Applicants: Mr. M Weiss, Mrs. G Weiss and Mr. E Stern

Represented by: Mr. J Weiss & Mr. D King, Tech RICS, MIMBM, MAPS,  
Building Surveying Consultancy

Respondent: Mr. M Soffer

Represented by: N/A

Hearing date: 18th February 2008

Tribunal: Ms. L M Tagliavini, LL.M, DipLaw, BA(Hons)  
Mrs. A Flynn, MA MRICS  
Mrs. R Turner JP BA

1. This is an application pursuant to section 27A Landlord and Tenant Act 1985 (as amended) made by the Applicant seeking the Tribunal's

determination of the reasonable of items of service charge for the year 2007 of which the Respondent is liable to pay 50%;

(i)	Major roof works.....	£10,185.86
(ii)	Surveyor's fees for involvement in subsidence works....	£300.00
(iii)	Insurance premium for the period 23/1/07 – 23/01/08....	£491.40
(iv)	Insurance claim excess charge.....	£1,000
(v)	Service charges for minor works.....	£818.00

2. The subject premises comprise a two storey terraced house circa 1900 which contains two purpose built self-contained flats each with their own front entrance door. The Applicants became the registered freehold proprietors with effect from 21 February 1991 and a long lease of the first floor flat was granted to Mr. M Weiss and Mrs. G M Weiss for a period of 99 years with effect from 25 March 1990 (a discrepancy addressed by the LVT in *LON/00AM/LSC/2006/0392*). The Respondent is the long leaseholder of the ground floor flat pursuant to a lease dated 1 May 1985 made between Ilmaquil Investments Ltd (1) and P Berger (2) for a term of 99 years from 25 March 1978 and assigned to the Respondent with effect from 23 April 1986.
3. The respective parties had previously had disputes arising in respect of ground rent, insurance, repairs and legal and personal expenses by arbitration in the Federation of Synagogues (Beth Din). In addition a previous application to the Tribunal concerning major works and service charges was made by the Applicant and determined by the LVT in *LON/00AM/LSC/2006/0392*.
4. At the hearing of this application the Applicants were represented by Mr. J Weiss and Mr. King. The Respondent did not appear and was not represented although he sent in a number of photographs and accompanying letters and documentation setting out his opposition to the insurance excess charges, the failure to remove the fruit tree and clear the garden as claimed and the appointment of a managing agent.
5. At the hearing of the application Mr. King produced to the Tribunal copies of the relevant section 20 consultation notices dated 19/4/07 and 28/6/07 together with a specification of works and two tenders received from the three sent out. The Tribunal noted that it was accepted by Mr. Soffer that the roof to the building now requires replacement, rather than further patch repairs. It was also noted that the previous Tribunal had indicated that although the previous section 20 notices serviced were defective they found the cost of the proposed roof works to be reasonable – then £11,786.87 inclusive of VAT being the contractors costs of £8,365.86, surveyor's fees of £1,300 (15% of the cost of the works plus disbursements) and management fees of £520 (being 5% of the cost of the works plus VAT).

6. In this instance, the cost of the almost identical roof works considered by the previous Tribunal, amount to £10,185.86 made up of £8,365.86 (including VAT) for roof works, £1,300 for surveyor's supervisor's fees at 15% and disbursements and £520 management fees at 5% plus disbursements.
7. The insurance excess of £1,000 was said to relate to the relatively modest subsidence works required to the rear of the premises, which had been the subject of meetings on at least two occasions between Mr. King on behalf of the Applicant and the insurance company/loss adjuster. As a result a schedule of works had now been drawn up and expenditure approved in the sum of £3,655.03. By a letter dated 6 September 2007 a request for payment of the £1,000 excess was sent to Mr. Weiss by the loss adjusters Cunningham Lindsey. In turn, by a letter dated 1 November 2007, the Applicant requested the sum of £500 from the Respondent representing his 50% share.
8. The Tribunal were shown a copy of the relevant insurance policy covering the period 23/1/07-23/1/08 in the sum of £491.40 with an excess payable of £1,000 for fire lightning, explosion, aircraft, riot, civil commotion earthquake, subsidence. To date no sums had been paid by Mr. Soffer and no subsidence works carried out.
9. The Applicant also sought to claim service charges in the sum of £818.00 made up of £453.00 for the removal of a mature pear tree from the rear garden of No. 125 (included within the Respondent's demise); £85.00 for the hire of a ladder for the purpose of inspection by the previous Tribunal on 5 February 2007 and £380.50 for pruning of trees in rear garden of 125-127 Holmleigh Road, and the cutting down of all vegetation and the hedge at the front of the building.
10. The Applicant also seeks the payment of management fees in the sum of £300 per annum (£150 per flat). Mr. King asserted that a written management agreement had now been entered into between Mr. J Weiss and the Applicants, which detailed the nature and extent of the managing agents' duties and responsibilities. On questioning by the Tribunal, Mr. Weiss stated he had not signed any such management agreement (the copy produced to the Tribunal being blank). Mr. Kings asserted that the agreement had probably been signed by Mr. Rose, a colleague of Mr. Weiss, who helped him out from time to time although he was not able to produce a signed copy of the Agreement. Mr. Weiss also told the Tribunal that he does not carry out property management as a business but manages own three properties, two for his children and one for a friend and member of his religious community. He accepted that this work was done more as a favour and friendly gesture than as a business enterprise.
11. The Tribunal also noted that the invoice sent to Mr. Soffer dated 26/02/2007 was said to relate to service charges for the 12 month period 01/01/2007 to 31/12/2007 and included the insurance premium

(£540.55/£270.28); minor repairs (£800/£400) and management fee (£300/£150). The terms of the lease however provide for the advance payment of service charges for a service charge year beginning the 24th of June with provision for half yearly payments in advance on 25th December.

**Decision:**

12. The Tribunal is satisfied that the section 20 Landlord and Tenant Act 1985 procedures (as amended) have been complied with by the Applicant in respect of the proposed major roof works. Further, the Tribunal is satisfied that the cost of the roof works, together with the surveyor's fees are reasonable. However, the Tribunal finds that the costs of the management fee of £520, for reasons expanded on below, are not reasonable and therefore not payable by the Respondent.
13. The Tribunal finds the insurance premium of £491.40 to be reasonable and payable by the Respondent in his 50% share. The Tribunal also finds that one half of the excess of £1,000 for the subsidence claim to be payable by the Respondent. It was noted that although the Respondent comments that the subsidence works should have been carried out by now, the Tribunal finds that a delaying factor is the Respondent's own unwillingness to contribute his share towards the excess charge, without which payment the works will not be authorised to go ahead by the insurance company/loss adjuster.
14. The Tribunal finds it both reasonable and prudent for the Applicant to have asked Mr. King to attend at site meetings with the loss adjuster/insurers in order to ensure that the specification of works covered all that was required. The Tribunal finds that clause 3(b)(ii) of the lease does provide for these costs and therefore the Tribunal determines that the £300 is payable with Mr. Soffer contributing his one half share.
15. In respect of the minor works of repair the Tribunal finds that the cost of hiring a ladder for an inspection was costs incurred in respect of previous proceedings and dealt with by the previous Tribunal.
16. The Tribunal noted the report of Halstead Associates dated February 2008 produced on the day of the hearing by the Respondent which indicates that the stump of the pear tree was still in situ and beginning to re-grow. This evidence was in contrast to the invoice-dated 10/5/07, which gave the Tribunal the impression that the pear tree had been removed completely. Mr. King accepted that the stump of the pear tree had not been removed and that as of May 2007, when he had last visited the property, the logs and remainder of the pear tree remained in the garden. He accepted that the invoice of 10/5/07 indicated both the tree had been removed completed and that the logs should have been removed. Consequently, the Tribunal accepts that some work to the pear tree was carried out but not to the

extent claimed and therefore allows £250 as a reasonable sum of which one half is payable by the Respondent.

17. The Tribunal found that the final invoice for £280.50 in respect of works to the gardens of 125 & 127 dated 6/2/07 to be unclear as to the extent of the work involved in respect of the subject premises. Further the Tribunal was unclear why it was felt necessary to trim the front hedge when this does not appear to be the cause of or contributing to any subsidence problems and is within the demise of the Respondent. Therefore, the Tribunal allows the sum of £80 as being reasonable in respect of these garden works in so far as they relate to the pruning of the pear tree.
18. The Tribunal was not persuaded that the Applicant had in fact appointed an independent managing agent, as effectively the circumstances of Mr. Weiss' management had not changed since the last hearing in the previous application. In light of Mr. Weiss' admissions that he looked after the property as a favour to a family member, and that he was not in the business of being a property manager, the Tribunal are of the opinion that the management fees claimed are not reasonable. Similarly, the management fees claimed in respect of the major works are not considered reasonable, as there is no evidence produced by the Applicant on which to persuade the Tribunal that an independent manager is to be appointed for the currency of these works.
19. In conclusion the Tribunal finds as reasonable and payable to the extent of one-half by the Respondent, subject to the comments below the following:
  - £ 8,365.98 roof works – (including VAT)
  - £1,300 surveyor's fees for major works (including VAT)
  - £1000 insurance excess
  - £491.40 insurance premium
  - £300 surveyor's fees (re. subsidence)
  - £250 removal of pear tree
  - £80 pruning of pear tree
20. It was conceded by the Applicant that although the works to the gardens (front and back) fall within the demise solely of the Respondent, only one-half of the costs allowed would be sought from the Respondent.
21. The Tribunal also noted that the invoices in respect of the service charges did not coincide with the service charge year or the dates on which half-yearly demands can be made and therefore the Applicant should consider re-service of the demands for payment of the charges determined by the Tribunal as reasonable.
22. The Tribunal also considered the issue of costs pursuant to section 20C. The Applicant informed the Tribunal that costs in the sum of £1,200 had been incurred in respect of these proceedings. In view of the findings made, and the lack of any substantive representations to the contrary from the Respondent, the Tribunal determines that in all the circumstances it is

just and reasonable for the costs of this application to be added to the service charge costs in the sum of £1,000.

Chairman: *W. Tapscott*

Dated: *18/2/08*