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IN THE MIDLAND RENT ASSESSMENT PANEL

CASE NO: BIR/00CN/LSC/2009/0035

Determination of the Leasehold Valuation Tribunal

Landlord and Tenant Act 1985

In the matter of

Liberty Place (Sheepcote Street) Management Company Limited (the "Applicant")

and

Mr David Barrington and 243 other Respondents (the "Respondents")

On the Applicant's Application under s.27A Landlord and Tenant Act 1985 for a determination to pay service charge.

Property: Liberty Place, Sheepcote Street, Birmingham, B16 8JB

Tribunal Members:

Mr T F Cooper FRICS FCI Arb

Mr W H Hatcher, solicitor

UPON the final hearing of the Applicant's Application pursuant to s.27A of the Landlord and Tenant Act 1985

AND UPON hearing Mr Kelly, solicitor for the Applicant, and Mr Barrington for three Respondents (Ms A Copsey, Mr R Engledow and Mr A Woodfield) and upon no other Respondents appearing after due notice.

AND UPON the Tribunal considering the provisions of the standard form of Lease applicable to the residential units of Liberty Place and the proposed works in the Specification of Work document (p.98 of the hearing bundle) together with details of costings from JS Seddon and B Price in the Tender Analysis Report (p.39 of the hearing bundle)

AND UPON the Tribunal considering the witness statements of Rupert Wills dated 7th March 2010 and David Heatherington dated 9th March 2010.

The Tribunal makes the following determination:

1. That should the Applicant proceed with the proposed works as set out in the Specification of Work document (p.98 of the hearing bundle) and incur expenditure based on the sums indicated in the Tender Analysis Report document (page 39 of the hearing bundle) that such works and expenses would be reasonably incurred for the purposes of subs.19(1)(a) Landlord and Tenant Act 1985.
2. That the Applicant has reasonably incurred legal costs estimated to exceed £5,000 plus VAT,

3. That the expenditure referred to in 1. and 2. above shall be recoverable as against all 244 Respondents via the service charge in such proportions as permitted under the Lease.
4. That it is not inappropriate, in principle, to utilise funds from the reserve funds to finance (in part) the proposed works.

The Tribunal makes no determination and has no jurisdiction to direct how much of any reserve funds (if any) is used to finance the proposed works. Furthermore, although the Applicant has indicated an intention to seek to raise sufficient funds by way of service charge demands for the proposed works in instalments, the Tribunal does not make any determination in that respect and it is a matter for the Applicant, applying the terms of the Lease, as to when such demands are raised and in how many instalments.

Nothing in this determination affects any other rights or obligations of the Applicant or the Respondents under landlord and tenant legislation and, for the avoidance of doubt, it is without prejudice to the parties' rights under subs.19(1)(b) Landlord and Tenant Act 1985.

Date: **25 MAR 2010**

T F Cooper
Chairman

