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Residential
Property
TRIBUNAL SERVICE

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985, SECTIONS 27A, 19 AND 20C

REF: LON/00AL/LSC/2010/0364

PROPERTY: 75 GUNNER LANE,
WOOLWICH,
LONDON SE18 6XN

Applicant: MRS WENDY RUTH HOBLYN

Respondent WOOLWICH (GUNNER LANE)
RESIDENTS COMPANY LIMITED

Appearances THE APPLICANT IN PERSON

For the Applicant

(1) MRS C SULLIVAN
MR J SULLIVAN
MS S STACEY HALNE
(Essex Properties, Managing Agents for the Respondent)

For the Respondent

Tribunal Directions: 23rd June 2010 and 15th July 2010

Date of hearing 7th and 8th October 2010

Date of Decision 17th November 2010

Members of Tribunal: Mr S Shaw LLB (Hons) MCI Arb
Miss M Krisko BSc (Est Man) BA FRICS
Mrs L Hart BA (Hons)

DECISION

Introduction

1. This case involves an Application dated 21st May 2010 made by Mrs Wendy Hoblyn (“the Applicant”) who is the leasehold owner of Flat 75 Gunner Lane, London SE18 6XN (“the Property”). The Application is made pursuant to Section 27A of the Landlord and Tenant Act 1985 (“the Act”) and is for a determination of the reasonableness and payability of service charges for the service charge years 2009/10 and the budget for 2010/11. The Respondent to the Application is Woolwich (Gunner Lane) Residents Company Limited (“the Respondent”) which, as its title suggests, is a company formed by leaseholders on the estate of which the property forms part, and owned by those leaseholders. The Respondent appointed, as from December 2009, Essex Properties, to manage the estate, it having previously been in the hands of other managers.
2. The hearing of the Application took place before the Tribunal on 7th and 8th October 2010. The Applicant represented herself, and Mrs C Sullivan, a partner in the firm of Essex Properties, principally presented the case on behalf of the Respondent, assisted by Mr J Sullivan and Miss Stacey Halne.
3. During the morning of 7th October 2010, the Tribunal inspected the property in the presence of the parties, and the hearing of the evidence in respect of the disputed items to the two service charge years in issue (2009/10 and 2010/11) took place during the rest of the 7th and on the 8th October 2010. It is proposed to deal with the

two separate service charge years in turn, to summarise briefly the opposing evidence in respect of the disputed items, and to give thereafter the Tribunal's decision on each matter. The Tribunal's conclusions have been collated and set out in the Schedule attached to this Decision.

Service Charge Year: 1st April 2009 – 31st March 2010

4. Both parties in this matter prepared several written Statements of Case, which the Tribunal has considered, and by which the Tribunal has been assisted. The Tribunal, during the course of the hearing, went through the several matters set out in the Applicant's Statement of Case dated 20th July 2010, and considered also the Respondent's answers to these allegations, as set out in the statement of Mrs Sullivan dated 12th August 2010. These matters were expanded in the form of oral evidence before the Tribunal. Where possible, the Tribunal sought to cross reference these allegations and responses to the charges actually made and budgeted for, as appear in the Schedule to the Income and Expenditure Account for the year ended 31st March 2010, which is towards the end of the hearing bundle. The Tribunal will deal with the matters raised on an individual basis.

5. By way of preliminary it should be said that the lease governing the Applicant's occupation of the property provides for payment of both service charges referable to the flats individually (of which the property is one) and estate costs. The proportion paid by the Applicant is one eighteenth in relation to the flat service charges, and one thirty ninth in relation to the estate (about which proportions there was no dispute). It was conceded on behalf of the Respondent that certain charges had been allocated to flat expenditure when they should in fact be estate

expenditure, and the appropriate adjustments are shown in the Schedule attached hereto.

6. The Applicant's complaint was that certainly during the period of the current managing agent's predecessors, and to some extent since, she has seen little or no work being carried out at the property save for some minimal cleaning, cleaning of gutters, and cursory gardening. She felt that the estate generally was neglected and that the service charges were disproportionately high.
7. The service charge which had been levied for 2009/10 was £1,044.40p. As understood by the Tribunal, £880.85p had in fact been paid on behalf of the Applicant when she purchased her flat and by way of apportionment the date of the purchase. Obviously, credit will have to be given for this payment when the account is recalculated consequent upon this Tribunal's Decision.
8. By reference to the Respondent's accounts, the Applicant challenged a sum of £770 which had been included in this year's service charges relating to lighting repairs. She put the Respondent to full proof in relation of such expenditure, on the basis that the lighting was not maintained to a standard she found satisfactory. In fact the Respondent was able to show the Tribunal the receipts for this expenditure, which was effectively lights, and repairs or replacement of fittings. The Respondent contended that this was a modest charge for an estate of this kind containing a total of 39 residential units. The Tribunal was satisfied having seen the invoices and on the basis of its inspection that this was not an excessive charge and the sum is allowed in full as being reasonable.

9. The Applicant further contended that windows, walls and doors have been spoiled with graffiti and in some cases need replacing. Mrs Sullivan pointed out that no particular charge had been made during this service charge year for such outgoings. She conceded that there had been some problems with graffiti on the estate because of general vandalism. She pointed out however that there would be little point in repairing or cleaning these areas unless and until the security system and particularly an intercom system, was improved and installed. There having been no charge, no findings are made in this regard.
10. A charge of £3,685 has been made during this service charge year, essentially for dealing with gardening, clearing of litter, tree maintenance and bulk refuse disposal. The Applicant challenged this on the basis that the only ground maintenance she ever sees is cutting of the lawn. Nothing else according to her is done and bushes remain overgrown, as do trees. She also pointed out that there was little or no weeding or care for the flower beds on the estate. The Respondent showed the Tribunal the primary invoices evidencing the expenditure. It appears that this expenditure has been reduced by the current managing agents from £800 per month to £285 per month since April 2009. The current expenditure amounts to just over £65 a week, which the Tribunal did not consider to be excessive bearing in mind the size of the estate. It is true that the care of the flower beds required some attention. Bushes and shrubs had in some places been trimmed but in others ignored. No doubt the Respondent will take this up with the relevant contractors, but having said this, there is only so much that can be done for the relatively low rate of expenditure being allowed for this service. On balance the Tribunal did not

consider that there was overcharging. The Tribunal finds that the expenditure is reasonable for the service supplied and the sum is allowed as claimed.

11. The Applicant queried a sum of £815 under the heading "Additional Works" during this service charge year. These were general maintenance works and the Tribunal was shown the primary invoices in the sums of £760 and £55 respectively. These are not excessively high sums for an estate of this kind and were authenticated on the documents; the sums are allowed in full.
12. The Applicant likewise put the Respondent to proof in respect of an item of £173 for roof repairs and £1,086 in respect of sewerage and drainage work. Once again the Tribunal was shown the primary invoices in respect of each of these items of work (the first was essentially an aerial repair). The drainage work involved repeated clearing of gullies and blocked drains, and the Tribunal was satisfied that these costs were reasonably incurred.
13. Heating and lighting costs in the communal parts of £1,068 were not challenged but a figure of £4,050 for cleaning was indeed challenged by the Applicant. The Respondent told the Tribunal that previous cleaning contractors called "Extra Mile" had carried out cleaning works between August 2009 and February 2010 at a charge of £325 per month inclusive of VAT. The current managing agents changed those contractors, by reason of the fact that they were not providing a service consistent either with the sum being charged or the aspiration contained within the firm's name. A new contractor called "Enterprise" has now been engaged at the rate of £120.26p per month (inclusive of VAT) as from February 2010.

Mrs Sullivan said that the cleaners come twice a month and conceded that on the inspection she felt that the common parts were “a bit cobwebby”. However she pointed out that the style of the property makes it difficult to keep those common parts clean because they are exposed by open doorways and other apertures to the exterior, and rubbish and leaves therefore blow into those parts.

14. The Tribunal takes those points into account, but the state of the common parts was not impressive in terms of their cleanliness, notwithstanding the difficult design of the property. The Tribunal considers that the new rate of charging is appropriate for both the service charge years before the Tribunal (that is to say £120.26p per month, which computes to £1,443 per year. It is this sum which will be substituted as the appropriate sum for 2009/10 and, as will be seen, for the budget for 2010/11.
15. The 24 hour callout charge of £221 and bank charges of £93 were not challenged. The insurance in the sum of £1,844 was also not challenged although it should be attributed as to £1,106.40p to the flats (60%) and £737.60p (40%) to the estate.
16. The sum of £980 has been levied by way of accountancy fees. The Tribunal saw the documentary evidence of this but it nonetheless appears a high fee for preparation of accounts of this kind. The Tribunal was told that the accountants in question were in fact selected by the Respondent Association, and the fees are often high when transferring matters from one firm to another as was the case on this occasion. However it was said that previously the accounts were not in good order and had to be reorganised by the new accountants. The Tribunal allows this sum on this occasion, but would expect this charge to come down significantly as the

accountants become familiar with the account. Indeed it is to be noted that a lesser sum of £600 has been allowed for the following year, which still appears on the high side to the Tribunal but which is only a budgeted figure.

Service Charge Year: 2010/11 – Budget

17. The Applicant challenged the budget for the year 2010/11. In particular, she challenged the budgeted internal cleaning figure which, for the reasons indicated in the preceding year, the Tribunal agrees should be £1,443 (as opposed to the £2,887 budgeted). Gardening and grounds maintenance has been allowed for at £9,623.25p. This appears high to the Tribunal, and it seems to the Tribunal that for budgeting purposes a figure of two thirds of this sum should be allowed (that is to say £6,415) and that it should be designated entirely as an estate charge for which the Applicant would be liable to one thirty ninth only. Window cleaning is allowed at £759 per annum. This is for communal external cleaning and canopies. As understood by the Tribunal, this is not a service which had been previously provided but is desirable and was not commented upon by the Applicant.

18. The general repairs figure of £3,000 split as between the flats and the properties, £2,000 and £1,000 respectively, was not challenged. The insurance provision of £1,300 was equally reasonable and unchallenged. Indeed most of the items within the budget were not vigorously contested by the Applicant. In the main, the budget has been allowed by the Tribunal, save that there has been some reallocation for reasons already indicated, and in large part conceded by the Respondent, from flats liability, or “buildings”, to estate charge. The upshot of these findings results in the adjusted figures contained in the Schedule attached hereto and already referred to.

Conclusion

19. For the reasons indicated above, the determination of the Tribunal is that the total sum determined as reasonable and payable for the service charge year 2009/10 is £943.66p (against which credit should be given for the £880.85p already paid). For the service charge year 2010/11 the budget is approved in the total sum of £1,060.24p. It should be stressed that the finding in relation to the 2010/11 budget is provisional only, and neither party is precluded from reverting to the Tribunal for a finding on the actual figures, as and when they become available. It is equally stressed that the Tribunal is not encouraging the parties to make such a further application, and it is indeed hoped that the management of this estate under the new managers now operating, may result in a better relationship with the Applicant and other leaseholders generally.
20. The Applicant invited the Tribunal to make a Direction under Section 20C of the Act to the effect that no part of the costs incurred in this Application should be added to the service charge account. It is not clear to the Tribunal that there is in fact express provision for recovery of such costs in the lease, but in any event the Tribunal is disinclined in this case to give such a Direction. The reason for not doing so is that it considers that the Respondent behaved reasonably in seeking to mediate in this case and moreover the costs suggested by Mrs Sullivan to be added to the service charge account in respect of this two day hearing were in the order of £200. On this basis, the element to be paid by the Applicant would be minimal and in all the circumstances no such order is made.

Legal Chairman: S. Shaw

Dated: 11th November 2010

GUNNER LANE, SE18

| | 09/10 Actuals | | 10/11 Budget | |
|---------------------------------|----------------------|-----------------|---------------------|-----------------|
| | Flats | Estate | Flats | Estate |
| Reserve (66.6%)(33.3%) | 4247 | 2124 | | |
| General Fund Flats Reserve | | | 3000 | |
| Tree Reserve | | | | 1000 |
| Street lighting reserve | | | | 500 |
| Company secretary | | 78 | | 235 |
| Grounds maintenance | | 3685 | | 6415 |
| Additional work | 815 | | | |
| Lighting repairs | 770 | | | |
| Roof repairs | 173 | | | |
| Sewerage/Drainage/Gully | 1086 | | | 550 |
| Street lights' maintenance | | 565 | | 650 |
| Electricity (41%)(59%) | 438 | 630 | 450 | 650 |
| Window cleaning | | | 759 | |
| Cleaning | 1443 | | 1443 | |
| 24-hour call out | 221 | | | |
| Bank charge | | 93 | | 95 |
| All insurance (60%)(40%) | 1106 | 738 | | |
| Liability insurance | | | | 655 |
| Directors' insurance | | | | 200 |
| Building insurance | | | 1300 | |
| Sundries | 19 | 26 | 65 | 85 |
| Accountancy fees | | 980 | | 600 |
| Management fees | | 5528 | | 4700 |
| Companies House fee | | | | 15 |
| General repairs | | | 2000 | 1000 |
| Electrical repairs | | | 350 | 200 |
| Door entry repairs | | | 500 | |
| Emergency lights/Fire equipment | | | 250 | |
| Fire assessment | | | 475 | |
| Bulk refuse | | | 300 | 200 |
| <u>Totals</u> | 10318 | 14447 | 10892 | 17750 |
| | ÷18 | ÷39 | ÷18 | ÷39 |
| | =£573.22 | =£370.44 | =£605.11 | =£455.13 |