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FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	CHI/00HG/LSC/2013/0094
Property	:	32 Lipstone Crescent Plymouth PL4 7EZ
Applicant	:	Christopher Michael Warren
Respondent **Representative**	: :	Plymouth Community Homes Limited (PCH) Danny Damerell (Legal Executive) PCH
Type of Application	:	Application for determination of and reasonableness of service charges and Application for an order that all or any of the costs incurred by the landlord are not to be regarded as relevant costs Sections 27A 19 and 20C of the Landlord and Tenant Act 1985 (the Act)
Tribunal Members	:	Judge Cindy A Rai (Chairman) Michael C Woodrow MRICS Chartered Surveyor
Date and venue of Hearing	:	10 January 2014 Duke of Cornwall Hotel Plymouth PL1 3LG
Date of Decision	:	24 February 2014

DECISION

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1. The service charges for the service charge years 2012/13 and the estimated service charges for 2013/2014 which relate to caretaking are not reasonable. The Tribunal determines that these should be reduced by deducting the equivalent of one and a half hours caretaking a week so the amount recoverable for 2012/2013 is £230.76 and the amount recoverable on account of the charge for 2013/2014 is £239.28.

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2. All other sums demanded by way of service charge by the Respondent are reasonable and reasonably incurred and payable by the Applicant. No costs are awarded to the Applicant.

3. The Tribunal makes an order under section 20C of the Act that the Respondent's costs of these proceedings are not relevant costs and cannot be recovered as service charges under the Lease.

4. The reasons for the Tribunal's decision are set out below.

Background

5. The Applicant submitted an application dated 19 August 2013, (the Application, to the Tribunal, with a copy of his lease of the Property, for a determination of the reasonableness of service charges for the years 2012/2013 and 2013/2014 in respect of the Property. He also asked the Tribunal for an order under section 20C of the Act.

6. The service charges disputed by the Applicant are:-

2012/2013 Chimney regeneration
Caretaking
Digital TV aerials
Grounds maintenance
Management and administration charges

2013/2014 Caretaking
Digital TV aerials
Grounds maintenance
Management and administration charges

7. The lease of the Property is dated 9 July 2001 and made between the Council of the City of Plymouth and the Applicant, (the Lease). It was granted for a term commencing on the date of the Lease and expiring on the 8 July 2126.

8. Directions dated 21 August 2013 were issued by a procedural chairman of the Tribunal requiring, (amongst other things), the submission of a written statement of the Respondent's case and a written reply from the Applicant within defined time limits. A target hearing date was set.

9. The Respondent submitted his statement and bundle of documents out of time, having requested and received an extension of time from the Tribunal, prior to its late submission. The Applicant submitted a comprehensive statement and bundle of documents.

10. On the morning of the Hearing, but prior to it at about 10 am the Tribunal inspected the external common parts of the building within which the Property is located. The Tribunal members were accompanied by the Applicant, Danny Damerell, David Palmer and Kevin Perry, (all employees of the Respondent).

11. It is the central building of three, each comprising two blocks of six flats and collectively comprising a development of 36 flats. The three buildings share communal grounds including grassed areas, three hard surfaced yards and bin storage areas and pathways. The three yards each appear to be shared between the two blocks within each building and are accessed by steps located at each end of each yard. The fire door at the back of the block within which the Property is located did not close automatically, was locked and on the day of the inspection could only be opened or shut using a key.

The Hearing

12. The Tribunal considered it appropriate to consider each disputed service charge in turn allowing each party to state its case and question the others evidence if necessary and appropriate to do so. All of the items in the service charge for the relevant years which the Applicant disputes are set out in paragraph 6 above.

Chimney regeneration
Applicant's case

13. The Applicant is unwilling to pay the £850 or thereabouts which he says has been demanded for the works carried out to the chimneys in his block which works he described as "Chimney Regeneration".

14. He said that similar works have been carried out to other properties owned by the Respondent in the City. He questions why and even suggested that A&A Concrete Repairs who had carried out the works had a relationship with the Respondent but offered no evidence in support of this suggestion.

15. He said that the various photographs of the chimneys produced in the Respondent's bundle demonstrate that the chimneys in the block in which the Property is located were not cracked. [Pages 31/32 of the Respondent's bundle].

16. He believes that the Landlord is utilising available grants to modernise older properties within its ownership and that such modernisation is being undertaken regardless of any need for repair. On that basis he does not believe that the costs of the work are recoverable from him under the terms of the Lease.

17. He claimed that the works which were carried out were unnecessary - he referred to the flaunching as being a double layer of water resistant material. He also referred to the full "DryVit" system which he described as a crack resistant render which was excessively expensive. He had made enquiries in an effort to establish what it might cost him to purchase a similar system but had been unsuccessful in obtaining information.

18. After the estimated costs of the work were first notified to him, additional costs were added, which referred to gas appliances. He believed that this nullified the original estimate.

19. In addition he queried if the chimney pots and been cracked at all and referred again to the photographs. Coloured copies of the photographs were produced to the Tribunal at the Hearing.

The Respondent's case

20. Nicholas Smith a contract surveyor employed by the Respondent gave evidence on its behalf and explained that the photographs to which the Applicant referred showed a vertical crack. The photographs were taken prior to the issue of the first consultation letters. A risk assessment would have been carried out on any damaged chimney. A survey of the block was undertaken and a consultation letter was issued to the leaseholders. He could not produce a copy of a formal survey report.

21. When questioned specifically about the "gas works" referred to on the invoice he explained that if any individual flat contains a gas appliance connected to the flue it is essential that these appliances are disconnected before works are commenced. The Respondent has no records of whether fires are connected to flues and simply makes enquiries of the occupiers of each flat prior to commencing the works. Flues are disconnected and then reconnected when the works are completed. This is to comply with Health and Safety requirements.

22. The estimate, details of which were contained in a letter sent by the Respondent to the Applicant, dated 14 October 2011, [Page A33 of the Applicant's bundle], stated that all chimney areas, pots and gas appliances can only be quantified once work has started and that the work to the chimneys would either be a full rebuild, a partial rebuild or a flaunching rebuild.

23. The chimneys are constructed of poured and shuttered concrete with reinforcement bars. This non-traditional form of construction is known as "Easiform". Water penetration can cause rusting and deterioration of the bars. The capping/flaunching had failed. The moss visible in the photographs is evidence of the capping holding water instead of repelling it. He accepted that the Respondent does have an ongoing program of works to chimneys but works are carried out only if necessary.

24. Mr Smith explained that the DryVit system was only available to licensed contractors which is why the Applicant could not cost it. It is a manufacturing system which offers a three coat waterproof rendering system which is light weight and dirt and water repellent. It was specified in relation to the works because it has been found to be reliable by the Respondent.

25. None of the leaseholders had made observations on the estimated costs. He suggested that 50% the flats in the three blocks were occupied by tenants and 50% had been sold. However one of his colleagues who was

present at the hearing corrected him and said that he thought only 6 of the 36 flats in the three blocks were owned, (as opposed to tenanted).

26. Replies to questions established that although Mr Smith had no formal qualifications he had thirty five years of experience of working as a contracts surveyor. The Applicant had spent 28 years in the army which he had left in 1993. He had no formal qualifications relevant to building repairs. He had made no observations to the Respondent on the content of the consultation letter.

Caretaking charges
The Applicant's case.

27. The Applicant does not accept that the block is supplied with two and half hours of caretaking per week. That is the basis upon which the service charge is calculated. He referred to a letter from the Respondent dated 31 July 2012 written to him in response to his letter dated 29 June 2012. [Page A54 of Applicant's bundle]. That disclosed that the previous landlord had not passed on the full cost of the service initially but when costs increased had phased in an increase in the charge to reflect the costs incurred over a five year period. The five year period ended on 31 March 2012 by which time the ownership of the estate in which the Property is located had been transferred to the Respondent.

28. It also described the work undertaken each week as being a visit from a four ranger team once a week who would litter pick all the grass around the block, clear rubbish from the courtyard (including moss and weeds), clean pathways, check internal and external lighting and replace bulbs as necessary; report broken fittings and carry out a weekly fire check.

29. The letter dated 31 July 2012 stated that "our accountants have informed me that the amount of caretaking for your block increased from one hour per week to two and a half hours and that was why the costs had increased". It also explained that the Respondent did not have invoices for the cost of the caretaking as the service was provided by its own staff so the costs were not invoiced.

30. The Applicant does not accept that the two and a half hours per week of caretaking is supplied. He says there are no records which provide evidence of this or if there are, he has not been able to inspect these. Other occupiers in his block have made a collective statement disputing that the alleged service is provided. [Page A53 of his bundle].

31. That statement which appears to have been prepared by the Applicant and signed by three other occupiers of flats within the same block implies that originally the caretaking staff referred to two and a half hours per week for the "three blocks" and then changed the information to refer to that time being allocated to each block. It also suggested that any work on the block or blocks was of a poor standard but no specific detail was referred to.

32. The Applicant has undertaken what he referred to as a stage 2 and stage 3 complaint in an effort to get costs re-credited to his service charge account. He alleged that information he requested was never supplied. His statement suggested that that the Respondent had deliberately refused to supply information to him and not complied with sections 21 and 22 of the Act and that costs should be awarded against them for not supplying him with copy invoices showing how many hours work was carried out each week.

33. He alleged that he carried out four months of surveillance during which he was a virtual prisoner in his own home between 7 am and 3:30 pm each weekday. He wanted payment from the Respondent for his time and at the same hourly rate he would have been earning now had he been still employed by the Army at his final rank.

34. He claimed it was not possible for the Respondent to provide two and a half hours per week per block of caretaking because it was unlikely that four rangers would ever attend his block simultaneously.

35. He also said that another block in Stonehouse is only charged for 1.9 hours per week.

36. In addition he said that the standard of the service was very poor. The caretakers have use of mobile phones and he does not believe that costs to include use of mobile phones should be funded by service charge payers.

The Respondent's case

37. The Respondent explained the basis of the estimating of service charges which is based on a calculation by it of the estimated costs of the service provided in the next 12 month period. Since July 2013 a formal log has been kept to monitor the time that the caretakers (or rangers as they are now known) spend at this block.

38. The Respondent's written statement claimed that the log demonstrated that the rangers spent more time at the block than the two and half hours per week, the costs of which is recovered in the service charge. Mr Damerell referred to a previous decision of the Tribunal in which caretaking charges were considered and stated that the Respondent's method of calculation remains the same and that this has already been accepted as being appropriate, (by another tribunal).

39. The Respondent still believed that the costs are both reasonable and properly incurred.

Television aerial.
Applicant's case

40. He believes that that the Respondent's system of charging is unfair as some flats in other blocks do not pay. He was forced to have an aerial fitted. When it was fitted, his flat was damaged and he claimed that for

seven years he was told he must claim from the installers. He believed that other owners were able to opt out of the costs. He does not use the aerial and does not believe that he should pay for it.

The Respondent's case

41. Some blocks do not have an aerial at all due to the poor signal and therefore those leaseholders do not pay for it. If an aerial is installed in a block all leaseholders pay towards is maintenance whether or not it is used. The Property is connected to the aerial.

Grounds maintenance
The Applicant's case

42. The Applicant claims that the grass is only cut four times a year. His block has the smallest amount of grass but the cost is split equally between the three buildings but the residents of the other two buildings have access to a much larger area of grass. He is unhappy with the way that the costs are shared.

43. The Respondent claims that all of the grass is cut every 18 working days and that the charge is calculated based on the area of the grass by applying a formula which has been calculated to enable the costs to be allocated fairly between all of its tenants and leaseholders. That formula has been held to be fair in other cases.

Management and administration charges
The Applicant's case

44. He does not consider that the charge is fair because of the man hours upon which the calculation is based.

45. He also complained about the phasing in of increased charges over the five year period.

The Respondent's case

46. On 1 April 2010, which was following the transfer of the estate which it currently owns and services, the Respondent sent invoices to leaseholders and stated that these were "on account" of its estimated service charge costs for 2010-2011. It based the estimates on the service charges made in the preceding year, not on the anticipated costs of the services during 2010-2011.

47. An explanation was sent to all leaseholders and at the same time the leaseholders were informed that the basis of the service charge calculation was under review, as in the future the costs would reflect the costs the Respondent had actually incurred including all those overhead costs which Plymouth City Council, the previous owner, had not recovered. The basis of the calculation of the management element of the charges was also explained. Subsequent invoices would be adjusted if the costs were different from those estimated.

48. Jobs of all the employees whose contracts had been transferred from Plymouth City Council to the Respondent were re-evaluated and some salaries were increased substantially. It was decided to phase the increased overhead cost element of the service charge in over a 5 year period which period started in 2007, (prior to the transfer of the estate) and ended in 2012.

49. During the period of the phasing, increases in service charges were capped at a maximum of 10% per annum. From 1 April 2012 the estimated charge for that year, (2012/2013), is based on the actual cost of services provided. The charges in the previous years were not. Therefore a comparison year on year during this period will not accurately reflect increases in costs.

50. Overheads for the provision of services are equalised over the Respondent's entire estate of 4,677 properties all of which receive services from the Respondent. The Respondent has done this since it acquired its estate from Plymouth City Council in November 2009. Additional administrative charges are made in respect of charges for responsive repairs so that those blocks who receive the most services contribute a greater proportion of management costs.

The Law and the Lease

51. Sections 27 and 19 of the Act give jurisdiction to the Tribunal to consider an application for a determination as to whether a service charge is payable. That is not in dispute in this Application

52. What was actually disputed by the Applicant is whether the amount charged is reasonable and whether the services provided are of a reasonable standard. In relation to the works to the chimney the Applicant also disputes whether improvements can be made at his expense.

53. Extracts from relevant parts or the Act are set you below:-

S19 Limitation of service charges: reasonableness

(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.

S21 Regular statements of account

(1) The landlord must supply to each tenant by whom service charges are payable, in relation to each accounting period, a written statement of account dealing with—

(a) service charges of the tenant and the tenants of dwellings associated with his dwelling,

(b) relevant costs relating to those service charges,

(c) the aggregate amount standing to the credit of the tenant and the tenants of those dwellings—

(i) at the beginning of the accounting period, and

(ii) at the end of the accounting period, and
(d) related matters.

(2) The statement of account in relation to an accounting period must be supplied to each such tenant not later than six months after the end of the accounting period.

(3) Where the landlord supplies a statement of account to a tenant he must also supply to him—
(a) a certificate of a qualified accountant that, in the accountant's opinion, the statement of account deals fairly with the matters with which it is required to deal and is sufficiently supported by accounts, receipts and other documents which have been produced to him, and
(b) a summary of the rights and obligations of tenants of dwellings in relation to service charges.

S22 Request to inspect supporting accounts &c.
(1) This section applies where a tenant, or the secretary of a recognised tenants' association, has obtained such a summary as is referred to in section 21(1) (summary of relevant costs), whether in pursuance of that section or otherwise.
(2) The tenant, or the secretary with the consent of the tenant, may within six months of obtaining the summary require the landlord in writing to afford him reasonable facilities—
(a) for inspecting the accounts, receipts and other documents supporting the summary, and
(b) for taking copies or extracts from them.

54. Section 20C of the Act enables the Tribunal to make an order that costs incurred by the landlord in connection with proceedings in a court or before it are not "relevant costs" for the purposes of determining the amount of service charges due from the Tenant.

55. Clause 7 of the Lease states that "the Council may from time to time make such improvements to the Block or any part thereof as it shall consider reasonably necessary or desirable and shall be entitled to recover from the Lessee a proportion of the cost thereof in accordance with clause (sic) 16 of the Fifth Schedule".

56. Paragraph 15 the Fifth Schedule to the Lease states that the Lessee shall keep the Lessor indemnified against one sixth of all costs of carrying out and giving effect to its obligations in the Sixth Schedule and including those enabling the lessee to enjoy the rights contained in the Third Schedule. [See paragraph 62 below].

57. Paragraph 16 of the Fifth Schedule states that the Lessee shall pay to the Council on demand one sixth of all costs and expenses reasonably incurred by the Lessor in making any improvements to the Block which confer a benefit on the Premises

58. The Lessor is entitled to demand a payment on account and retrospectively recover adjustments of the service charge to cover any shortfall between the advance payments and the costs incurred.

59. Clause 3 of the Lease contains the lessee's obligation to observe and perform the covenants in the Fifth Schedule.

60. The Sixth Schedule of the Lease includes a Lessor's obligation to keep the Reserved Property in good and tenantable repair decoration and condition. Paragraph 9(a) of that Schedule states that the Lessor shall so far as it considers practicable equalise the amount from year to year of its costs and expenses incurred in carrying out its obligations under this Schedule in such manner as it thinks fit within its existing accounting practices for its housing stock.

61. The Reserved Property is defined as being "that part of the Block not included in the Flats together with any communal areas or grassed areas serving the Block. The Block means the building or block of flats of which the premises (sic) form part comprising numbers 26 – 36 (incl) (evens)". The Premises means "the property hereby demised as described in the Second Schedule".

62. Paragraph 2 of the Third Schedule of the Lease includes the right to use in common with the owners and occupiers of all other Flats the facilities provided in and forming part of the Reserved Property and to use the apparatus installed thereon for television reception.

Reasons for the Decision

63. The Tribunal has considered all submissions of the parties and their witnesses at the Hearing together with all the written evidence. It is not possible to refer to each and every point made but account has been taken of all evidence referred to it regardless of whether or not it is referred to in this decision.

64. The costs of the repairs to the chimney have not yet been crystallised but the Lease clearly enables the Respondent to improve the Property as well as repair it. See clause 7 referred to in paragraph 55 above.

65. It is clear from its evidence that the Respondent has endeavoured to engage with the Applicant to explain how service charges are calculated and why these have increased since 2009 when the Respondent acquired its estate (including the freehold of the Property).

66. An explanation has also been offered as to how increases were phased in over a five year period and how estimated service charges are based on the actual costs incurred in previous years taking into account any shortfall in the amounts demanded on account at the commencement of the service charge period.

67. The Tribunal considered that Applicant's continuing references to regeneration were misleading as were his attempts to claim an expertise in building which he was unable to substantiate by demonstrating that he was qualified or experienced in that field.

68. It accepted the evidence of the Respondent and determines that all costs which the Respondent seeks to recover in accordance with the

estimated costs for the identified works relating to the chimneys are recoverable as it has demonstrated that it has consulted with the Applicant and kept him informed of likely actual costs of the works and those costs connected to the works which may vary.

69. The Applicant has already pursued a complaints procedure against the Respondent, which succeeded in part, and as a result of which service charges were refunded to him in respect of 2010/2011. [Page A62 of Applicant's bundle]. He was offered and accepted a compensatory payment. He remains insistent because he has not been able to inspect copy invoices that he is unable to decide if the charges are correct when payment went up in 2010/2011 and down in 2011/2012. Neither of those years however is the subject of the Application.

70. Whilst he has apparently been aware of at least one other application against the Respondent in respect of the service charges, he had not realised that a joint application could have been made so that the issues raised, some of which were similar, could be determined together. There appears to have been some collusion with another applicant. However the Tribunal accepted that it is understandable that the Applicant would not have known that the two cases could have been dealt with together if there were common issues. It does however sympathise with the Respondent having to separately respond to two different applications containing similar issues.

71. The Tribunal is concerned that, from its own inspection, the fire door leading to the yard behind the block could only be opened with a key. Issues in relation to its repair and disrepair were referred to by the Applicant but are not within the parameters of the Application. Nevertheless, in its own evidence the Respondent stated that its rangers were responsible for weekly fire safety checks and reporting disrepair. In either case, the fire door fastening should have been repaired and an appropriate system installed which would enable the occupants of the block to escape through that door in an emergency without a key.

72. The absence of a rear fire exit, its assessment of the extent of the communal areas serving the building containing the block, the fact that it is clear that other blocks may be of a different size with differing extents of communal area, and the Respondent's own acknowledgement that in this block the rangers responsibilities are limited to the duties referred to in paragraph 28 above, lead it to conclude that it is very unlikely that four rangers spend the equivalent of five hours per week, servicing the two blocks of the building in which the Property is located and the shared yard and paths. Even if four rangers together serviced the building in which the Property is located weekly, as it was suggested is the case, it is difficult to see how they could spend the time claimed in servicing the building.

73. The block of which this Property forms a part comprises only six flats. Some other blocks of flats within the Respondent's estate will comprise twelve flats. The Applicant and the Respondent both refer to three

blocks but in fact there are three buildings each comprising a pair of semi detached blocks. Therefore the reference to each block receiving 2 ½ hours per week caretaking means that allegedly 15 hours per week are being spent servicing the three buildings which seems excessive.

74. This is evident from the Lease where in the paragraph 16 of the Fifth Schedule the original typed word "twelfth" has been deleted and replaced with "six" or "one sixth". Whilst the servicing of the internal corridors of the block should be a one sixth cost the servicing of the yard shared with another block should be a one twelfth cost.

75. There must therefore be a possibility that too much time has been "allocated" by the rangers to service this block because of a failure to recognise its size, the absence of any requirement to clean the internal communal parts and to move the refuse bins, and the fact that the use of the external yard is in fact shared by two blocks not one.

76. The Tribunal found difficulty in accepting that the Applicant's surveillance reports are entirely accurate but neither does it accept that the log kept by the Respondent (since July 2013), provided compelling evidence that the rangers regularly spend two and a half hours a week servicing the Applicant's block.

77. In conclusion it considers on the basis of its inspection that a weekly charge for one and a half hours attendance by the rangers would be more appropriate and reflective of the general standard of maintenance observed during its inspection. If the rangers are spending two and a half hours per week at the block the external communal areas should be maintained to a much better standard than these were in on the date of its inspection.

78. The Tribunal accepts that the basis of the Respondent's calculation of the management and administration charges is reasonable. The Respondent manages a large estate and has applied a pragmatic approach to dividing the costs between the properties that it owns and manages. It is entitled to do this under the Lease and the approach has been found to be reasonable in other cases.

79. The Tribunal therefore determines that a reasonable charge for caretaking for 2012/2013 should be based on the costs of one and half hours per week. It has therefore deducted one sixth of £569.16 being £94.86. The calculation made is based on the figures set out by the Respondent in its letter dated 31 July 2012. [Pages A54- A56 of the Applicant's bundle].

80. The estimate for caretaking / ranger charges for 2013/2014 has been reduced on the same basis but it is acknowledged that if the quality of the service is improved and more time is spent at the Applicant's block to deliver an improved quality of service the Respondent may be able to demonstrate the reasonableness of a different level of charging. It should however clarify how it can continue to justify charging a one

sixth share of the costs of maintaining external areas used by twelve flats.

81. The Tribunal does not accept that the maintenance charge for the aerial is unreasonable but understands the frustration of the Applicant because he claims that he does not use the aerial. He has however already been compensated for any damage caused when it was fitted.

82. The Tribunal does not find that the cost of ground maintenance is unreasonable although it has some sympathy with the fact that as the Applicant has shown the area of grass surrounding his block is smaller than that which surrounds the two adjoining blocks. Nevertheless the explanation offered by the Respondent with regard to the calculation of the cost per block based on the area of the grass is accepted as being reasonable. However the Respondent must clarify that it is sharing the costs correctly and taking into account that there are two blocks within each building.

83. The Tribunal considers that the charges made by the Respondent for management and administration are reasonable and similar to costs which could be charged by other suppliers of similar services. It also noted and accepted that it is fairer to apply specific management charges to particular repairs so as not to prejudice leaseholders in blocks where repairs were infrequent.

84. The Tribunal reluctantly makes the Order sought with regard to the application under section 20C as there is no provision in the Lease which would enable the costs of dealing with the Application to be recovered as part of the service charges. It accepts that much of this decision does accord with earlier similar decisions made in relation to some of the same issues in relation to service charges recharged to leaseholders of properties within the Respondent's estate. However there is clearly an anomaly with regard to the appropriate division of some of the elements of the service charge which although not raised by the Applicant directly may offer some justification for why he considered the amounts demanded to be too much.

85. The Applicants request for the Tribunal to award him costs is rejected. There is no justification for him to be reimbursed the costs he has claimed. He had pursued complaints against the Respondent successfully using its complaints procedure. He refused to accept that there were no invoices which could be produced to him under section 22 of the Act despite an explanation being contained the Respondent's letter dated 31 July 2012 referred to in paragraph 27. He had already received a summary of his service charge account and was at all times fully aware, as his statement and bundle demonstrates of the amounts invoiced, paid by him and credited to his service charge account.

86. Although the Tribunal has found in his favour by reducing the amounts of the caretaking charge, it does not find that the way in which the charge is calculated to ensure that the Respondent's overheads are recovered is unreasonable or is not in accordance with the Lease.

Furthermore the Applicant has made no attempt to consider the impact of the phasing on the increases in his service charge or that the costs of services previously supplied may not have been fully recovered by the previous estate owner. Thus the amounts which he suggested he would be prepared to pay to the Respondent are not reasonable.

87. Sections 21 and 22 of the Act, to which the Applicant referred at some length, are set out above. The Respondent is required to supply statements of account which comply with section 21. These are not what the Applicant requested but the Tribunal has seen statements which do set out what sums have been paid and are due from the Applicant in respect of each service charge year.

88. Whilst the Tribunal accepted that the Respondent could not supply invoices and receipts for services provided where these did not exist it would be helpful to regularly refer the Applicant and other leaseholders to the appropriate place, whether that be in a leaseholder booklet or its website, where the basis of the service charge calculation is explained.

Judge Cindy A Rai (Chairman)

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case which application must:-

   a. be received by the said office within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

   b. identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking

2. If the application is not received within the 28-day time limit, it must include a request for an extension of time and the reason for it not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.