



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : LON/00BK/LSC/2014/0313

**Property** : Forset Court, 140 Edgware Road,  
London W2 2RD

**Applicant** : Deepspur Ltd.

**Representative** : Chainbow Ltd.

**Respondents** : The leaseholders of the 115 flats in  
Forset Court

**Representative** : None

**Type of Application** : For the determination of the  
reasonableness of and the liability  
to pay a service charge

**Tribunal Members** : Judge Dickie  
Mr I Thompson FRICS  
Mr A Ring

**Date of Decision** : 10 September 2014

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**DECISION**

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**Decision of the tribunal**

The tribunal determines that budgeted service charges in the sum of £554,250.00 are reasonable and payable for the year ending March 2015.

## **The application**

1. The Applicant seeks a determination pursuant to s.27 of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of estimated service charges payable by the Applicant in respect of the service charge year ending March 2015.
2. The relevant legal provisions are set out in the Appendix to this decision.

## **The background**

3. Two previous decisions of this tribunal have been produced by the Applicant, which relate to estimated service charges for the years ending March 2013 and March 2014. The property which is the subject of this application is described by the latter of these decisions, dated 24 October 2013, as a pre war mansion house block with nine storeys plus a basement, with a total of 115 residential units situated on the ground to 9<sup>th</sup> floors, and six commercial units on the ground floor.
4. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
5. The Respondents each hold a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.
6. The tribunal directed the landlord to serve the application on the Respondents and is satisfied it has done so. No party having requested an oral hearing pursuant to the directions of the tribunal dated 1 July 2014, the tribunal has proceeded to determine the application on the papers. The landlord's managing agent has filed three copies of an unpaginated bundle of documents comprising up to 150 pages. No leaseholder has raised any objection to the service charges in this application.

## **The issues**

7. The Applicant has produced the service charge budget in question supported by a statement of case providing an explanation of each service charge budget category and details as to how the estimated figures were reached. This statement of case was served on the Respondents by Chainbow, the managing agent, under cover of a letter dated 22 July 2014 pursuant to the tribunal's directions. No objections have been raised. The landlord has produced to the tribunal in its bundle of evidence a copy of supporting documents including service

charge budget and accounts for the previous year and various service agreements, contracts and invoices relating to service provision, together with insurance documents.

8. The Applicant's service charge budget for the year ending March 2015 is attached as an appendix to this decision. The managing agent in correspondence dated 27 August 2014 to the tribunal suggests some minor adjustments, but these are likely to have a minimal impact on the overall estimate and can be adjusted for at the year end. Having considered the explanation and evidence produced in support of the appended budget (which in the absence of any objection it is unnecessary to summarise in this decision), the tribunal finds it is reasonable and payable, except as follows:

#### Legal & Professional Fees and Administration

9. In the present application, the Applicant's claim includes under Legal & Professional Fees a budget figure of £10,000 relating to the managing agent's costs in bringing this application, and under Administration a sum of £1000 for postage, courier, photocopying etc., again in relation to this application.
10. These proceedings have been dealt with on the papers, there is no evidence of any dispute over them from any leaseholders, nor is there evidence of such arrears or discontent amongst them as would make these present proceedings prudent. The timing of this application is questionable given that the first demand for half yearly payment based upon this budget had already been made.
11. The budgeted figure totalling £11,000 for the managing agent's costs only is, in the experience of the tribunal, excessive for proceedings of this type. This budget figure is said to have been based on the managing agent's fees for the last proceedings before the tribunal, in relation to which they were represented by solicitors. The tribunal has no evidence that these previous costs were reasonable, and in any event it is not reasonable on the present evidence to assume that such expenditure will recur year after year, or that such proceedings as these will be an annual event in the absence of any dissatisfaction or non payment.
12. The Applicant has failed to demonstrate that these budget provisions, in the total sum of £11,000 are reasonable, and the tribunal disallows this this amount in full. It is open to the landlord, if necessary, to seek to seek a determination from the tribunal in relation to the actual costs in these proceedings, subject of course to their being recoverable under the terms of the lease, in respect of which issue the present tribunal has reached no determination.

13. It should be noted that the tribunal's decision does not affect the leaseholders' rights to challenge the reasonableness of any actual expenditure.

**Name:** F Dickie

**Date:** 10 September 2014

## Appendix of relevant legislation

### Landlord and Tenant Act 1985

#### Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
  - (a) "costs" includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

#### Section 19

- (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 provisions 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.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

#### Section 27A

- (1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,

- (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
- (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
- (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

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PROPERTY CHAMBER (RESIDENTIAL PROPERTY)**

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Forset Court, 140 Edgware Road, London W2 2RD**

**Appendix – Service Charge Budget for year ending 31 March  
2015**

# Forset Court

Service Charge Budget for Year 1 April 2014 to

COST CLASS	
<b>MANAGEMENT</b>	
Management Fees	
20810 Management Fees	%
Accounting Fees	
20840 Audit & Accountancy Fees	%
Professional Fees	
20830 Legal & Professional Fees	%
Site Management Resources	
20160 Concierge & Security	%
20182 Concierge Uniform	%
20360 Telephone Call Charges	%
Health, Safety and Environmental Management	
20185 Health & Safety	%
20496 Water Hygiene Management	%
Other	
20821 Bank Charges	%
20900 Sundry Expenditure	%
20902 Administration	%

UTILITIES	
Utilities	
20300 Electricity	%
20250 Gas	%
20490 Water	A

SOFT SERVICES	
Security	
20230 CCTV Maintenance	A
Cleaning & Environmental	
20050 Cleaning	%
20075 Window Cleaning	%
20541 Drainage	%
20470 Pest Control	%
20460 Refuse Bin Hire	%
Door Entry	
20190 Door Entry Maintenance	A
Fire Protection	
20401 Fire Safety	%
20328 Lightning Conductors	A
Communal TV	
20240 Satellite/Communal TV	A

HARD SERVICES	
Mechanical/Electrical Services	
20280 Boiler Maintenance	%
20285 Heating Repairs	%
20561 5 Year Periodic Electrical Inspection	A
20430 Lift Maintenance	A
20431 Lift Repairs	%
20435 Lift Telephone	A
Fabric Repairs & Maintenance	
20500 Repairs Decoration & Maintenance	%

INSURANCE	
Insurance	
20750 Building Insurance	%
20770 Engineering Insurance	%

SUB TOTAL 1%

FORWARD FUNDING	
Funding	
20950 Reserve Fund	2%

TOTAL 3%

