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

**Case Reference** : **MAN/00BR/LAC/2014/0004**

**Property** : **100 City Lofts, 94 The Quays, Salford  
Manchester M50 3TW**

**Applicant** : **Dr Sandra Pogodda**

**Respondent** : **UK Ground Rent Estates (3) Limited  
Agents, Forte Freehold Managers**

**Type of Application** : **Commonhold & Leasehold Reform Act 2002  
Schedule 11, Paragraph 5**

**Tribunal Members** : **Laurence Bennett (Tribunal Judge)  
Elizabeth Thornton-Firkin BSc MRICS**

**Date of determination** : **14 July 2014**

**Date of Decision** : **17 July 2014**

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**DECISION**

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## **Application**

1. Dr Sandra Pogodda applies for a determination under Paragraph 5 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 of her liability to pay and reasonableness of administration charges relating to 100 City Lofts, 94 The Quays, Salford, Manchester M50 3TW (the Property).

## **Preliminary**

2. The Applicant and the Respondent are the respective owners of the Lessors and Lessees interest in the Property created by the lease specified below.
3. The application was received on 14 April 2014.
4. Directions dated 16 May 2014 made by a Deputy Regional Judge of the Tribunal included: "It is considered that this matter is one that can be resolved by way of submission of documentary and other written evidence leading to an early determination." The directions gave opportunity for the parties to request a hearing. No request was made.
5. The Applicant and Respondent provided submissions and documents in accordance with the directions.
6. The Tribunal convened on 14 July 2014 without the parties to determine the application.

## **The Law**

7. Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (the Act) provides that:-
  - 1(1) In this part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly –
    - (a) for or in connection with the grant of approvals under his lease, or application for such approvals,
    - (b) for or in connection with the provisions of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
    - (c) In respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
    - (d) In connection with a breach (or alleged breach) of a covenant or condition in his lease.
  - 1(3) In this part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither –
    - (a) Specified in his lease, nor
    - (b) Calculated in accordance with a formula specified in his lease
  - 2 A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

- 5 (1) An application may be made to a leasehold valuation tribunal for determination whether an administration 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

8. The operation of the Act was brought into effect by SI 2003 No 1986. Paragraph 8 of Schedule 2 of that instrument states:

Paragraphs 2-5 of Schedule 11 shall not apply to an administration charge that was payable before the first commencement date.

9. The first commencement date was 30 September 2003

### **The Lease**

10. The Applicant holds the leasehold interest in the property created by a lease dated 5 May 2010 made between City Lofts (Salford Quay) Limited (1) Jon Gershinson and Ania Packman (2) Elliot Charles Investments LLP (3) for a term from and including 1 January 2007 to and including 30 December 2256 (the Lease).
11. Paragraphs 3.14 and 3.16 of the Lease contain the Leaseholders covenants: "To be responsible for and to indemnify the Landlord against ....." Costs and expenses incurred by the Landlord in respect of any act, omission or negligence by the Tenant ..... or any failure to comply with its obligations under this Lease. Further to pay to the Landlord on demand on a full indemnity basis all costs charges and expenses incurred by it for preparation of service of a notice in contemplation of proceedings for forfeiture ..... enforcement or remedying any breach of the Tenant's obligations.

### **Facts and Submissions**

12. The Applicant's Solicitors Messrs Stephenson's gave notice on 4 November 2013 of Dr Pogodda's purchase and mortgage of the Property. A correspondence address was given 703 Millenium Tower 250 The Quays Salford M50 3SA, date of transfer 1 November 2013. This was date stamped as received by the Respondent's agents 7 November 2013. The Applicant states that the correspondence address was given in error and subsequently notices were not received.
13. The Respondent sent successive requests for payment of ground rent and incurred costs in correspondence to the Applicant's mortgagee and preparing for legal action. It did not accept offers of payment of ground rent without the costs they requested for these actions.
14. The charges requested by the Respondent are set out in a statement of account dated 1 May 2014 in the sum of £950.40 which net of the ground rent comprises administration charges of £600.40.
15. The Applicant questions whether copy notices were sent as stated to the Property and comments that the costs do not reflect the routine nature of the work which was appropriate for administrative staff. Reference is made to Tribunal decisions

determining £15 and £25 for items of correspondence and routine research. It is submitted that none of the administrative charges are reasonable.

16. The Applicant submits that her solicitors were not authorised to give an incorrect address: "To spread false information about me." Further that she did not understand the obligations in her Lease.

### **Tribunal's conclusions with reasons**

17. Although the Applicant did not consider she should be responsible for costs arising from the incorrect address provided by her Solicitors, we have examined the notice and are satisfied the Respondent was entitled to send notices to the address they did. It is not material that they also sent a copy to the Property whether or not received.
18. It is not disputed that the ground rent was unpaid and for the reasons above we find that the rent demand was appropriately submitted and it was open for the Respondent to take steps to obtain payment.
19. Noting the provisions of the Lease and our conclusion above we are satisfied that the costs incurred by the Respondent as a result of the Applicant's failure to pay the ground rent are recoverable from the Respondent to the extent they are reasonable. They are a variable administration charge falling within Paragraph 1 Schedule 11 to the Act.
20. Having followed the sequence of actions set out within the submissions and specified in the statement of account, we find that each of those actions was within the range of steps that could reasonably have been taken by the Respondent and for which the cost could properly be recovered under the terms of the Applicant's Lease covenants.
21. We have considered the work that might be involved in each step. We find merit in the Applicant's assertion that items are routine and in the context of an agency familiar with such matters are repeated often in day to day business.
22. With that in mind we conclude that each of the letters currently charged at £67.20 (2) inc VAT should not have incurred work beyond the sum of £25 + VAT. The Land Registry fee is accepted as a disbursement. The letter to mortgagee which would have taken into account information within the notice of transfer and existing arrears calculation should not require expenditure beyond £50 + VAT. Preparation of a notice of forfeiture again relying on information available is reasonably reflected in the sum of £50 + VAT with the copy to the mortgagee a further £50 + VAT. It is not clear why an internal legal fee was charged, submissions do not indicate the detail that required consideration beyond a sequential step following the earlier steps, for which the cost is determined above. We disallow the sum of £118 charged.
23. For the above reasons we conclude that the administration charges sought from the Applicant shall be reduced to take into account our findings in paragraph 22.

## **Order**

24. Dr Pogodda's liability to UK Ground Rent Estates Limited (3) to 25 March 2014 shall be the sums requested in the invoice dated 1 May 2014 (net of ground rent) reduced by £288.40 to take into account our findings in paragraph 22.