

10742



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

**Case Reference** : LON/00AW/LSC/2014/0536

**Property** : Flat D, 48 Draycott Place, London SW3  
2SA

**Applicant** : (1) ROBERT WALDSCHMIDT  
(2) JOHN MATTEW STEPHENSON

**Representative** : BENNETT GRIFFIN LLP

**Respondent** : RICHARD JAMES MOORE

**Representative** : KRIS SHARMAN

**Type of Application** : Application for a determination of liability  
to pay and reasonableness of service  
charges

**Tribunal Members** : Judge Shaw  
Mr P Casey MRICS

**Date and venue of  
Determination** : 15<sup>th</sup> April 2015  
10 Alfred Place, London WC1E 7LR

**Date of Decision** : 15 April 2015

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**DECISION**

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## **INTRODUCTION**

1. This case involves an application by the Applicants identified above (“the Applicants”) in respect of Flat D, 48 Draycott Place, London SW3 2SA (“the Property”). The Applicants are the freehold owners of the house of which the property forms part. The Respondent is the leasehold owner of the property. The Applicants seek a determination pursuant to section 27A of the Landlord and Tenant Act 1985 that the charges levied for 2014 are both reasonable and payable. The full sum claimed is £10,720.20, of which a balance of £8016 is alleged to be due.

## **BACKGROUND**

2. Directions in the case were given on 2<sup>nd</sup> February 2015 and it was directed that this case should proceed as a paper determination, unless either of the parties requested an oral hearing. There was no such request, and accordingly the case is dealt with today on the basis of the documents provided. The Respondent was required to supply a Statement of Case itemising the charges in the service charge account (page 14 of the bundle) with which he disagrees, explaining any legal arguments, and using a Scot Schedule annexed to the Directions to assist if appropriate. The Applicants were then to Reply to this Statement, which they have done.

3. It is proposed to refer to the parties’ respective submissions and give the Tribunal’s finding in the light of these submissions and the evidence provided.

## **The Respondent’s Case**

4. Notwithstanding the attempt to elicit particularity contained within the above Directions, the Respondent’s Statement amounts to a 2 paragraph letter dated 18<sup>th</sup> February 2015 appearing at page 48 of the bundle. He states that he

disputes charges relating to “additional works that were carried out to the common parts of the property” but does not identify those works nor does he quantify the cost which he considers unreasonable. He says that he had completed “extensive decoration myself of the common parts...in recent years” without identifying those works, their cost, or the date of the works. Under the heading “Legal Argument” he asserts that works carried out to the common parts were “unnecessary” – without detail provided, and then complains of some work carried out by the Applicants which extends, allegedly, into the common parts unlawfully. He does not make any comment on any of the other charges, make any suggestion as to the amount if any admitted due, nor give any explanation as to why nothing has been paid in respect of the 2014 charges.

### **The Applicants’ Case**

5. The Applicants have supported their case by a Statement in Reply appearing at page 49 to which photographs are attached and a Witness Statement from the first named Applicant at page 72, coupled with a further statement by Nick Blyth of Push Design, a firm of Chartered Architects. It is proposed to refer to that evidence in the Analysis and Findings below.

### **Analysis and Findings of the Tribunal**

6. This case has been before the Tribunal about a year ago, when the Applicants were obliged to seek a ruling from the Tribunal in respect of the charges for 2012 and 2013. Again, no evidence was submitted by the Respondent, and the charges were found reasonable by the Tribunal. Some of these charges related to the Major Works which also appear in the 2014 accounts, and to that extent have already been dealt with by the Tribunal. In any event, the point taken by the Respondent appears to be that the common part works were unnecessary because he had carried out extensive unidentified works himself on some unspecified date. The evidence in the Applicants’ Statement, and Witness Statement is to the effect that little maintenance had been carried out on this

building for many years, and the photographs supplied confirm this. This evidence is also supported in the Witness Statement of Mr Blythe, a chartered architect, to the effect that *“in my professional opinion, the works....were necessary in order to keep the property in good repair and prevent further deterioration to the building fabric. The windows and pointing in particular were in very poor repair.....internal works were concentrated on bringing the building up to regulations and creating better environment for the occupants.”* The photographs supplied illustrating the state of the property before and after, support the evidence of the witnesses for the Applicant in this regard. The Tribunal is satisfied that the costs identified in the service charge account as referable to this major work, are reasonable and payable. The Respondent has submitted no contrary evidence of any significance, outside his own unsupported and unspecific assertion that the works were *“unnecessary.”* He did not challenge the works at the time (he even offered to nominate a contractor) nor did he challenge the section 20 Notices giving advance notice of the works. The Tribunal is satisfied that the one fifth contribution, in accordance with the provisions of the lease, is reasonable and payable by him.

7. The Tribunal accepts the detailed evidence of the Applicants, that insofar as there has been some extension of the property, this was authorised by licence (exhibited in the documents) and preceded the Major Works by more than a year. The schedule for the major works makes no provision for work in this extension and none has been charged for.

8. As for the remaining items of expenditure identified in the account, the Respondent has made no comment, nor offered any contrary evidence or suggestions. The sums appear to the Tribunal reasonable are to some extent evidenced by vouchers and other material at tab F and elsewhere in the bundle. On the evidence before the Tribunal, the Tribunal is satisfied that the Respondent's contractual proportion of one fifth of these costs is also due and payable.

## **CONCLUSION**

9. For the reasons indicated above, the Tribunal determines that the balance of service charges outstanding on the 2014 account, in the sum of £8016, is reasonable in terms of it having been incurred, and its quantum, and is due and payable by the Respondent to the Applicants, in accordance with his lease, and the terms of the Act. No other orders are sought and none are made.

JUDGE SHAW

15<sup>th</sup> April 2015