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

**Case Reference** : LON/00AZ/LSC/2016/0067

**Property** : 107 Honor Oak Park, London SE23  
3LB

**Applicant** : Mr. Patrick Christopher Lynch &  
Mr. Paul Michael Tuck (Flat A)

**Representative** : Mr. O Hinds counsel instructed by  
Belvederes Solicitors

**Respondent** : Mr. Gary Clark (Flat B)

**Representative** : In person

**Types of Application** : Service charges

**Tribunal Members** : Judge LM Tagliavini  
Mr. M C Taylor FRICS

**Date and venue of  
Hearing** : 28 July 2016  
10 Alfred Place, London WC1 7LR

**Date of Decision** : 30 August 2016

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**DECISION**

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## **Decisions of the tribunal**

1. The tribunal finds:
  - (i) The costs of the proposed major works in the estimated sum of £388,172.24 plus contract administration costs are reasonable;  
and
  - (ii) The Respondent is liable to pay 50% of the cost of these proposed major works subject to proper apportionment in accordance with the terms of the lease.

## **The application**

2. The Applicants seek a determination of the tribunal that the costs of the proposed major works in the sum of £388,172.24 as provided for in the tender of the Parkhill Group are reasonable and that Mr. Clark is liable to contribute 50% towards those costs.

## **The premises**

3. The subject premises comprise a two storey building of indeterminate age, containing two flats and adjoining a converted Victorian property by way of a steel frame and reinforced concrete staircase access way. The Applicants are the freeholders of the subject property and the Respondent is the long leaseholder of the first floor flat known as Flat B, pursuant to a lease dated 18<sup>th</sup> July 1979 which requires a one-half share of the costs of repair and maintenance to the subject property. The ground floor Flat A is owned by the Applicants and remains unoccupied.
4. Neither party requested an inspection of the subject property. Therefore, no inspection was carried out as the tribunal did not consider one was necessary in light of the extensive photographs they were provided with.

## **The hearing and evidence**

### **The Applicant's case**

5. The Applicants provided an indexed and paginated bundle of documents to the tribunal together with a Supplementary bundle. The Applicants also relied upon both the written and oral evidence of Mr. Arnold Tarling BSc FRICS MCI Arb of Hindwoods Chartered Surveyors. and the oral evidence of Mr. Tuck. The Applicants submit that extensive works of repair to the subject premises are required,

including the structure due to subsidence, the steel frame due to severe corrosion and the concrete staircase due to water ingress.

6. A report of June 2016 and subsequent specification by Mr. Tarling and submission to Petts Wood Building Limited and Parkhill Group Limited (t/a Parkhill Group) elicited estimates in the respective sums of £413,1000 (Inc. VAT) and £388,172.24 (Inc. VAT). A third company, Waterways Building Services declined to provide a tender for a fixed price contract, although estimated a "ball park" figure of £346,000 plus VAT). Section 20 consultation procedures were complied with by the Applicants as evidenced by the documents included in the hearing bundle.
7. Mr. Tarling gave oral evidence to the tribunal and spoke to his report including photographs. In his evidence he addressed Mr. Clark's concerns including the felling of trees, the lack of an insurance claim, the lack of earlier works of maintenance and repair, the flat roof repair and clearance. Mr. Tarling accepted that works to the drains were provisional on further exploration with CCTV, no CDM risk assessment had been carried out or alternative quotes for works sought, with and without Mr. Clark in occupation. Mr. Tarling accepted that some of the costs should be apportioned between the subject property and the Victorian building, and had allowed for this where appropriate.
8. Mr. Tuck also gave oral evidence to the tribunal and explained that a claim on the insurance policy had been attempted for works of repair but had proved unsuccessful. Mr. Tuck accepted works had not been carried out on a regular basis due in part to an unwillingness by Mr. Clark to contribute to the costs.

### **The Respondent's case.**

9. Mr. Clark also provided a bundle of documents for the Tribunal although a large number of these had been included in the applicant's Supplementary Bundle. Mr. Clark accepted that the subject premises required extensive work and that section 20 consultation had been complied with. Mr. Clark also accepted his lease requires him to contribute 50% towards relevant costs. Although Mr. Clark sought to take issue with the extent of the works said to be required he did not provide or rely upon any alternative expert report.
10. Mr. Clark informed the tribunal that a Tenants Association, of which he had been secretary, had previously owned the freehold during the period 1994 to 2004 and during which period, works of repair and maintenance were not routinely carried out. Mr. Clarke stated he had previously been asked to pay towards the upkeep of the garages although he did not have use of them and had also been asked to pay towards costs of works concerning the Victorian building.

## **Reasons for the decisions of the tribunal**

11. The tribunal finds that the works have been properly consulted upon, specified and tendered. Further, in the absence of any alternative evidence and drawing upon its knowledge and expertise, the tribunal finds that the estimate provided by Parkhill Group is reasonable although is subject to the addition of contractor's costs. The tribunal accepts that there is a need for major works to the subject building which are necessarily both extensive and of significant cost. The tribunal finds that Mr. Clark is liable to contribute 50% towards the cost of these works in accordance with the terms of his lease.

Signed: Judge Tagliavini

Dated: 30 August 2016