

12701



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

**Case Reference** : CHI/43UC/LIS/2017/0033,0034 & 0035

**Property** : Homewater House, 30 Upper High Street,  
Epsom KT17 4QJ

**Applicant** : Mrs. Hemmat Darwish  
Mr. Ron Martin  
Mrs. June Marlow

**Representative** : Mrs. H. Darwish

**Respondent** : Homewater House Residents Association  
Limited

**Representative** : Mr. Green, counsel  
Ms. B. Squire and Ms. J. Busby both of  
Warwick Estates Property Management  
Limited

**Type of Application** : Liability to pay service charges

**Tribunal Member(s)** : Judge D. R. Whitney  
Mr. R. Wilkey FRICS

**Date of Hearing** : 8<sup>th</sup> February 2018

**Date of Determination** : 12<sup>th</sup> March 2018

---

DETERMINATION

---

## **BACKGROUND**

1. Applications were made on behalf of the Applicants who each own a flat at Homewater House, 30 Upper High Street, Epsom ("the Property"). The Respondent is a company in which each of the leaseholders are members and which owns a Head leasehold interest in the Property. The Applicants sought a determination of their liability to pay and the reasonableness of service charges for the years 2014 to present.
2. A case management hearing took place on 13<sup>th</sup> February 2017 at which all parties were represented. Directions were issued for determining the Applicants liability for the service charge years 2014 to 2017.
3. Both parties complied with the directions and the tribunal had a hearing bundle. References in [] are to the page numbers within the hearing bundle.

## **THE LAW**

4. The relevant law is set out in section 27A of the Landlord and Tenant Act 1985 which is set out in Annex A.

## **INSPECTION**

5. The Tribunal inspected the premises in the presence of the Applicants and the Respondents representatives named above and also accompanied by Ms J. James and Ms. L. Capery, directors of the Respondent.
6. The Property is a purpose built block within a larger Complex. The Property is brick built with pitched tiled roofs. The Complex of which it is part comprises three other blocks which are used as offices and has below it a communal parking area which includes 14 parking spaces for the Property. None of the Applicants flats has a parking space allocated to it.
7. The Property itself includes a small communal kitchen and a residents' lounge on the ground floor adjacent to the main entrance. There is also a communal laundry room. Heating is provided by electric storage heaters.
8. The communal areas all appeared to be clean and tidy. The decorations seemed reasonable and the floors were carpeted throughout. In the hallways there were various storage cupboards and it was pointed out that some were carpeted and some were not. All floors of the building were served by a lift.

9. Light fittings were pointed out to the tribunal which were modern LED lights which are permanently on. On the third floor is a guest bedroom which has two single beds and an en-suite shower room and toilet.
10. Externally the Property was approached from Upper High Street via security gates. There was a courtyard outside the main entrance and steps leading to the parking area under the building. This could also be accessed via the internal staircase in the Property and some flats were on this lower ground level. To the rear was pedestrian and vehicular access, again with security gates, accessing Depot Road.
11. 14 parking spaces were marked for use by residents so entitled and there were two visitor parking spaces supposedly for the use of the Property.

## HEARING

12. The parties had helpfully prepared a schedule of the items in dispute for each of the years in question. A copy is attached to this decision marked Annex B. The parties used this as the basis of their submissions.
13. The below sets out the thrust of the parties arguments orally made to the tribunal.
14. The Applicants indicated prior to September 2014 they had been satisfied as to the running of the Property. At this point a Section 20 consultation was being undertaken as to various works. The Applicants were content with the first stage notice [385-387]. They were also happy with the second stage notice [388-390]. However, a meeting of residents took place on 2<sup>nd</sup> September 2014 and thereafter the Applicants were unhappy with the conduct.
15. The Applicants looked to challenge work undertaken by GDB Interiors for decoration and the fact that monies were paid to this contractor. The Applicants also challenged the invoices produced saying they were not valid as there was no reference to VAT.
16. This contractor did not complete the works and an alternative contractor had to be instructed to complete the works, Optimus Painting and Decorating who charged £9,000 to complete the project [106].
17. It has been asserted on behalf of the Respondents that £4,000 paid to GDB interiors had been repaid.
18. Mrs Marlow commented that in her opinion the work was not done to a good standard and she relied upon the snagging list [180-182]. In her view the price was excessive. Further the Applicants contend works had been undertaken prior to our inspection.

19. Turning to the electrical works undertaken the Applicants say the consultation was not properly carried out. Further the Applicants denied that the works had been undertaken to a reasonable standard. They also questioned whether all of the works included within the quote had been carried out notably the rewiring cost included within the estimates. The works themselves were undertaken by a company called Bright Sparks [378-380] who had not been referred to in the consultation process.
20. In the Applicants' opinion the cost should not have been more than £3-4,000 for the works they say were undertaken.
21. Next is the question of carpets. The Applicants say that the contract was placed before the consultation period had ended. They say this rendered the consultation meaningless. Further the fitting was poor and there was a lack of trim pieces on staircases. The Applicants allege that these have been put right over the last few weeks in contemplation of the tribunal process. The Applicants contend that the cost should be reduced by £4,000 which in their opinion is being generous.
22. In respect of the buildings insurance the Applicants contend that this is not an item which can properly be included within the interim service charge. They contend under the lease this sum should only be demanded when it is paid. The Applicants referred to the lease [459] and clause 10 of Part II of the Sixth Schedule.
23. The Applicants allege Directors and Officers insurance is not required given there are professional managing agents appointed. They have never had this in the past and do not know why it has now been included. Likewise, any costs associated with the running of the company should be included within the managing agents fees.
24. In respect of accountancy fees they are not challenging the actual costs simply that they should not be within the budget.
25. An issue arose over money raised from letting the Guest room and how this income was spent on various items. The expenditure appeared to include purchasing things such as cards and also sheets which had been dispatched to a third party. It was their case that they should not pay towards any of these costs.
26. In respect of the management charges of Warwick Estates the Applicants say that this is a Qualifying Long Term Agreement given the cost is more than £100 per flat. A copy of the agreement was in the bundle [576]. The Applicants say that Warwick Estates are slow to respond and the fee should be limited to £5220 which would be reasonable being the amount paid to the previous agent.
27. This left the issue of charges for the car park. The Applicants contend that under their leases they have no right to use the car park. Their particular flats do not have a right to use a car parking space and the

Property only has 14 spaces allocated under the Head Lease. The Applicants contend it is unfair that the total complex service charge is passed on to them in accordance with the fixed percentages they pay for their flats. The Applicants referred to the fact that those flats who do benefit from a car parking space have additional covenants within their leases.

28. The Respondents relied upon their statement of case [404-411].
29. Turning to the re-decorations Mr Green accepted there was no evidence in the bank statements of the re-payments having been received from GDB Interior's. He was instructed that these payments had been made. He submitted that GDB Interiors had not been able to complete the works hence the new contractor was employed but the actual total cost was similar to the price as set out in the consultation.
30. In respect of the electrical works Mr Green accepted that Bright Sparks were not included on the section 20 consultation but the actual cost charged was almost the same as the quoted costs. He understood all of the work as provided for in the specification had been undertaken although no compliance certificates were within the bundle.
31. For the costs relating to the carpets he relied upon the statement of case.
32. The cost of insurance was included within the budget although the Company simply passed on what was charged to it under the Head lease. If they demand more then a credit is given for the same and he could not see how this disadvantaged the Applicants. In response to the challenge in respect of Directors and Officers insurance he referred to [467] paragraph (g) of Part II of the Seventh Schedule which allowed costs of the Company to be recovered. Mr Green stated that whilst it was not charged for in the past such insurance was now in place. In his submission this was reasonable given the directors of the Company were all volunteers.
33. Mr Green submitted that whilst Warwick Estates fees were more than other agents the fees were reasonable. He submitted by reference to the management agreement that this was not a long term qualifying agreement since it was not for more than 12 months.
34. Looking at the receipts and expenses for the guest suite in his opinion this was not a service charge item. He had no real evidence or anything in addition to add.
35. There followed a discussion as to how the costs relating to the communal parts were charged and the lease mechanism. The Tribunal itself questioned the mechanism under the lease. Mr Green submitted that the car park is part of the common parts. He submitted that there are 2 spaces available to all visitors of Homewater House and everyone

can have deliveries made. In his opinion all such costs were recoverable.

36. At the end of the hearing Mrs Marlow read out a prepared statement in support of the application for an order under Section 20C limiting the recoverability of the costs.
37. After the hearing had concluded the Tribunal remained concerned over the recoverability of charges relating to the communal areas as charged to the Respondent by the Complex managing agents. The Tribunal directed as follows:

“Further to the hearing on 8th February 2018 the tribunal has considered matters raised at the hearing. To enable it to complete its determination the tribunal requests that each party shall by 4pm on 28th February 2018 submit to the Tribunal (and copy to the other party) any written representations they may wish to make as to the terms of the Applicants lease which allow recovery of any service charges demanded of the Respondent by the Complex freeholder and their managing agents and as to the proper construction and interpretation of the Applicants leases in connection with the same. This request arises following the Tribunal’s questioning of the Respondents representative and the concerns the Tribunal itself raised as to the correct interpretation of the Applicant’s leases and the Respondents ability to recover charges levied by the Complex’s managing agents including in particular as to the Respondents right to recover all of such costs from the Applicants notwithstanding the fact they do not benefit from the use of a car parking space under their leases.

Please note the material supplied should be limited to the matters identified by the tribunal and any other matters raised will not be considered by the tribunal in making its determination.”

38. Both parties made further submissions. The submission provided by the Respondent referred to many of the items disputed, not just in respect of the charges raised in respect of the Complex. The Respondent submitted that there was an earlier determination under case reference CHI/43UC/LIS/2016/0043 which bound this Tribunal.

## **DETERMINATION**

39. As is all too common this is a most unfortunate case given the fact that the Applicants are themselves members of the Respondent company. The Tribunal thanks all parties for their considered and well made submissions.
40. The Tribunal has had regard to all the documents presented to it within the bundle and additional submissions. It was accepted that each of

the Applicants leases' had a similar format and for ease we refer throughout to the lease of Flat 23 [438-471].

41. The Tribunal determines that the Section 20 Consultation in respect of major works covering both the electrical works, decorations and re-carpeting was not properly undertaken for the reasons given below.
42. The Respondent is at liberty to make application for dispensation from the requirements to consult but unless and until a successful application is made each of the Applicants liability to pay is capped at £250 for each of the three items of work. Any application for dispensation from the requirements to consult should be made within 56 days of the date when this decision is sent to the parties.
43. The decoration works would have been properly consulted on if GDB Interiors had undertaken the works in accordance with their quotation. However GDB Interiors started the works but then were unable to complete the same. As a result an alternative contractor undertook the works without any consultation. The Tribunal is however satisfied that the works were undertaken to a reasonable standard on the evidence before it and the cost themselves as charged was reasonable on the basis that the sum of £4,000 was refunded to the Respondent by GDB Interiors. It is for the Respondent to prove that such refund was provided. If there is no satisfactory proof then the Tribunal determines that the total cost of the redecoration works should be reduced by £4,000.
44. For the electrical works we are satisfied that the works were undertaken to a reasonable standard. The works were not undertaken by a contractor who had supplied a quote under the consultation process and hence the process was flawed. No real explanation was given as to why Bright Sparks had not originally quoted for the works but having regard to the original quotes and the costs charged we are satisfied that the cost of the works completed and invoiced by Bright Sparks is reasonable.
45. In respect of major works this left the re-carpeting. The Tribunal was satisfied that whilst the cheapest quote had been proceeded with on the evidence presented to the tribunal the contract for the supply had been awarded before the end of the period for observations. As a result the consultation process was flawed. The Tribunal was however satisfied that but for this the cost was reasonable and the works were undertaken to a reasonable standard.
46. Turning next to the question of insurance the Tribunal determines that this cannot be included within the advance payment. Clause 10 of Part II of the Sixth Schedule sets out the obligation of the Applicants to pay the relevant percentage of the cost of insuring the complex on demand. This should be the actual cost. Whilst the tribunal accepts good management may be to advise the leaseholders what the likely cost may

be there is no ability for this to be included within the Advance Payment.

47. The Tribunal was satisfied that paragraph (g) of Part II of the Seventh Schedule allowed the company to recover the cost of taking out Directors and Officers Insurance. We were satisfied that given the Respondent Company has volunteer directors it is reasonable given the modest costs to take out such policy and the Tribunal was satisfied the cost was reasonable. Further the Tribunal was satisfied that the costs associated with the running of the company are recoverable and the actual costs claimed were reasonable.
48. The Applicants looked to challenge the reasonableness of the charges for accountancy fees. The Tribunal was satisfied that such charges had been incurred and the costs were reasonable. Simply because in the past such costs may not have been incurred does not of itself make such costs unreasonable.
49. In respect of the management fees the Tribunal determines that the agreement with Warwick Estates is not a qualifying long-term agreement having regard to the actual terms of the agreement a copy of which was included within the hearing bundle. As to the actual cost we see no reason to interfere with the same. It was clear from the inspection that the building appeared well managed and was in good order. Looking at all the evidence provided given the modest increase over previous agents we are satisfied that the costs charged are reasonable and are properly payable under the lease.
50. Turning to the Guest Suite we accept the Respondents submission that these costs and expenses are not service charge items. Any income earned will be for the company and it is for the company to determine how it spends the same. Obviously the company ought to be able to explain to its members what happens with such income and how it is expended but it is not a matter for this Tribunal.
51. This left the question of the service charge for the Complex.
52. The Tribunal had regard to case CHI/43UC/LIS/2016/0043. The Tribunal does not consider that it is bound by such a determination. The leaseholders in respect of that decision did not include any of the Applicants. All the leaseholders involved in that case were leaseholders who owned a car parking space.
53. The issues raised in that case were argued in a completely different way to the arguments advanced in this case. In short in this case the Applicants contend that under their leases (which do not have the benefit of a car parking space) they should not have to pay towards the costs of the same. The Applicants contend their leases differ from those with car parking spaces and do not allow the company to recover the costs.



54. The Tribunal annexes to this decision marked Annex C the Sixth and Seventh Schedules which set out the Respondents ability to recover costs. The lease defines "the Complex" as being the development of which Homewater House forms part, with Homewater House defined as "the Building" and "the Common Parts" being parts of the Building not demised.
55. The Sixth Schedule at Part I defines certain terms including "Maintenance Expenses" but this refers to "the Development". "The Development" is not defined within the lease.
56. The Tribunal is not satisfied that the lease allows the Respondent in its roll as either the Company or as the owner of the Head Lease (since it now fulfils both roles having acquired the Head Lease) to recover any service charge passed on to it under the terms of the Head Lease for management of the Complex. The maintenance expenses refer to the Development and the Seventh Schedule. The Seventh Schedule refers to common parts which relate only to the building being Homewater House.
57. The Tribunal is not satisfied that under the leases as currently drafted the Complex service charge levied on the Respondent as the Head Leaseholder of Homewater House is recoverable from the Applicants. The Tribunal notes that those persons with a parking space have different lease terms.
58. The Tribunal determines that the Applicants are not liable to pay towards the Complex service charges.
59. Turning finally to the question of section 20 we are mindful of the fact that this is a situation where all leaseholders are members of the Respondent Company. Whilst it may be said the Applicants have been successful that does not of itself entitle them to an order under Section 20C. Taking account of all matters the Tribunal declines to make such an order but does Order that the Respondent shall refund any fees paid to the Tribunal by the Applicants within 28 days.

Judge D. R. Whitney

## 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.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for 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.

4. The application for permission to appeal must 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.

## ANNEX A

### Section 27A Landlord and Tenant Act 1985

#### Liability to pay service charges: jurisdiction

(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 jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.

## Annex B

Tribunal's directions dated 31/08/2017

**DISPUTED CHARGES**

Case Reference: CHI/43UC/LIS/2017/0033 CHI/43UC/LIS/2017/0034 & CHI/43UC/LIS/2017/0035	Premises: Flats 15, 18 & 23 Homewater House, 30, Upper High Street, Epsom, Surrey KT17 4QJ
----------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------

No	YEAR	COST	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	RELEVANT LEASE PROVISION (PER RESPONDENT)	APPLICANTS' Response	TRIBUNAL'S COMMENTS
1	2014	£14,900	Section 20 redecoration works: £14,900 was paid out into two private bank accounts without production of a contractor's invoice, despite work being well below any reasonable quality standard and materially incomplete.	The original decorator became ill and was unable to continue with the work so he refunded £4,000 to Diamond, the Respondents previous managing agent. The second decorator who took over, Optimus, charged £9,000 and this was paid by Diamond on the Respondent's behalf. This is recorded in the statement of expenditure prepared by Diamond and attached to this Scott Schedule.		Having reviewed the final handover accounts, submitted on the 5th August 2015, there are no records of a payment to Diamond managing agent for the sum of £4,000 from the decorator (GDB Interiors). The respondent should provide supporting documentation as evidence to back up this statement. I should also add that I complained on a number of occasions between the 24/11/14 to 18/12/14 by phone to the Manager of the managing agents (DMA) and the directors regarding the poor quality of the paintwork and the noise on the second floor. Unfortunately, I was either ignored on each occasion or told by the then director (Mr Colin Amis) that they had not yet finished and that I should wait until the works were complete. As we have mentioned in our statement of case the two young decorators then disappeared off site and we became aware of their departure without having completed the works. (Diamond Managing Agents' e-mail dated 28/04/2016 enclosed in schedule (2) document number 4. The final Handover Accounts Reports and HSBC Bank Statements enclosed in schedule (2) documents number 5, 6,7,8,9 &10).	

No	YEAR	COST	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	RELEVANT LEASE PROVISION (PER RESPONDENT)	APPLICANTS' Response	TRIBUNAL'S COMMENTS
2	2014	£5,600	Section 20 electrical works, undelivered electrical rewiring which was quoted and paid for on behalf of leaseholders, not carried out and Invoices lacking proper billing information and includes duplicated charges. The Electrical works carried out worth only £3,000. Therefore we based our claim on £5,600	It is unclear how the Applicants have calculated the amount which they seek to recover. It is averred that the Applicants consider that a reasonable cost for the work carried out relating to Invoices which appear at Schedule 6/1 and 6/2 would be £3,000. The Respondent considers that the cost incurred is reasonable in the circumstances and bearing in mind the work required. The Applicants have failed to provide alternative quotes or evidence in support of the proposed reduction and the figure of £3,000 appears to be an arbitrary figure		It is our opinion that the Electrical works carried out can only be worth £3,000, due to a combination of duplicated charges that total £4,000 and the undelivered electrical rewiring which was quoted and paid for on behalf of leaseholders, despite having not been carried out. Bright Sparks Electrician's sales invoice numbers 317 & 319 totalling £8,600 were poorly constructed and did not include appropriate billing information or a detailed costs breakdown. One would have expected such an invoice to at the very least detail the key invoicing elements such as rewiring, materials and labour being charged. (Please see the enclosed Diamond Managing Agents' e-mail dated 28/04/2016 in schedule (2) document number 4)	
3	2014	£1,161	Building insurance policy anticipated cost (budget) was overestimated compared to year end actual cost and should be partially refunded or credited to our service charge account and not used to fund other expenses. As this is the landlord cross charge.	Where the actual insurance premium payable is less than estimated cost, The Respondent is entitled to apply any surplus recovered to other expenditure, in lieu of the need to demand a further balancing charged	Paragraph 7, Part II of Schedule 6	Homewater House's Building insurance policy annual cost, contributed to by the leases according to their relevant percentage under the terms of their lease agreements is the responsibility of the Freeholder (Bengal Ltd) and their Managing Agent CBRE Ltd. The demands from CBRE to the Respondent for this service do not match the figures contained in the Respondent's budgeted accounts. The Respondent has estimated the likely charge to be incurred and has therefore levied a charge on account? This is incorrect and the Respondent is aware that they should simply cross charge the leaseholders exact amounts according to the Freeholder's invoices. (CBRE Ltd' invoice and JLT Summary of cover enclosed in schedule (2) document number 11)	
4	2015	£3,258	Section 20 re-carpeting total cost of £19,549.50 was paid on behalf of Leaseholders includes VAT of £3,258.25. No valid VAT invoice was provided for the Carpets purchase and the installations.	The invoice dated 14 November 2014 contains details of the supplier's VAT position		We maintain our right to be consulted and to be able to review suppliers' invoices and Quotations. The Carpet Centres' Quotation was never available for inspection by the Applicants or the other tenants and there were no invoices received for the amounts of £1,049.50, £3,950.50, £500 and £1,049.50. To add to our concerns, no valid VAT Invoice was provided for the overall total amount of £19,549.50, simply put, there is no evidence that the carpet and the carpet installations cost were £19,549.50. So, in summary no supplier's Quotation, no VAT Invoice and no warranty for either the carpet or the carpet installations. Far from Ideal having spent so much, please provide evidence to back up the Respondents' demanded amount of £19,549.50 and to prove that these demanded amounts are correct, reasonable and were due.	

No	YEAR	COST	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	RELEVANT LEASE PROVISION (PER RESPONDENT)	APPLICANTS' Response	TRIBUNAL'S COMMENTS
5	2015	£2,222	Building insurance policy anticipated cost (budget) was overestimated compared to year end actual cost and should be partially refunded or credited to our service charge account and not used to fund other expenses. As this is a landlord cross charge.	Where the actual insurance premium payable is less than estimated cost, The Respondent is entitled to apply any surplus recovered to other expenditure, in lieu of the need to demand a further balancing charged	Paragraph 7, Part II of Schedule 6	Homewater House's Building insurance policy annual cost, contributed to by the leaseholders according to their relevant percentage under the terms of their lease agreements is the responsibility of the Freeholder (Bengal Ltd) and their Managing Agent CBRE Ltd. The demands from CBRE to the Respondent for these services do not match the figures contained in the Respondent's budgeted accounts. The Respondent has estimated the likely charge to be incurred and has therefore levied a charge on account? This is incorrect and the Respondent is aware that they should simply cross charge the leaseholders exact amounts according to the Freeholder's invoices. (CBRE Ltd' invoice and JLT Summary of cover enclosed in schedule (2) document number 12)	
6	2015	£122.84	Purchase of Director's Liability Insurance. This has not been necessary for the past 26 years. All the directors' obligations and duties were always delegated to a professional Managing Agent, this is therefore a waste of leaseholder's money and only serves to embolden the directors to make further poor and ill-informed decisions. Furthermore the Management Agreement between Homewater House Residents Association Limited and Graham Bartholomew Ltd clearly states "The Client is not required to arrange and hold directors' and officers' liability insurance for the Term but is advised to do so".	This expenditure is recoverable by virtue of paragraph (g) of part II of Schedule 7 to the leases, which affords the Respondent "Power to charge.... All legal accountancy and other fees incurred in the operation of the Company (including fees for matters which an officer of the Company could have performed or did perform personally) to the Maintenance Fund"	Paragraph (g) of Part II of Schedule 7	This has not been necessary for the past 26 years. All the directors' obligations and duties were always delegated to a professional Managing Agent. Given that the directors have no experience and have demonstrated some very poor decisions in terms of their dealings with suppliers on financial matters, they appear to have decided to insure themselves, as a substitute for relevant competence. The property should be professionally managed, with minimum input from the directors, other than to authorise significant and out of the ordinary spend that is recommended by the agent. This expense has never and should never be necessary and is therefore a waste of leaseholder's money. The Applicants do not agree that such expenses are necessary if the directors simply operated within their established remit.	
7	2016	£871	Accountancy & professional fees total estimated cost was £1,800, actual accountancy cost for year ended 31 Dec 2016 was £929 inclusive of VAT. A further provision of £871, which the Directors felt it prudent to include in the budget for professional fees to cover any legal or surveying incurred also remained unspent. Also, Paragraph 7 is therefore clear in its definition that a contribution should be made for costs etc. INCURRED and not in anticipation of potential costs. We have not had such expense in the previous 26 years	Where the actual Expenditure incurred is less than estimated cost, the Respondent is entitled to apply any surplus recovered to other expenditure, in lieu of the need to demand a further balancing charged.	Paragraph 7, Part II of Schedule 6	The Seventh Schedule, Part 1 - (Obligation of the Company) Page 26, para 7 states "To pay to the lessor or whomsoever it may direct a due proportion of the costs and expenses levied and dues incurred by the Lessor the items mentioned in paragraphs 5, 6, 7 and 8 of Part 11 of the Sixth Schedule including the employment of staff, therefore and the instructing of persons or firm to undertake the provision of professional and other services for the running of the complex and the preparation of accounts repair, maintenance, lighting, resurfacing and decoration of the Complex". Paragraph 7 is therefore clear in its definition that a contribution should be made for costs etc. INCURRED and not in anticipation of potential costs. This expenditure should not be raised in the budget unless actually incurred and not just because the Directors feel it prudent to include a sum in the budget for professional fees. Those are the terms of the lease.	



No	YEAR	COST	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	RELEVANT LEASE PROVISION (PER RESPONDENT)	APPLICANTS' Response	TRIBUNAL'S COMMENTS
8	2016	£200	We were advised that Company cost estimated at £200 to cover the costs for annual return fee of £13, AGM expenses and directors' cost for items such as postage and stationary. No AGM took place during 2016 and it was uncovered that the directors were spending Guest room rental income as they wished, only the £13 annual return is acceptable.	This expenditure is recoverable by virtue of paragraph (g) of part II of Schedule 7 to the leases, which affords the Respondent "Power to charge.... All legal accountancy and other fees incurred in the operation of the Company (including fees for matters which an officer of the Company could have performed or did perform personally) to the Maintenance Fund"		This is not chargeable under the lease. The Company Annual Return costs only £13, and AGM expenses was already covered under the Company Secretarial services on page 12 of the Managing Agent's Management Agreement (Bartholomews). We are therefore being charged twice to cover such expenses. To be charge for expenses just because it is mentioned as a possible expense in the Lease Agreement is not a good reason. The Respondent should provide their reasons and purpose for any charges and expenses passed to the leaseholders. Please see attached Bartholomews 'Service Agreement enclosed in schedule (B) A document number 5).	
9	2016	£100	Our lease agreement makes no mention of any obligation to pay towards ad-hoc, sundry items. Please indicate precisely what this charge was for? and specify the page and the clause number referring to such charge in our lease agreement.	The Respondent concedes this expenditure is not recoverable under the leases		The applicants are happy with the outcome.	
10	2016	£15,000	Compensation for enduring the violation of our privacy, the disturbance to our peace, security of our homes and the vile rude treatment from the directors who permitted non-residents to use our communal lounge, kitchen equipment and WC for regular music practice. This facility is proportionally funded entirely by the leaseholders for their sole private use.	This Claim falls outside of the Tribunal's jurisdiction afforded by s27A of the Act and is not relevant to these proceedings. The correct forum, if any cause of action existed, would be the County Court. In any event it is denied that the Applicants to any such compensation at all, and it appears that the proposed compensation figure has been arbitrarily calculated		We are aware that this Claim was Cancelled by the Honourable Judge P J Barber in the oral case management hearing took place on 13 September 2017.	

No	YEAR	COST	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	RELEVANT LEASE PROVISION (PER RESPONDENT)	APPLICANTS' Response	TRIBUNAL'S COMMENTS
11	2017	£250	Our lease agreement makes no mention of any obligation to pay towards ad-hoc, sundry items. We would like to know what exactly this charge is for? and specify the page and the clause number referring to such charge in our lease agreement. especially when the guest room rental income used to fund sundry items.	The Respondent concedes this expenditure is not recoverable under the leases		The applicants are happy with the outcome.	
12	2017	£190	Estimated Directors and Officers insurance, we have not had any such policy in the past 26 years. All the directors' obligations and duties were always delegated to the Managing Agent.	This expenditure is recoverable by virtue of paragraph (g) of part II of Schedule 7 to the leases, which affords the Respondent "Power to charge.... All legal accountancy and other fees incurred in the operation of the Company (including fees for matters which an officer of the Company could have performed or did perform personally) to the Maintenance Fund"		This has not been necessary for the past 26 years. All the directors' obligations and duties were always delegated to a professional Managing Agent. Given that the directors have no experience and have demonstrated some very poor decisions in terms of their dealings with suppliers on financial matters, they appear to have decided to insure themselves, as a substitute for relevant competence. The property should be professionally managed, with minimum input from the directors, other than to authorise significant and out of the ordinary spend that is recommended by the agent. This expense has never and should never be necessary and is therefore a waste of leaseholder's money. The Applicants do not agree that such expenses are necessary if the directors simply operated within their established remit.	

No	YEAR	COST	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	RELEVANT LEASE PROVISION (PER RESPONDENT)	APPLICANTS' Response	TRIBUNAL'S COMMENTS
13	2017	10,207	<p>Horizon Estate's Service Charge estimated cost of £10,206.52 is for both the Upper ground Level of the courtyard areas, the Lower ground level of the courtyard areas and Car park. All residents of Homewater House have equal rights and are required under their individual leases to pay their proportion of the total cost of the Upper ground Level of the (Complex) Services Charge according to the relevant percentage (lessee percentage). However, there are two different lease agreements for the leaseholders of Homewater House. One includes the obligation to pay for the car park areas (for their "exclusive right to use the car parking") and the other doesn't (as they do not own a parking space). No evidence or breakdown of the estate charge has been provided for the actual costs incurred in relation to the Upper ground Level of the courtyard, the Lower ground level of the courtyard areas, nor the car park since 2014. For this reason Warwick Estates simply ignored the two different leases in place and divided Estate's Service Charge estimated cost for year 2017 according to the flats' owner relevant percentage (lessee percentage based on the size of their flats) despite CBRE's letter dated 27 November 2014 confirming the apportionment percentage. If the CBRE apportionment is not accepted by some of the leaseholders that hold the exclusive right to use the car parking, a chartered surveyor or other qualified assessor should be engaged to impartially and professionally assess and advise on the appropriate level of apportionment, factoring in all relevant costs of upkeep and leaseholder agreements in place.</p>	<p>By Clause 4.1, the Applicants are required to contribute towards the maintenance charge in the Sixth Schedule, including those costs incurred by the company in carrying out its obligations in parts I and II of the Seventh Schedule (part I, Sixth Schedule), which includes the Common parts.</p>	<p>Clause 4.1; Part I, Sixth Schedule;</p>	<p>There are two different lease agreements for the leaseholders of Homewater House, there are no discrepancies, the lease is very clear and simple for anybody to read and understand. It provides for an additional charge to be levied on those leaseholders with car parking space, detailed in their respective Lease Agreement, registered with the land registry. Clause 13 in the Sixth Schedule, part II, (liability of the lessee) is for the car park space owners and is quite specific. It relates to the costs and expense incurred by the Landlord reasonably attributable to the said car parking spaces and the exclusive rights available to the carpark space owners to use the car park. I have enclosed the lease Agreement documents for flat (9), a flat with such exclusive rights to use their parking space for you to compare. The Tribunal has also been provided with a copy of this document. Think about it, is it fair for me as a large flat owner, without a car park space or the right to even access the carpark with a vehicle, to not only pay for the maintenance of the car park, but based on my attributable percentage of costs, actually pay more than most of the flats that actually own parking spaces and have exclusive access to the carpark? The contract is clear and fair. (Flat (9) a flat with exclusive right to use the parking space enclosed in schedule (2) document number 15)</p>	

No	YEAR	COST	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	RELEVANT LEASE PROVISION (PER RESPONDENT)	APPLICANTS' Response	TRIBUNAL'S COMMENTS
14	2017	£1,300	<p>We would like to claim our shared proportion of the estimated Guest Room rental income backdated to 2014. Since October 2014 the directors have used hundreds of pounds collected from rental of the Homewater House Guest Room rental income as a Petty Cash fund to use and spend on a variety of sundry ad-hoc items that are not within the scope of our leaseholder agreements and without leaseholder permissions. This income was always paid into the service charge account to cover expenses incurred to maintain the facility and associated services such as renewal and replacement of all worn or damaged equipment. It is the leaseholders that foot the bills for electricity, heating, water, furniture, repairs and maintenance of this facility by way of our annual service charges. We have also been denied access to inspect the supporting documentation (copies of invoices and Cash Receipts) related to the guest room rental income. We feel we are being taken advantage of and our finances are being mismanaged, forcing us to pay unnecessary and unauthorised costs, that we have no legal obligation to pay towards.</p>	<p>This income is not demanded as a service charge and is not reflected in the service charge accounts. As such, it does not fall within section 19(1) of the Act. However, the respondent applies the proceeds to reduce the expenditure incurred by the Respondent in keeping with its obligations under the leases. Accordingly the Applicants have already received the benefits of this income by way of reduced service charges. If the sums were disallowed the Applicants would be required to pay an increased service charge contribution to make up the shortfall. A copy of the income and expenditure derived from the guest room rentals is attached as an annex to this Scott Schedule.</p>		<p>This income was always entered in the proper accounting period included, recorded and part of our Service Charge yearend Accounts and reflected positively against our service charge, to funds the maintenance of the guest room and communal areas (Please see Yearend Accounts 2012, 2013 &amp; 2014 in schedule (7) document number 1 "page 3", document 2" page 2" &amp; document 4 "page 4"). We failed to understand the Respondent's comment "the Respondent applies the proceeds to reduce the expenditure incurred by the Respondent in keeping with its obligations under the leases. Accordingly the Applicants have already received the benefits of this income by way of reduced service charges". Firstly, the Applicants and the other leaseholders received no benefits from this income as the Respondents insist on spending the monies as they wish and desire. Secondly the income is not banked and accounted for as income against the costs incurred to maintain the facility. Please see the enclosed Warwick's Bullet Points of 13/06/17 and 14/11/17 concerning Guest room shower and the ground floor Cloakroom repairs. There is no mention in the lease of any obligation to pay towards goods ordered and delivered to an unknown party and address in Sutton (Mrs Lesley Capery's daughter), Sympathy card, funeral flowers, wow Canvas Pack B, goods described as Bric a Brac, and others, other Bric a Brac, Oxfam £2.99 Homeware, Oxfam £7.45 other Homeware, plants and flowers for the garden. The garden is not included within (The Common Parts) Secondly, nor is Car Parking signage. The Respondent and their managing agent must use such funds for purposes of the trust. And in our case we feel that the trustee used the money inappropriately. In the past we were allow to check all the documents related the guest room income. This right has recently been denied to the leaseholders and the lack of transparency is of great concern.(Warwick's Bullet Points of 13/06/17 and 14/11/17 enclosed in schedule (2) documents number 13 &amp; 14)</p>	

No	YEAR	COST	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	RELEVANT LEASE PROVISION (PER RESPONDENT)	APPLICANTS' Response	TRIBUNAL'S COMMENTS
15	2017	£7,481.7	<p>Warwick Estates' annual cost for Management service, company secretary service and out of hours emergency service. The amounts payable by flats 15, 18 &amp; 23 under this agreement in the accounting period for 2017 exceeds £100 as our contribution towards this amounts are £303.76, £235.67 &amp; £276.07 respectively. RMC failed to carry out the consultation procedures, in addition Warwick Estates refused to provide a copy of the signed Management Agreement by stating "We are unable to provide this information as there is a contract with the client who are the directors". (Warwick's e-mail of 4 Aug 2017 in red enclosed in schedule(8) B document number 45).</p>	<p>The agreement between the Respondent and Warwick Estates Limited is not a qualifying long term agreement as it is for a period of less than 12 months and so does not fall within the consultation requirements of Section 20. A copy of the agreement is annexed to the Respondent's statement of case. Warwick's fee of £7,481.70 represents a fee of £249.39 (inclusive of VAT) per property, which the Respondent considers is reasonable in the circumstances bearing in mind the location of Homewater House, the amount of maintenance required given the conduct of the previous managing agents and the level of service provided by Warwick.</p>		<p>The agreement between the Respondent and Warwick Estates is a qualifying long term agreement as it is very clear in the contract that it is for an initial term of 12 months. It therefore does fall within the consultation requirements of Section 20. This Managing Agency Agreement's Terms and Conditions point (1.7) states "Term" of the Agreement to be for an initial period of 12 months commencing on the date on the front of the Agreement and continuing thereafter unless terminated as provided under Clause 9". Clause (9.2) states " Either party may terminate this Agreement by giving the other at least 3 months' written notice to end on the last day of the Term or on any subsequent anniversary of the Term". Warwick's Management annual fee is £6,960, Company Secretarial service fees is £434.70, Out of hours emergency service is £87, overall total of £7,481.70 (inclusive of VAT). The amounts payable by flats 15, 18 &amp; 23 under this agreement in the accounting period for 2017 exceeds £100 as our contribution towards this amount was £303.76, £235.67 &amp; £276.07 respectively. Also. The Applicants' Lease Agreements make no mention of any obligation to pay towards Company Secretarial services of £434.70 or out of hour's emergency service of £87 which was charged and no phone number given for this out of hour's emergency service. There are many areas of concern including a lack of compliance with the leases and expenditure which is not allowed under the leases to be put through the service charge. The Building is poorly managed, please see 2 photos for defective LED emergency light on the second floor communal area which is blinking since 9<sup>th</sup> October 2017, but instead of being repaired as one would expect, our Managing Agent chose to cover it with a cardboard box instead fixing it or repairing it. Worryingly there is black smoke staining on the ceiling above it. It's defiantly an eyesore and potential fire hazards, enclosed in schedule 2 numbers 18&amp;19. Also they fail to respond to reasonable request for information. A copy of the management agreement for Warwick Estates Limited for the service charge year 2017 is included at Exhibit RS7 (the Respondent documents).</p>	

## Annex C

subject to which any such approval may be given and any regulations for the time being applicable thereto

13. Not to place or erect on the exterior of the Premises or on the Common Parts any wire aerial or pole for use in connection with radio or television or any other purpose whatsoever

14. To secure the doors to the Building and the security gates to the Complex after using the same

THE SEVENTH SCHEDULE

Part I

(Definitions)

In this Schedule except where the context otherwise requires:-

"Accounting Period" means a period of time in respect of which maintenance expenses have been paid or become due. The first accounting period shall run from the first day of the month in respect of which the Company shall have begun to incur maintenance expenses charged to the maintenance fund and shall end on such date as the Company shall select; subsequent account periods shall end on the 30th day of June next after the end of the preceding accounting period or such other date as the Company may from time to time select.

"Maintenance Expenses" means the costs charges and expenses incurred by the Company in respect of the Development in carrying out all or any of its obligations under Part I of the Seventh Schedule to this Lease and any amount charged to the maintenance fund by the exercise by the Company of its powers under Part II of the said Seventh Schedule save that premiums for the insurance of the Buildings shall not form part of the maintenance expenses for the purpose of this Schedule

"Maintenance Charge" means the total maintenance expenses paid during or in respect of any accounting period

"Date of Execution" means the date of this Lease

"Advance Payment" means a payment in advance to be determined by the Company on account of the Maintenance Charge for an accounting year

"the Relevant Percentage" 4.06% or such lesser percentage as may be notified in writing to the Lessee by the Lessor from time to time

"Supplementary Advance Payment" means a payment on account of the Maintenance Charge for an accounting year in addition to the advance payment when the Company shall reasonably determine that the advance payment together with payments made by other flat owners and the Lessor (if liable) is or may be insufficient for the accounting year to which it relates

Part II

(Liability of the Lessee)

1. The Lessee shall in respect of every Accounting Period not expired before the Date of Execution pay the Relevant Percentage of the Maintenance Charge as hereinbefore defined and in the manner and subject as hereinafter mentioned

2. The Lessee shall on the Date of Execution pay a proportionate part of the Advance Payment and the Supplementary Advance Payment (if any) applicable to the Accounting Period then current

3. The Lessee shall further on every succeeding 30th day of June pay to the Company the full amount of the Advance Payment (without deduction) for the Accounting Period then commencing



or current and shall further pay the full amount (without deduction) of every Supplementary Advance Payment demanded in respect of any Accounting Period within twenty-one days of demand therefor

4. As soon as may be after the end of every Accounting Period the Company shall cause to be supplied to the Lessee a statement showing the total Maintenance Expenses relating to that period the amount of the Lessee's proportion of the Maintenance Charge for that period the amounts paid by the Lessee on account therefor and accordingly the amount by which the Lessee is in debit or in credit in respect of that Accounting Period

5. Provided that in respect of the accounting year current at the Date of Execution the Lessee shall be debited on such statement with a proportion only of the Maintenance Charge

6. If any such statement shows a balance due from the Lessee the Lessee shall pay such balance to the Company within fourteen days on demand

7. Where any such statement shows an excess paid by the Lessee for the Accounting Period to which it relates then if the Date of Execution is within such Accounting Period the excess shall be refunded by the Company or at the Company's option shall be deducted from payments subsequently becoming due from the Lessee

8. Subject to the foregoing paragraph unexpended moneys paid by the Lessee under this Schedule shall be held by the Company towards future Maintenance Expenses and shall be repayable to the Lessee who shall nevertheless not be entitled to call for repayment so long as the retained amount is reasonably required for the purposes aforesaid and is

identified (with or without similar moneys belonging to other Lessees) in the books of account of the Company

9. The Company shall have power (but not obligation) to divide the Advance Payment into two or more payments to be made on such dates within the relevant Accounting Period as the Company shall decide

10. The Lessee shall in addition to the Maintenance Charge pay upon demand to the Lessor or whomsoever it may direct the Relevant Percentage of the cost of insuring the Complex together with all other necessary insurances the first payment from the Date of Execution to the next renewal date of the insurance policy or policies to be further apportioned on a day to day basis

11. Without prejudice to every other right or remedy of the Company IT IS EXPRESSLY DECLARED that where the Lessee for the time being is an assignee of this Lease and not the original grantee such Lessee shall forthwith upon demand pay to the Company all arrears of Maintenance Charges Advance Payments or Supplementary Advance Payments insurance contributions and all other payments applicable to the Lessee or the Premises and that the obligations in this paragraph shall be absolute and shall not be affected by any failure delay mistake forbearance or concession on the part of the Company and that it shall be the responsibility of an assignee to determine and settle as between himself and his assignor whether there are any amounts which ought to be paid by his assignor and to recover the same from his assignor

12. If and so often as any statement is found to contain an error the Company shall have power to submit a revised statement and the Lessee shall be bound thereby

Part III

(Liability of the Lessor)

1. The Lessor shall contribute and pay to the Company:-

(a) The difference between the proportion of the Maintenance Charge payable by the Lessee for the Accounting Period current at the Date of Execution and the full Maintenance Charge for that period

(b) In respect of every other flat a similar contribution in respect of the Accounting Period current at the Date of Execution thereof

(c) In respect of every flat for which no long lease shall have been granted in or before any Accounting Period the whole of the Maintenance Charge to the date upon which a disposal is effected which would have been payable by the Lessee of such flat had such flat been leased for the whole of such relevant Accounting Period in similar terms to this Lease  
PROVIDED:-

- (i) That the Lessor shall not be required to contribute to the Maintenance Charge applicable to any flat for or in respect of any Accounting Period subsequent to the Accounting Period current at the date of execution of the first Lease of that flat
- (ii) Where a Lease of any flat has been executed and the Lessor's liability to contribute has ceased the Lessor's liability shall not be revived in respect of that flat in any circumstances such as forfeiture or surrender of a Lease or any

other means by which there shall cease to be a Lease of that flat

2. The Lessor shall until all the flats comprised in the Building have been leased in similar terms to this Lease and shall have been so leased for the whole of an Accounting Period contribute and pay the difference between all insurance contributions due from the Lessee under Part II of this Schedule added to all other insurance contributions payable by other owners under similar provisions and the full amount of the insurance premium or premiums payable under clause 5.1 of this Schedule and clause 2 of Part I of the Seventh Schedule hereto

3. It being contemplated that the Lessor may (though not so bound) from time to time during the original sale of the flats advance sums to the Maintenance Fund the Company shall as soon as calculations permit refund to the Lessor any such sums together with interest thereon at 3% above National Westminster Bank plc Base Rate from time to time PROVIDED that the Lessor may in writing waive in whole or in part such entitlement to the said refund or interest thereon

4. If at any time the Company shall make default in the performance and observance of any of the covenants or obligations imposed upon it hereunder or if the Company shall enter into liquidation whether compulsory or voluntary (save for the purposes of a solvent reconstruction or amalgamation) then the Lessor will undertake the performance of all or any of the said covenants and obligations imposed upon the Company hereunder and the sums due to the Company hereunder shall be paid to the Lessor instead

5. The Lessor hereby covenants with the Company and as a separate covenant with the Lessee

5.1.1. to insure or procure the insurance of the the Complex against loss or damage by fire and such other perils as the Lessor may from time to time reasonably decide or which the Company may reasonably request in the full reinstatement value including the cost of demolition shareing-up and removal of debris together with professional fees together with such other insurances as may be necessary or expedient to obtain

5.1.2. upon request to produce to the Lessee evidence from the insurers of the terms of the insurance policies and that the policies are in force

5.1.3. If the Building or any part thereof is destroyed or damaged by any of the risks insured against then the Lessor will upon receipt of the net proceeds of such insurance lay out the same in rebuilding and reinstating the Building

PROVIDED that the Lessors obligations under this Clause 5 shall be limited to the extent that the insurance moneys are not recoverable through reason of any act or default of the Lessee

6. To maintain repair and keep in good and substantial condition and where applicable properly decorated and otherwise treated the Common Parts First described in the First Schedule

7. To maintain an effective aerial system whereby the owners of the flats shall have provision for operating their own radio and television receivers

8.1. To repair maintain light resurface and decorate the Complex including the landscaping and security systems thereof

8.2. To provide instal maintain repair and update any signs on the Complex

THE SEVENTH SCHEDULE

Part I

(Obligations of the Company)

1. The Company will pay all existing and future rates water rates taxes assessments and outgoings now or hereafter imposed or payable in respect of the Common Parts

2. Keep the Common Parts Secondly described in the First Schedule and all fixtures and fittings therein and additions thereto and any equipment for the use of the owners of the flats the lifts and the Communal Lounge Laundry Room W.C. Kitchen and guest bedroom in a good and substantial state of repair decoration and condition including repainting the same and otherwise treating the same as often as shall be prudent and including the maintenance renewal and replacement of all worn or damaged equipment and to keep the same adequately lighted PROVIDED that (i) nothing herein contained shall prejudice the Company's right to recover from the Lessee or any other person the amount or value of any loss or damage suffered by or caused to the Company or the Common Parts by the negligence or other wrongful act or default of the Lessee or such other person (ii) the Company shall be under no liability for any accident or damage caused to person or property (save to the extent if any to which the Company may for the time being be insured against the same) by reason of any failure disrepair or inadequacy in the lighting system or any part thereof.

3. before repairing any part of the Building which will affect the Premises and before carrying out any repairs or works to the Common Parts for the carrying out of which it

requires access to the Premises give reasonable notice (and except in case of emergency at least forty-eight hours notice) in writing to the Lessee and the Company shall on giving such notice be entitled to carry out such repairs or works and have any required access to the Premises but shall act carefully and reasonably doing as little damage as possible to the Premises and making good all damage done

4. make adequate arrangements for the disposal of refuse

5. to clean the exterior of the windows of the Building as the Company considers prudent (unless the Lessor shall elect to perform this function)

6. to enforce by whatever action the Company may in its absolute discretion decide the covenants on the part of other lessees of the flats contained in the leases granted thereon upon the reasonable request of the Lessee subject strictly to the Lessee first providing security for any cost involved and otherwise indemnify the Company against any costs and expenses

7. To pay to the Lessor or whomsoever it may direct a due proportion of the costs and expenses levies and dues incurred by the Lessor the items mentioned in paragraphs 5, 6, 7 and 8 of Part III of the Sixth Schedule including the employment of staff therefor and the instructing of persons or firm to undertake the provision of professional and other services for the running of the Complex and the preparation of accounts repair maintenance lighting resurfacing and decoration of the Complex

8. To pay into a sinking fund all sums received by it pursuant to clause 4.2.3.2. hereof

Part II

(Powers of the Company)

(a) Power to create such sinking fund or reserve account as the Company may from time to time consider reasonably necessary for the purpose of making provision for depreciation of the Building and for future costs charges and expenses within parts I and II of this Schedule and without prejudice to the generality of the foregoing the costs or anticipated costs of renewal replacement or major overhaul of the lift Laundry Equipment Kitchen Equipment Furniture and Fittings in the Communal Lounge and Guest Bedroom and to allocate to or pay into such fund or account such sum or sums available out of the Maintenance Fund as the Company may consider reasonable and such additional sums (if any) as the Company may consider reasonably necessary All moneys paid or allocated under this clause to be held on behalf of the owners of the flats until actually expended

(b) Power for the Company to take out in the joint names of all persons interested therein a policy of insurance in an insurance office of repute covering liability for injury of persons on the Building and to pay all premiums for the keeping in force of such insurances the policy or policies of insurance and the receipt for the last premium thereof to be produced to the Lessee on demand

(c) Power to employ or engage such persons or firms as are reasonably necessary for the proper maintenance and running of the Building and to carry out the obligations of the Company hereunder



(d) Power to enter into contracts and engagements for inspection repair maintenance cleansing and insurance of the Common Parts the Lift and the equipment used by the owners of the Flats appropriate to be so treated and for the hiring of equipment and machinery

(e) Power to make publish and display regulations made under this Lease including the use of the Communal Lounge Kitchen W.C. Laundry and Guest Suite (including making charges for use of any Facilities) and to affix notices in respect thereof on the Common Parts

(f) Power to engage reputable Agents or other professional firms to manage the Building on behalf of the Company

(g) Power to charge all expenses fees and costs incurred in or connected with the exercise of the powers herein referred and for the recovery of any arrears of maintenance charges to and all legal accountancy and other fees incurred in the operation of the Company (including fees for matters which an officer of the Company could have performed or did perform personally) to the Maintenance Fund

(h) Power by notice in writing from time to time to increase the Advance Payment referred to in the Sixth Schedule hereto whenever the same shall reasonably appear to the Company to be insufficient And also power to require Supplementary Advance Payments to be paid during the course of an Accounting year

(i) Power so long as no Managing Agents shall be engaged to charge and pay to any person firm or company (including any member or director of the Company) reasonable management fees and proportionately for any part of such period