



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

Case Reference	:	BIR/00GA/LSC/2021/0011
Property	:	Serendipity Mews and Serendipity House Greytrees Road Ross on Wye HR9 7DQ
Applicants	:	(1) Marie Louise Dennehy (2) Kate and David Dowling (3) Kirstin Powell (4) Pat Nernon
Representative	:	Kate and David Dowling
Respondent	:	Alan Porter Limited
Representative	:	Jacklyn Dawson Solicitors
Type of Application	:	(1) Under section 20C Landlord and Tenant Act 1985 for an order for limitation of costs. (2) Under paragraph 5A Schedule 11 Commonhold and Leasehold Reform Act 2002 for an order reducing or extinguishing liability to pay administration charges in respect of litigation costs.
Tribunal Members	:	I.D. Humphries B.Sc.(Est.Man.) FRICS, Chairman Judge D.R. Salter Professor N.P. Gravells, Deputy Regional Judge
Determination	:	Paper decision without Hearing at the offices of the First-tier Tribunal (Property Chamber), Centre City Tower, 5-7 Hill St., Birmingham, B5 4UU on 8 September 2022.
Date of Decision	:	27 October 2022

DECISION

1 **Introduction**

2 This Decision is issued following a Decision on the substantive issue of service charges for the subject property under section 27A Landlord and Tenant Act 1985, determined by the First-tier Tribunal (Property Chamber) ('the Tribunal') on 8 June 2022.

3 In addition to the service charge application, the Applicants applied to the Tribunal for Orders under:

- 1 Section 20C of the Landlord & Tenant Act 1985 and
- 2 Paragraph 5A of Schedule 11, Commonhold and Leasehold Reform Act 2002

The purpose of the provisions is:

- 4 1 Section 20C of the Landlord & Tenant Act 1985 ('Section 20C')
This section grants tenants the right to apply for an order that all or any of the costs incurred, or to be incurred, by a landlord in connection with proceedings before a court or tribunal, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenants.
- 5 2 Paragraph 5A of Schedule 11, Commonhold and Leasehold Reform Act 2002
This section grants tenants the right to apply to a court or tribunal for an order reducing or extinguishing a tenant's liability to pay administration charges.
- 6 The Tribunal issued its Decision on the service charge liability on 6 July 2022. Paragraphs 41 and 44 of that Decision (Ref: BIR/00GA/LSC/2021/0011) invited the Applicants to make any submissions they wished to make on their applications for Orders under Section 20C and Paragraph 5A within 28 days, and paragraphs 42 and 45 gave the Respondent the opportunity of making any counter-submissions within a further 14 days. Both parties made written Submissions.

7 **Submissions**

8 Applicant

The Applicants' representatives asked the Tribunal to treat paragraph 13 of their Section 20C application as their Statement of Case in respect of both statutory provisions.

Briefly, they submitted that the service charges had been inflated and they had applied to the Tribunal owing to the Respondent's 'lack of transparency'. They said it would be unfair to recover any costs associated with the litigation from the leaseholders.

9 Respondent

The Respondent wrote to the Tribunal by letter dated 11 August 2022, conceding that it would not add the cost of dealing with the application before the Tribunal to the Applicants' service charges, and would not object to the grant of an Order under section 20C.

Further, by letter to the Tribunal dated 26 August 2022, the Respondent advised that it would not add seek to recover any costs of defending the proceedings before the Tribunal as 'administration charges' and would not object to the Tribunal granting an Order under paragraph 5A.

10 **Decision**

Having considered the parties' Submissions the Tribunal issues the following Orders:

- 1 that none of the costs incurred by the Respondents in connection with proceedings before the Tribunal are to be regarded as relevant costs to be taken into account in the determination of the service charges under Section 20C of the Landlord & Tenant Act 1985;

and
- 2 that the liability of the Applicants to pay an administration charge in respect of the Respondent's litigation costs is extinguished pursuant to Paragraph 5A(2) to Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Appeal Procedure

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property). Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties (Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).