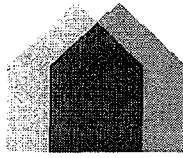


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Residential
Property
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

Landlord and Tenant Act 1985 section 27A

LON/00AW/LSC/2006/0258

Premises: 8 Horbury Crescent, London W11 3NF
Applicant: 8 Horbury Crescent Residents Association Ltd
Respondents: Iola Lenzi and Francesca Pratt
Tribunal: Adrian Jack (Chairman) and F L Coffey FRICS

Background

1. The premises comprise a block of five flats, each let on 999 year leases. The Applicant is a company limited by guarantee. Each lessee is a member of the company and in practice each is elected as a director.
2. The leases are in identical form and make provision for the payment of service charges, including sums on account and contributions to a sinking fund. Each long lessee is liable for one fifth of the total. The service charge year commences on 1st April.
3. The two Respondents each own a flat. They now live abroad and let their respective flats out to tenants on assured shorthold tenancies. The other three lessees live in London.

Issues

4. Originally it was unclear whether the Tribunal was being asked to rule in respect of the service charges raised in the 2005-2006 service charge year. However, it appears that those service charges were paid in full by the Respondents. If the Respondents are to raise any issue in relation to that service charge year, it would therefore be for them to issue an application.

5. The sole issue for determination by the Tribunal is whether the sum of £125 per month raised on account in respect of the service charge year 2006-2007 is reasonable.

6. The Respondents raise a number of issues about resolutions passed many years ago and works carried out in previous service charge years. These matters are not properly before the Tribunal and cannot be determined by the Tribunal in this application. The only substantive matter raised in relation to the 2006-2007 service charge year is the honorarium of £500 paid to the company secretary.

Reasons

7. The service charge had been paid at £85 per month during 2005-2006. There were, however, heavy items of expenditure, including in excess of £9,000 for external works. The £85 per month was inadequate and additional service charges had to be raised during the year. The Applicant attempted to raise a further £200 from each member in January 2006, but the Respondents refused, so the £200 paid by the other three lessees was reimbursed them. The sinking fund had to be used to pay outgoings such as building insurance.

8. At the 2005 annual general meeting of the Applicant held on 5th January 2006, it was proposed that the service charge to be paid on account be raised to £125 per month from 1st February 2006. The payment of an honorarium to the company secretary of £500 was approved. Subsequently on 25th May 2006 the increase was retrospectively altered to take effect from 1st April 2006. All these resolutions were carried with the votes of the three resident members. Neither of the Respondents voted.

9. By article 14 of the Applicant's Articles of Association, every resolution considered at an extraordinary general meeting and (with certain irrelevant exceptions) every resolution at the annual general meeting is treated as a special resolution. The effect is that such resolutions must be passed by not less than three quarters of members voting: see Companies Act 1985 section 378. The resolutions at the meetings in January and May 2006 were therefore properly carried.

10. Under clause 5(5)(f) of the leases the Applicant was entitled to appoint a managing agent of the block and to recover the fees of such a managing agent as part of the service charge. For many years the company secretary had assumed the role of managing agent. He or she had to deal with problems as they arose and to organise any works needed. In the Tribunal's judgment, the Applicant was entitled to pay a reasonable fee to the company secretary for his or her work. The figure of £500 per annum is in our judgment a reasonable figure.

11. The amounts which the Applicant seeks in 2006-2007 are payments on account. At the end of the service charge year, the precise amount of expenditure can be calculated and the issue determined whether there has been any over- or underpayment. The sole issue for the Tribunal is whether £125 per month is a reasonable figure for service charges on account.

12. The Applicant explains the increase in service charges from £85 per month to £125 per month in this way. In 2005-2006 each lessee had to pay additional sums of £350 in respect of ordinary expenditure by way of additional service charges. That equated to just under £30 per month. The

additional £30 per month would give a service charge figure of £115 per month, however, the Applicant explained, this would not allow for a sinking fund to be built up. Therefore the figure of £125 per month was proposed.

13. In the Tribunal's judgment, the Applicant has justified the increase proposed for the reasons which it has given. The sum is in our judgment reasonable as payments on account of likely expenditure.

DECISION

14. Accordingly the Tribunal determines that each of the Respondents is obliged to pay £125 per month from 1st April 2006 to 31st March 2007 by way of service charges on account. The Respondents are to pay the Applicant the application fee of £50 paid by the Applicant to the Tribunal.

A handwritten signature in black ink that reads "Adrian Jack". The signature is written in a cursive, flowing style.

Adrian Jack, Chairman

20th September 2006