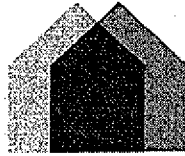


2013



Residential
Property
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**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON APPLICATION
UNDER SCHEDULE 11 TO THE COMMONHOLD AND LEASEHOLD REFORM
ACT 2002 AND SECTION 27A OF THE LANDLORD AND TENANT ACT 1985**

Ref: LON/00BJ/LIS/2006/0007

Applicants: Miss E T Bloor
Mr G L Wrangles
Represented by J S & A Solicitors

Respondent: Newservice Ltd
Represented by Chatfield Property Ltd

Re: 59 Charlmont Road, Tooting, SW17

Member of the Leasehold Valuation Tribunal:
Mrs J McGrandle, B Sc MRICS MRTPI

Date of Decision: 28 February 2006

1.0 Preliminary

1.1 The Tribunal has received an application dated 19 December 2005 accompanied by a fee of £70 for a determination of the Applicant's liability to pay administration charges under Schedule 11 to the Commonhold and Leasehold Reform Act 2002. To the extent that the application concerns service charges it shall be deemed to include an application under Section 27A of the Landlord and Tenant Act 1985.

1.2 The application relates to the following:

Service charge year 2004: 3 separate administration fees

Service charge year 2005: 1 management fee
1 reminder fee

and in support of the application the Applicants through their solicitors made a brief statement stating that there was no provision in the lease for the imposition of the charges and that there had been numerous abortive attempts by the solicitors to communicate with the Respondent concerning the charges. It was considered wholly unreasonable to impose the charges when attempts had been made by the Applicants through their solicitors to conclude matters.

1.3 On 13 January 2006 directions were issued by the Tribunal requesting a statement of case by the Respondent by 30 January 2006 and also stating

“5. The parties should note that the Tribunal may consider whether the Respondent should reimburse the Applicant with the whole or part of the fees paid in these proceedings . . .”

1.4 No representations have been received from the Respondent.

2.0 The Law

2.1 Schedule 11 to the Commonhold and Leasehold Reform Act 2002 states:

“5. Liability to pay administration charges (1) An application may be made to a leasehold valuation tribunal for a determination whether an administration 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.”

2.2 Section 27A (1) of the Landlord and Tenant Act 1985 Section 27A sets out the identical provisions (a) to (e) in relation to service charges.

3.0 Lease

3.1 The Applicants holds a lease of the first floor flat at 59 Charlmont Road for a term of 150 years from June 1997 subject to a reviewable ground rent.

The tenant's covenants are set out in clauses 5 and 6 of the lease.

4.0 Decision

4.1 The fees sought to be recovered by the Respondent from the Applicants are as follows:-

19.01.04	Administration fee	£100.00
12.08.04	Administration fee	£100.00
22.10.04	Administration fee	£100.00
24.06.05	Management fee	£125.00
14.07.05	Reminder fee	£100.00

- 4.2 The Tribunal has looked very carefully at all the clauses in the lease concerning the tenant's covenants and has determined that these costs are not recoverable under the lease. It was held in *Sella House Ltd v Mears* (1989) that any obligation on the part of a tenant to contribute to landlord's costs should be in clear and unambiguous terms. There are no such terms in the lease. The costs as listed above are therefore disallowed.
- 4.3 This is a matter which should have been settled by negotiation between the parties. Unfortunately the Respondent failed to communicate. The Tribunal therefore determines that the application fee of £70 be reimbursed to the Applicants under Regulation 9 of the Leasehold Valuation Tribunal (Fees) (England) Regulations 2003.

Chairman

J. McGrandle

Date

28.2.06

JG