

IN THE MATTER OF
NOS 40, 42, 44, 46 AND 48 MACRAE ROAD, HAM GREEN,
BRISTOL, BS20 0EB

SOUTHERN RENT ASSESSMENT PANEL
AND
LEASEHOLD VALUATION TRIBUNAL

Case No: CHI/00HC/LSC/2007/0027/0028/0029/0030/0031

AND

IN THE MATTER OF
AN APPLICATION UNDER SECTION 27A OF THE LANDLORD & TENANT ACT
1985 AS AMENDED ("THE 1985 ACT")

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTION 27A OF THE LANDLORD
& TENANT ACT 1985

Applicant: Peverall O M Limited
Marlborough House
Wigmore Place
Wigmore Lane
Luton
Bedfordshire, LU2 9EX

Respondents: Mr Paul Humberstone and Linda Smart – No 40
Mr and Mrs Jefferies – No 42
Mr Brian Meacham – No 44
Ms Lisa Morgan – No 46
Ms Samantha Walker – No 48

Premises: Nos 40-48 Macrae Road
Ham Green
Bristol, BS20 0EB

Date of Application: 10th April 2007 by way of order from District Judge Rowe from the Bristol County Court (Case No 7BSO1547) to the Leasehold Valuation Tribunal.

Date of Directions: 20th April 2007

Date of Inspection and Hearing of Application: Thursday, 11th October 2007 (having been adjourned from the 19th of July 2007)

Venue of Hearing: The Appeals Service
Vintry House
Wine Street
Bristol, BS1 2BP

Members of the Leasehold Valuation Tribunal: Mr A D McCallum Gregg (Chairman)
Mr J Reichel, BSc, MRICS
Mr M R Jenkinson

Clerk - Charlotte Osborne

The Issue

To determine the liability and the amount of the service charges payable by the Respondents for the years 2004/2005 as specified in the service charge accounts on Pages 90-191 of the Applicant's bundle of documents.

Relevant Liabilities Under the Leases

The Respondent long Leaseholders' liabilities are set out in the covenants and terms of their leases and they are not in dispute.

The Law

The Landlord & Tenant Act 1985 (as amended) is the applicable law. For the purpose of the 1985 Act the service charge is defined in Section 18(1) as "an amount payable by a tenant of a dwelling as part of or in addition to the rent

- (a) which is payable directly or indirectly for services, repairs, maintenance, improvements or insurance or landlord's costs of management and
- (b) the whole or part of which varies or may vary according to the relevant costs (including overheads)".

"Relevant costs" are defined as costs or estimated costs incurred or to be incurred by or on behalf of a landlord or superior landlord in connection with the matters for which the service charge is payable.

The word "improvements" was added to the definition of the service charge by the Commonhold and Leasehold Reform Act (CLARA) of 2002, thus works that amount in law to an improvement as opposed to a repair can be the subject of a determination under the 1985 Act provided that the cost of such work is recoverable under the terms of the lease.

The question of whether any sum is payable by a tenant as a "service charge" turns on the definition in Section 18(1) of the 1985 Act as amended by CLARA 2002.

Section 19(1) of the Act deals with the test of reasonableness and the only costs that shall be taken into account in determining the amount of the service charge are those that

- (a) are reasonably incurred and
- (b) where they were incurred on the provision of services or carrying out works provided those services or works were of a reasonable standard.

The LVT's jurisdiction has been extended by CLARA 2002 and now covers all aspects of the service charge including liability and reasonableness (Section 27(a)(1)(3) of the 1985 Act. This new jurisdiction applies to all applications made on or after the 30th of September 2003 irrespective of whether the service charge costs were payable or incurred before or after the operative date.

Inspection and Hearing


An inspection of the premises took place on the 11th October 2007 prior to a hearing of the case at the offices of the Appeals Service, Vintry House, Wine Street, Bristol, BS1 2BP. After the hearing of the cases of both the Applicant and the Respondents the Tribunal adjourned to enable the parties to discuss the issues in question with a view to reaching a compromise.

Following that adjournment the parties reported to the Tribunal that agreement had been reached on all matters and that under the compromise the Respondents had agreed to pay the sum of £4,250 in respect of all outstanding service charges (a contribution of £850 from each Respondent).

The Decision

By consent of all parties that the Respondents should pay the sum of £4,250 to the Applicant in full and final settlement of all outstanding claims.

Dated this 24th day of October 2007

Signed..... 

Andrew D McCallum Gregg

A Member of the Southern Leasehold Valuation Tribunal appointed by the Lord
Chancellor