

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
& LEASEHOLD VALUATION TRIBUNAL**

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/29UN/LSC/2008/0052

Property: Minerva House
Fortuna Court
173 High Street
Ramsgate
Kent
CT11 9YE

Applicant: Hyde Housing Association Limited

Respondents: Lessees of Minerva House

Dates of Hearing: 10th September 2008
19th November 2008

**Members of the
Tribunal:** Mr. R. Norman (Chairman)
Mr. R. Athow FRICS MIRPM
Ms L. Farrier.

Date decision issued:

**RE: MINERVA HOUSE, FORTUNA COURT, 173 HIGH STREET, RAMSGATE, KENT,
CT11 9YE**

Background

1. Hyde Housing Association Limited (“the Applicant”) is the landlord of Minerva House (“the subject property”) and made an application for a determination of liability to pay service charges. The service charge demand which was the subject of the application was in respect of the budget for the year ended 31st March 2009. The lessees of Minerva House (“the Respondents”) made an application for an order under Section 20C of the Landlord and Tenant Act 1985.

2. The Applicant and the Respondents had provided bundles of documents which the Tribunal considered before the hearing on 10th September 2008.

Inspection

3. We inspected the exterior of the subject property and the development which comprised three purpose build blocks including Minerva House. The development is in what appears to be a former chalk quarry. This means that there are cliff faces around the development and in some places we could see that mesh had been fitted over the face and in some places pins had been inserted into the face. Mrs. Pat Cook from In Touch (part of the Hyde Group) and Mr. Norman Still one of the lessees were present for the internal inspection of the communal lounge and kitchen (with cooker and fridge provided by landlord), hall, stairs, lift, vacant flat 8 and bridges from the subject property to a road which is at about the level of the fifth floor. We could see that there was some grass growing in one of the gutters.

4. At the hearing on 10th September 2008 the Applicant was represented by Mrs. Pat Cook and the Respondents were represented by Mr. Norman Still. A number of lessees were also present.

5. At that hearing the Tribunal heard evidence and submissions on behalf of the parties. It became clear that the Tribunal could not reach a decision on the basis of the evidence produced and an adjournment was necessary to allow for the provision of further evidence.

6. Directions were made as to the further conduct of the case and as a result further accounts were produced by the Applicant and further submissions and proposed accounts were submitted by Mr. Still.

7. We were able to consider those further documents before the resumed hearing on 19th November 2008. At that hearing the Applicant was represented by Mr. Phillip Cross, Mr. Raj Ram, Mr. James Stone and Mrs. Pat Cook. The Respondents were represented by Mr. Norman Still. A number of lessees were also present. With the assistance of those present and in particular Mr. Still we were able to identify the matters which were still in issue and to deal with them.

Matters still in issue

Proportion of service charge

8. Under the terms of the leases each lessee is liable for a percentage of the building service charge which equates to 1/28th and for a percentage of the estate service charge which equates to 1/103rd. However, it was agreed by the representatives that because the Sheltered Housing Officer's flat is not being used the lessees should be responsible for 1/29th of the building service charge and 1/104th of the estate service charge.

External and Internal decorations

9. After submissions were made it was agreed by the representatives that:

- (a) The sum of £5,192 in respect of external decorations should be changed to £4,000 which would produce a figure of £20,000 over 5 years.
- (b) The sum of £3,560 in respect of internal decorations should be changed to £2,000 which would produce a figure of £10,000 over 5 years.

10. As a result of the reduced proportion payable by the lessees (paragraph 8 above) and the reduction in the sums provided for external and internal decoration (paragraph 9 above) the service charge payable in respect of each leasehold flat for the budget for 2008/2009 is by agreement reduced to £145.86 per month in respect of the building service charge and to £6.31 per month in respect of the estate service charge producing a total of £152.17 per month.

Deficit

11. Included in the budget service charge demand was an item described as a deficit from the 2006/2007 statement. This should not have appeared in this demand. The procedure should be that at the beginning of the year a budget is drawn up and service charges demanded to provide a sum to deal with the items in the budget. At the end of the year accounts should be prepared showing the actual amount spent. Any overspend should be demanded from the lessees and any underspend should be credited to them.

12. It was agreed by the representatives that the overspend or deficit should not be £17,454.53 but should be £14,803.53. That sum is reached by adding the building service charge deficit of £14,157.53 to the estate service charge deficit of £646.

Decision

13. We noted and were content with the matters agreed by the representatives on behalf of the parties.

14. We were aware that originally the service charges demanded in advance in respect of each leased flat for 2008/2009 were £279.47 per month but that arrangements were made for lower payments to be made pending our decision. We do not know how much has been paid by each lessee and the parties will need to check their accounts and make any necessary adjustments.

15. The deficit is not part of the application as it does not form part of the budget service charges but we noted the agreed reduction to £14,803.53 arising from an overspend in the year 2006/2007. The building service charge of £14,157.53 divided by 29 = £488.19 per leased flat and the estate service charge of £646 divided by 104 = £6.21 per leased flat giving a total charge of £494.40 per leased flat. The parties will need to consider how the payment is to be made. Again, we do not know how much has been paid by each lessee and the parties will need to check their accounts and make any necessary adjustments.

16. There is before us an application for an order under Section 20C of the Landlord and Tenant Act 1985. We find that it is just and equitable in the circumstances to make such an order because originally the sum of £279.47 per month was demanded from each lessee and had the Respondent used the correct model of budget in the first place there would probably have been no need for an application. We therefore make an order that all or any of the costs incurred or to be incurred by the Applicant in connection with these proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Respondents.



R. Norman
Chairman