

SOUTHERN RENT ASSESSMENT PANEL AND LEASEHOLD VALUATION TRIBUNAL

Case No: CHI/OOMR/LSC/2008/0088

BETWEEN:

LMV Management Co. Ltd

Applicant

- and -

Mr and Mrs Howard

Respondents

PREMISES: Flat 6 Spithead Heights
Horse Sands Close
Southsea
PO4 9UG ("the Premises")

TRIBUNAL: Mr D Agnew LLB, LLM (Chairman)
D Lintott FRICS
Mrs M Phillips

HEARING: 18th February 2009

Determination and Reasons

1. **Determination**

- 1.1 The service charge account for 2007/2009 was found by the Tribunal to be reasonable in every particular, as is the budget for 2008/2009.
- 1.2 The Tribunal found that the Respondents were liable to pay the Applicant £2159.76 in total in respect of the service charge for 2007/2009 and on account of the service charge 2008/2009.

2. **Reasons**

2.1 The Application

On 14th August 2008 the Applicant's then managing agents applied to the Tribunal under Section 27A of the Landlord and Tenant Act 1985 for a determination as to the reasonableness of service charges in respect of the Premises for the year 2007/2008 and of the amount sought on account of service charges for the year 2008/2009 based on the budget for that year.

- 2.1.1 As copies of the application which were sent by the Tribunal to the Respondent's by post were returned marked "Gone Away" the Application was published in the Portsmouth Evening News on 3rd November 2008 under the Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003.

2.2 The Inspection

- 2.2.1 This took place immediately prior to the hearing on 18th February 2009. 6 Spithead Heights is a flat situated on the top floor of a three storey block of 12 flats constructed in approximately 1992. It is part of an estate comprising thirty six flats and ten freehold houses in three blocks. There is an extensive tarmaced area in front of the buildings for residents' car parking. The gardens around the blocks comprise mainly shrubs but with some grassed areas. There are three bin storage areas.
- 2.2.2 The three blocks are constructed of brick under tiled roofs. The windows have wooden frames but are double glazed.
- 2.2.3 The whole of the estate appeared to be in good condition and well maintained. The garden areas were neat and tidy. The communal parts of the block in which flat 6 is situated were well carpeted and decorated and were in a clean condition.

2.3 The hearing

- 2.3.1 This took place at the Tribunal offices in Chichester. Ms Jenni Cole, Property Manager, and Ms Andrea Ruffles, Director, appeared for the new managing agents Now Professional Property Management who had taken over the management only in the last six weeks but who appeared to have mastered the detail of their duties with regard to this estate.
- 2.3.2 The Tribunal went through each items on the certified management company accounts for 2007/2008 and the budget for 2008/2009.

2.4 The Lease

- 2.4.1 By Clause 6.1.1 of the lease the lessee covenants to pay the Rent and the Estate Rent charges on the dates and in the manner provided.
- 2.4.2 By Clause 6.1.3 of the lease the lessee covenants to contribute and pay to the Company (the Applicant) the Maintenance Contribution and 1/46th of the Estate Charge.
- 2.4.3 By Clause 1.1.18 of the lease the Maintenance Charge Contribution is stated to be 2.8 per cent of the Maintenance Charge.
- 2.4.4 By Clause 1.1.17 "Maintenance Charge" is stated to mean the costs, expenses, outgoings and matters mentioned in Part 1 of the Third Schedule to the lease.
- 2.4.5 By Clause 1.1.8 of the lease the "Estate Charge" is stated to be the "costs incurred in connection with the maintenance of the Amenity Areas".
- 2.4.6 By Part 1 of the Third Schedule to the lease the company is required, in short, to keep the foundations main walls and main structural support, timbers, roofs, window frames, main drains and sewers and external parts and common internal parts in good and substantial

repair and condition; to keep equipment, fixtures and fitting in good order and repair, to paint the exterior of the buildings every three years and the internal common parts every five years. The company is entitled by paragraph 1.7 of this schedule to employ managing agents who are entitled to charge for their services.

2.4.7 By paragraph 1.9 of the Third Schedule to the lease the Company is required to insure the building and to insure against third party claims.

2.4.8 By paragraph 1.11 of the Third Schedule to the lease the Company is required to provide a reserve to meet future costs, expenses and outgoings.

3. The Law

3.1 Under Section 27A of the Landlord and Tenant Act 1985 (hereafter referred to as the 1985 Act) the Leasehold Valuation Tribunal may determine whether a service charge is payable and, if it is, determine:

- (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
- (e) the manner in which it is payable.

3.2 By Section 19(1) of the 1985 Act service charges are only claimable to the extent that they are reasonably incurred and if the services or works for which the service charge is claimed are of a reasonable standard.

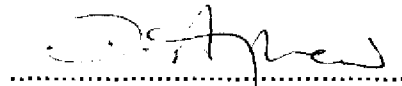
3.3 By Section 19(2) of the 1985 Act: "Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable....."

4. The determination

4.1 Having examined each item of expenditure for the year 2007/2008 and each budget item for 2008/2009 the Tribunal was satisfied that they were reasonable in every instance. There is attached to this decision a schedule of the items of expenditure that the Tribunal found to be reasonable.

4.2 Having received in evidence a document showing that the Respondents had made no payments of service charges for 2007/2008 or 2008/2009 the Tribunal determined that the Respondents were liable to pay the Applicant the sum of £254.64 for the Estate Charge for 2007/2008 and £267.40 for 2008/2009 and were liable to pay £799.54 for the Flats' Maintenance Charge for 2007/2008 and £838.18 for 2008/2009. This makes a total owed by the Respondents to the Applicant of £2,159.76.

Dated this 3rd day of March 2009



D. Agnew LLB, LLM
Chairman

Schedule

Estate Charge for 2007/2008	
Annual Return	£30.00
Accountancy	£618.00
Company secretarial support	£323.13
Insurance – directors and officers	£524.88
Legal expenses insurance	£494.15
Landscaping etc	£3818.75
Management fees	£1701.40
Scheduled ground maintenance and repairs	-
Unplanned ground maintenance and repairs	£1124.48
Sundries	£309.78
Pest Control	£414.45
Health and Safety Fire Risk Assessment	<u>£411.25</u>
	£9770.27
Payment to reserve	<u>£1500.00</u>
	£11,720.27

Flats' Service Charge 2007/2008	
Electricity	£652.30
Cleaning	£2086.25
Window Cleaning	£81.70
Insurance	£4324.31
Management fees	£3374.60
Scheduled maintenance and repairs	£11896.28
Unplanned maintenance and repairs	£2418.50
Sundries	<u>£271.54</u>
	£25,105.48
Payment to reserves	<u>£6,000.00</u>
	£31,105.48
Withdrawal from reserves	<u>£2,846.28</u>
	£28,259.20

Budget for 2008/2009 Estate Charge:-

Annual Return	£30.00
Audit fees	£500.00
Company secretarial support	£325.00
Insurance – directors and officers	£300.00
Landscaping etc	£3600.00
Management fees	£1698.60
Scheduled grounds maintenance	£1700.00
Unplanned grounds maintenance	£800.00
Reserve fund	£1500.00
Sundries	£260.00
Pest Control	<u>£500.00</u>
	£11,713.00

Flat's service charge budget for 2008/2009

Electricity	£1100.00
Cleaning	£2300.00
Window Cleaning	£280.00
Buildings Insurance	£5200.00
Management fees	£3375.00
Scheduled maintenance and repairs	£9000.00
Unplanned maintenance and repairs	£1200.00
Sundries	£100.00
Reserve	<u>£6000.00</u>
	£28,555.00