

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
SOUTHERN LEASEHOLD VALUATION TRIBUNAL**

Case Number: CHI/46UF/LSC/2009/0037

Re: 38 The Slipway, Staverton Marina, Trowbridge, Wiltshire BA14 8UP

In the matter of an application under Section 27A of the Landlord and Tenant Act 1985 for a determination of liability to pay service charges.

**Between:**

**SUSIE JANE PALMER**

Applicant

and

**STAVERTON MARINA  
MANAGEMENT COMPANY LIMITED**

Respondent

Date of application: 23 February 2009

Date of hearing: 22 June 2009

Members of the Tribunal: Mr. J. G. Orme (Lawyer Chairman)

Mr. M. Ayres FRICS (Valuer member)

Mr. M. Cook (Lay member)

Date of decision: 6 July 2009

**Decision of the Leasehold Valuation Tribunal**

**For the reasons set out below, the Tribunal determines that the service charge payable by Susie Jane Palmer to Staverton Marina Management Company Limited in respect of 38 The Slipway, Staverton Marina, Trowbridge, Wiltshire, BA14 8UP in respect of the year from 1 January 2008 to 31 December 2008 is £808.86 and the interim service charge payable in respect of the year from 1 January 2009 to 31 December 2009 is £957.03. Credit is to be given for any payments made on account of those sums.**

**Further, the Tribunal dismisses the application by Susie Jane Palmer for an order pursuant to Section 20C of the Landlord and Tenant Act 1985 (as amended).**

## Reasons

### The Application

1. On 23 February 2009, Susie Jane Palmer ("the Applicant") applied to the Tribunal under section 27A of the Landlord and Tenant Act 1985 (as amended) ("the Act") to determine whether the interim service charges levied by Staverton Marina Management Company Limited ("the Respondent") in respect of 38 The Slipway, Staverton Marina, Trowbridge ("the Property") for the years 2008 and 2009 were reasonable. The Applicant identified in the application the particular heads of charge which she was challenging. The Applicant also applied for an order under Section 20C of the Act that any costs incurred by the Respondent in connection with the application should not be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by her.
2. A pre-trial review was held on 23 April 2009 following which the Tribunal issued directions providing for both parties to prepare written statements of case. Both parties have lodged statements in accordance with the directions.

### The Law

3. The statutory provisions primarily relevant to applications of this nature are to be found in sections 18, 19 and 27A of the Act.
4. Section 18 provides:
  - 1) *In the following provisions of this Act "service charge" means 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 the landlord's costs of management, and*
    - b. *the whole or part of which varies or may vary according to the relevant costs.*
  - 2) *The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.*
  - 3) *For this purpose:-*
    - a. *"costs" includes overheads and*
    - b. *costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.*
5. Section 19 provides:-
  - 1) *Relevant costs shall be taken into account in determining the amount of a service charge payable for a period:-*
    - a. *only to the extent that they are reasonably incurred, and*

*b. where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.*

*2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.*

6. Section 27A provides:-

- 1) *An application may be made to a leasehold valuation tribunal for a determination whether a service 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.*

Subsections 2 to 7 of section 27A are not relevant in this application.

7. Section 20C provides:-

- 1) *A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a ...leasehold valuation tribunal, ... are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.*
- 2) *...*
- 3) *The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.*

### **The Lease**

8. The Applicant holds the Property under the terms of a lease dated 31 October 2006. The lessor was Charles Church Developments Limited ("the Developer"). The Applicant was the lessee. The Respondent was a party to the lease. The lease is for a term of 125 years from 1 January 2006 at an annual rent of £125.
9. By clause 3 of the lease, the Applicant covenanted to pay to the Respondent in respect of every maintenance year the proportion of the service charge estimate on the 1<sup>st</sup> day of January of that year. She also covenanted to pay to the Respondent the proportion of any service charge adjustment pursuant to paragraph 3 of the 4<sup>th</sup> schedule.

10. By clause 5 of the lease, the Respondent covenanted during the term to carry out the repairs and to provide the services specified in the 5<sup>th</sup> schedule.
11. The 5<sup>th</sup> schedule sets out the purposes for which the service charge is to be applied which include, amongst other items, keeping the managed areas clean and in good repair and condition, cleaning all external windows and cultivating all garden areas within the managed areas.
12. The 4<sup>th</sup> schedule sets out how the service charge is to be calculated. The maintenance year runs from 1 January to 31 December in each year. For each maintenance year, the Respondent is to calculate by 1<sup>st</sup> December in the previous year the service charge estimate which is the amount of expenditure which it estimates that it will incur in complying with its obligations under the 5<sup>th</sup> schedule including a reserve for anticipated future expenditure and administrative and management expenses. At the end of each maintenance year, the Respondent is to calculate the service charge adjustment which is the amount by which the actual expenditure exceeds the estimate. The Respondent is to supply each lessee with a summary of the service charge accounts for each year.

### **Background**

13. The Property is part of a development at Staverton Marina built by the Developer which was ready for occupation in 2006 to 2007. The development included a number of houses which have been sold on a freehold basis and which are not included in the service charge provisions.
14. The development also included 22 flats which have been sold on long leaseholds. The service charge provisions relate to those properties. There is one large block containing 12 large 2-bedroom flats and 4 1-bedroom flats. There are 2 smaller blocks each containing 3 small 2-bedroom flats. The large block has 4 communal entrances. The small blocks each have one communal entrance. Externally, there are some communal garden areas and communal bin stores.
15. The total service charge cost has been apportioned between the 22 flats in the following shares:

1-bedroom flats -	3.1657%
2-bedroom flats, small -	4.3965%
2-bedroom flats, large -	5.0798%
16. In January 2008, the Respondent appointed Labyrinth Properties Limited to manage the scheme in place of previous agents.

17. There is a continuing problem with the Developer in that it did not complete the external landscaping work and planting schemes for the communal garden areas and public open spaces in accordance with the approved plans. That is the subject of enforcement action by the local planning authority.

### **Inspection**

18. The Tribunal carried out an inspection of the development prior to the hearing on 22 June in the presence of the Applicant, Mrs. Karen Gray, the branch manager of the Swindon branch of Labyrinth Properties Ltd, and Miss Helen Macrae, a representative from Leasehold Legal Services.
19. The Tribunal walked around the external parts of the development and was able to observe the general state of maintenance of the communal areas including the bin stores. It also inspected the communal entrance to the Applicant's flat.
20. The development appeared to be a new development in good condition and well maintained in all the circumstances. It was apparent that the communal gardens were not flourishing due to lack of top soil but subject to that point they were reasonably well maintained. The gardeners were on site at the time of the inspection.
21. The bin stores were reasonably clean and tidy given the problems with fly tipping which were mentioned by the parties. The bins had just been emptied at the time of the inspection. The bin store adjacent to the large block has been divided to accommodate bicycle storage racks. This has resulted in the bins being stored in a smaller area which causes difficulty in access to the bins.

### **The Hearing and the Issues**

22. The hearing took place at the Fieldways Hotel, Trowbridge on 22 June 2009. The Applicant appeared in person accompanied by a friend. The Respondent was represented by Miss Macrae and Mrs. Gray.
23. In the application, the Applicant challenged the amounts charged in the service charge estimates for 2008 and 2009 for the following items:

	<b>2008</b>	<b>2009</b>
Internal communal cleaning	£2000	£1650
Audit fees	£450	£500
Communal electricity	£650	
Fire/emergency lighting	£400	£600
Entry phone maintenance/ satellite dish installation	£300	£1500
Repairs and maintenance	£800	£3000

Grounds maintenance	£2000	£2110
Buildings insurance	£1200	£1100
Refuse/fly tipping	£200	£250
Sundries	£220	£170
Window cleaning	£600	£650
Reserves	£2380	£1980

24. By the date of the hearing, the service charge accounts for 2008 were available showing the actual expenditure in 2008. The parties agreed that the Tribunal should proceed to determine the actual cost for 2008 and estimated cost for 2009.

### **The Evidence**

25. Mrs. Gray had filed a long statement on behalf of the Respondent supported by documentation. The Applicant filed a statement in reply. Both the Applicant and Mrs. Gray gave further evidence at the hearing in support of their statements.

### **Internal Communal Cleaning**

26. The internal cleaning relates to the 6 communal entrances and 3 bin stores. Paragraph 1.4 of the 5<sup>th</sup> schedule requires the Respondent to keep the managed areas clean. The Respondent put the cleaning contract out to tender in January 2008. Copies of the estimates were not available to the Tribunal but Mrs. Gray said that 2 estimates were received and the contract was awarded to the lowest tender which was much lower than the other one from the previous cleaners. The Respondent produced a copy of the cleaning specification and contract which provided for 26 fortnightly visits at an annual cost of £1488, equating to £57.23 per 2 hour visit. The Respondent had decided to change from weekly to fortnightly cleaning to reduce the cost. The actual cost for 2008 was £1915.96 to include an invoice for £417.96 carried over from 2007. The estimated cost for 2009 was £1650 to allow for routine cleaning and additional items such as carpet cleaning.
27. The Applicant thought that the cost for fortnightly cleaning was greater than the previous cost for weekly cleaning. She also complained that the cleaning was not being carried out properly. She said that the communal entrance for her flat had been cleaned during the previous week but the carpet was already dirty by the time of the inspection. She was concerned that the bin store was not being cleaned and disinfected on a regular basis and she produced photographs showing dog excrement and other rubbish in the bin store. She had contacted the contractors to enquire whether they carried water to disinfect the bin store and was told that they may or may not have water.
28. The Respondent said that the previous contractors appeared cheaper because the agents were not charging the full cost in the estimate and were recovering the balance in the adjustment. A

monitoring system has been put in place whereby the cleaners have to sign in when they attend and Labyrinth carry out quarterly checks.

#### **Audit fee**

29. Paragraph 5.4 of the 5<sup>th</sup> schedule requires the Respondent to prepare and audit the service charge accounts. The Respondent put the accountancy work out to tender in January 2009 and received 3 quotes. It accepted the cheapest quote from Ency associates at £350 plus VAT. The actual cost for 2008 was £857.75 being £455.25 for 2007 and £402.50 for 2008. The estimated cost for 2009 was £500.

30. The Applicant did not understand why the figure for 2008 was so high. She also questioned why the accounts were not on headed notepaper and signed.

#### **Communal electricity**

31. Paragraph 1.4 of the 5<sup>th</sup> schedule requires the Respondent to keep the managed areas properly lit. The Respondent said that the estimate for 2008 was based on previous estimated invoices. However, when Labyrinth took over the management, it found that the electricity accounts were in credit. Therefore there was no charge for electricity in the 2008 accounts. The cleaners now take quarterly meter readings.

32. The Applicant accepted that there was no charge in 2008. She did not challenge the estimated cost for 2009.

#### **Fire/emergency lighting**

33. Paragraph 5 of the 5<sup>th</sup> schedule provides for the Respondent to recover the costs of running and managing the development. Mrs. Gray said that to comply with regulations, it was necessary for the Respondent to have a health, safety and fire risk assessment carried out. The agents had a duty of care to make sure that this was complied with. No report had been available on handover from the previous agents. The report was commissioned in January 2008 as a result of which a number of issues were highlighted including the need to have routine testing on a 6 monthly basis of the fixed wiring in the communal areas, the emergency lighting and the fire detection system. The total cost of the assessment and the subsequent electrical inspection in 2008 was £893. The electrical inspection contract had recently been put out to tender. 3 quotes had been received and the Respondent had accepted the lowest quote at an annual cost of £620 plus VAT.

34. The Applicant was seeking justification for the estimated costs as the previous agents had not provided for such costs. She also questioned why it was necessary for an assessment to be carried out so soon after the development was completed. There were

other issues arising out of the health and safety assessment relating to bicycle storage and lack of storage space in flats which are not relevant to the application.

### **Entry phone maintenance/satellite dish installation**

35. Paragraphs 1.5 and 6 of the 5<sup>th</sup> schedule require the Respondent to keep in good repair and condition plant and machinery including the entry phone system and common television aerial. In addition paragraph 10 requires the Respondent to carry out such improvements as it considers necessary to maintain the development as a good class development of residential properties.
36. The Respondent said that the estimate of £300 for 2008 related to repair of the door entry system. The actual cost incurred had been £638.08. Copies of the invoices were provided by the Respondent. No maintenance contract had been entered into as this was repair work and the installer did not provide a maintenance service. Mrs. Gray said that it appeared that the system which had been installed was not robust and had given rise to a number of faults through the year. The original 1 year guarantee on the system had come to an end. A budget of £600 had been allowed for this work in 2009.
37. The Developer had not installed satellite dishes in the original construction of the development. This had lead to some occupiers installing satellite dishes in breach of covenant. At the AGM of the Respondent on 2 December 2008, it had been agreed to proceed with the installation of a communal system. A free dish would be provided on the main block and the cost on the smaller blocks would be £390 plus VAT on each block. This would include wiring to individual flats. As a result a budget of £900 had been included in the estimate for 2009. The actual cost was £828.
38. The Applicant asked why the entry phone system was not being repaired under guarantee. She did not challenge the actual cost incurred other than to say that it seemed a lot. As for the satellite dishes, her understanding was that there were going to be 3 dishes on the main block and that they were all going to be provided free of charge.

### **Repairs and Maintenance**

39. The Respondent's budget for 2008 was £800. Actual expenditure was £478 made up of £95.50 for 2 notice boards, £35 for removing rubbish and cleaning scuff marks, £42.30 for repairs to the entry phone and £305.20 for a solicitor's bill. This was for advice in relation to persuading the Developer to correct faulty wiring. The estimate for 2009 was £3000, being £800 for repairs and the balance relating to alterations to the bin store to accommodate bicycle racks. These items were covered by paragraphs 1.4, 1.5, 5 and 10 of the 5<sup>th</sup> schedule.



40. The issue of bicycle storage had arisen because the Developer had not provided for bicycle storage in the original scheme. As a result, occupiers stored bicycles in communal entrances causing a health and safety hazard. At the AGM of the Respondent on 2 December 2008, it was agreed to make alterations to the bin store to accommodate bicycles. The Respondent had obtained a verbal quote for carrying out this work from a contractor, David Foster, at a price of £2000 plus VAT. The work had now been carried out by a director of the Respondent at a cost of £1367, most of which related to the cost of purchasing the 5 racks at a cost of £200 each plus VAT.
41. The Applicant did not challenge the actual cost of repairs carried out in 2008 other than to say that the notice boards appeared expensive and to repeat her comments about the entry phone system.
42. The Applicant disagreed with the concept of creating bicycle racks in the bin store as it created difficulties with bin storage which was now cramped. The bins were heavy and difficult to move and sometimes the Applicant could not reach her bin. She did not consider that this was a viable solution to the bicycle problem. However, she accepted that the lease did not prohibit the work which had been done and that the work had been agreed at the AGM. She alleged that as the cost was in excess of £1000, the consultation requirements applied. She also criticised the lack of a written estimate and the fact that the work was done by a director of the Respondent.

#### **Grounds maintenance**

43. Paragraph 1.7 of the 5<sup>th</sup> schedule requires the Respondent to keep the garden areas properly cultivated. The Respondent put the contract out to tender in January 2008 but had only been able to obtain 2 quotes. It said that it was difficult to find contractors willing to do the work in the area of Trowbridge. The lowest tender had been accepted but only after the contractor had agreed to reduce the price to £142.13 per month plus VAT. The specification provided for monthly visits in winter and fortnightly visits in summer with weekly grass cutting in the peak growing season. Mrs. Gray said that she considered that the contractors were doing a reasonable job, particularly bearing in mind the fact that the Developer had not carried out proper landscaping and planting work. The actual cost in 2008 was £2167.91 to include £171 relating to the previous year. The estimate for 2009 was £2000.
44. The Applicant said that the contractor did not attend at all between October and May and came fortnightly during the rest of the year. She says that there is precious little for them to do and they are usually on site for about 1 to 1 1/2 hours. She said that they never do anything with the shrubbery. When the Chairman said that he

had seen a gardener clipping shrubs just before the inspection, she expressed surprise. She said that the contractor was overcharging but she was not able to say what a reasonable figure was.

#### **Buildings insurance**

45. Paragraph 7 of the 5<sup>th</sup> schedule requires the Respondent to insure the development. The Respondent obtained 3 quotations for insuring the development in August 2008. It accepted the lowest quote which was for an annual premium of £871.37. The Respondent provided copies of the quotes, the policy and certificate of insurance. As the insurance policy runs from 21 August, the premium was apportioned between 2008 and 2009 so that the actual cost in 2008 was £363.37. The estimate for 2009 is £1100.
46. The Applicant did not challenge the choice of insurer nor the premium. Her complaint related to the fact that she had an outstanding claim for damage to her flat and the insurers were refusing to pay for removal and storage of her personal effects whilst repair work was carried out.

#### **Refuse/fly tipping**

47. Paragraph 1.4 of the 5<sup>th</sup> schedule requires the Respondent to keep the managed areas clean. The budget for 2008 was £200 but the actual cost was £396.83. This included a cost of £135 to clear one of the smaller bin stores. The budget for 2009 is £250. Mrs. Gray said that there is a particular problem on this site with surplus rubbish. There is a high turnover of tenants who leave cardboard boxes and old furniture in the bin stores. The local authority will not remove such items unless they are in the appropriate bins. Further there has been a problem with fly tipping from the adjacent take away restaurant and other commercial premises. The Respondent has to arrange for this surplus rubbish to be removed and the contractor has to pay commercial rates for disposal of it.
48. The Applicant said that she did not consider it fair that responsible owner/occupiers should have to pay the additional costs of removing this rubbish. She was particularly concerned about tenants leaving boxes in the bin stores, an old Christmas tree and an ASDA trolley. She accepted that if the rubbish was there, it had to be removed but she wanted investor landlords to be more responsible. She suggested that a roof be put over the bin stores. She was unable to say whether the amount charged by the contractor was reasonable.

#### **Sundries**

49. Mrs. Gray explained that this charge related to additional management work carried out by Labyrinth. Labyrinth charge £110 per unit plus VAT for carrying out a defined work load including preparing service charge budgets, collecting service charges, arranging contracts, attending AGMs etc. They then charge for the

cost of copying and posting circular letters and other items in addition. The alternative is an overall charge of about £200 per unit. The Respondent had chosen the first charging system. The budget for 2008 was £200 and the actual cost was £295.76. The Respondent produced invoices showing that this cost related to production of circular letters, dealing with an insurance claim and room hire charges for the AGM. The budget for 2009 is £170.

50. The applicant said that this cost ought to be included in the overall management charge.

### **Window cleaning**

51. Paragraph 1.6 of the 5<sup>th</sup> schedule requires the Respondent to clean the exterior of the windows of both the communal areas and the individual flats. The Respondent put the contract out to tender in January 2008 but only 1 contractor tendered. Mrs. Gray said that this was because the contract was for cleaning only twice each year and most contractors wanted to do it every 2 months. Also, due to health and safety regulations, they had to use a pole system. The 1 tender had been accepted at a cost of £280 each visit plus VAT. The Respondent will put the contract out to tender again in 2009. The actual cost charged in 2008 was £630.06 and the estimate for 2009 was £650.

52. The Applicant said that she could not recall the windows being cleaned since October 2008. She had spoken to the contractor by phone and had been told that the windows had been cleaned in March 2009. She said that she did not think that they had been cleaned then and that her windows were dirty. She said that the price seemed high but she had no comparisons.

### **Reserves**

53. Paragraph 2.1 of the 4<sup>th</sup> schedule requires the Respondent to include in the service charge estimate an appropriate and reasonable amount as a reserve for future anticipated expenditure. The Respondent produced a 10 year plan showing what sums it intended to collect as a reserve for specific items such as internal decorations, roof maintenance and insurance valuations. This did not show when it is anticipated that the expenditure will be incurred. It had been prepared on the basis of experience at other sites. The reserve is discussed at the AGM along with the budget. The amount collected for reserves in 2008 was £2380 out of which had been paid £1377.10 for a 5-yearly electrical inspection, leaving £1002.90 to be transferred to the reserves. The reserve figure for 2009 is £1980.

54. Having heard the Respondent's explanation, the Applicant withdrew her challenge to the amount of the reserve.

## Conclusions

55. Overall, the Tribunal is satisfied that the actual service charge for 2008 and the estimated service charge for 2009 are fair and reasonable. It is satisfied that the development is being managed in a proper manner for the benefit of the residents. The Applicant issued her application out of a sense of frustration at not being able to resolve a number of other issues which are affecting her enjoyment of the Property and a general feeling that the service charge which she was being asked to pay was too high. However, she has been unable to satisfy the Tribunal that the service charge is unreasonable.
56. Internal communal cleaning – The Tribunal found that the internal areas were clean and tidy on its inspection. There was some dirt on the floor but that is bound to accumulate between cleanings. The bin stores were in reasonable condition. The Respondent has decided to clean fortnightly rather than weekly to reduce costs and that is a reasonable decision. Although the cost of cleaning appears high for the areas involved, the Tribunal accepts that the Respondent has put the contract out to tender and accepted the lowest tender. In the absence of contrary evidence from the Applicant, the Tribunal finds that both the actual cost for 2008 and the estimated cost for 2009 are reasonable.
57. Audit - The Applicant raised no effective challenge to the cost of audit. The Tribunal finds that the actual cost incurred in 2008 and the estimated cost for 2009 are reasonable.
58. Communal electricity – As the Respondent made no charge for electricity in 2008, the Applicant withdrew her challenge.
59. Fire/emergency lighting – The Tribunal accepts that it was necessary for the Respondent to undertake a health, safety and fire risk assessment in 2008. Indeed, it was justified by the fact that it raised issues which needed urgent attention. It was also necessary for the Respondent to institute regular inspections of the wiring, emergency lighting and fire detection systems. The Tribunal accepts that the costs incurred in 2008 and the estimated costs for 2009 are reasonable.
60. Entry phone system and installation of satellite dishes – The Tribunal is surprised that the entry phone system requires so much attention so soon after it was installed. However, it accepts that if it breaks down, it must be repaired. In the absence of a satisfactory challenge from the Applicant, the Tribunal accepts that the actual cost for 2008 and the estimated cost for 2009 are reasonable. It may be necessary for the Respondent to consider upgrading the system to a more robust system in the future. The Tribunal accepts

that the Respondent is entitled to install satellite dishes and that the work was approved at the AGM. The Tribunal is satisfied that the proposed cost of the work is reasonable.

61. Repairs and maintenance - At first sight, the cost of the notice boards appears high but the Tribunal accepts that a contractor is unlikely to do the work for less. The solicitors' bill does not naturally fall under this heading but the Tribunal accepts that the lease does permit the charge to be incurred and it appears to have resulted in a benefit to the residents. The Tribunal is satisfied that the costs incurred in 2008 are reasonable. The Tribunal does not accept that the consultation provisions apply to the bicycle racks. The Service Charges (Consultation Requirements) (England) Regulations 2003 came into force on 31 October 2003 and provide that the consultation provisions apply to works only where the relevant contribution of any tenant exceeds £250. The Tribunal accepts that the installation of the bicycle racks was permitted by the lease and was approved by the AGM. Although it would have been preferable if the Respondent had obtained written quotations for the work, the Tribunal is satisfied that the cost is reasonable and that the estimated cost for 2009 for repairs and maintenance is reasonable.
62. Grounds maintenance – The Tribunal found on its inspection that the garden areas are in an adequate but not wonderful state. This is mainly due to the Developer's failure to complete its work properly. There is very little top soil resulting in the lawn having many weeds and the shrubberies not being fully developed. The price being paid for gardening seems high for the amount of work which needs to be done but the Tribunal accepts that the Respondent obtained 2 quotes for the work and that it accepted the lowest quote. In the absence of alternative costing from the Applicant, the Tribunal is satisfied that the actual cost incurred in 2008 and the estimated cost for 2009 are reasonable. The Tribunal suggests that the Respondent attempts to obtain lower quotes in the future. The Tribunal is satisfied that the work is being done to a reasonable standard.
63. Building insurance – The Tribunal is satisfied that the Respondent obtained 3 quotes and accepted the lowest. The terms of the policy appear reasonable. The challenge raised by the Applicant is not relevant to this application. The Tribunal is satisfied that the actual cost for 2008 and the estimated cost for 2009 are reasonable.
64. Rubbish/fly tipping – The Tribunal accepts the evidence of Mrs. Gray that there are particular problems attached to this site which give rise to a high level of cost for removal of rubbish. The Tribunal accepts that a contractor would have to pay for disposal of rubbish and finds that the contractor's charges are reasonable. The Tribunal is satisfied that the actual costs incurred in 2008 and the estimated cost for 2009 are reasonable. The Tribunal suggests that

the Respondent investigates the possibility of including the removal of rubbish into the cleaning contract.

65. Sundries – The Tribunal finds the managing agent’s charging system to be an unusual one but finds that in the light of the fixed management charge, this additional charge is reasonable. The Tribunal finds that the actual cost for 2008 and the estimated cost for 2009 are reasonable.
66. Window cleaning – The Tribunal accepts that it is for the Respondent to decide on the frequency of cleaning. However, it is surprised that the Respondent was only able to obtain 1 competitive quote for cleaning and feels that further efforts could be made to obtain other quotes. The cost of £280 plus VAT seems on the high side, however, in the absence of contrary evidence from the Applicant, the Tribunal accepts that the cost is reasonable. The Applicant accepted that the windows were cleaned in October 2008 and there was no suggestion that the windows were not cleaned twice in 2008. It remains to be seen whether they will be cleaned twice in 2009. The Respondent should consider the need for a more robust system for checking whether the work has been done. The Tribunal is satisfied that the actual cost for 2008 and the estimated cost for 2009 are reasonable.
67. Reserves – As the Applicant withdrew her challenge to this item, the Tribunal is satisfied that the figures for 2008 and 2009 are reasonable. However, the Tribunal was not impressed with the 10 year plan. A table showing what cost was anticipated in what year would have been more useful.
68. Summary – As the Tribunal has not changed any of the sums claimed by way of service charge, the figures claimed by the Respondent remain unchanged. The Respondent produced a statement of account for the Applicant. That shows that the amount claimed by way of service charge estimate for 2008 was £687.96 plus a contribution to reserves of £120.90 making a total of £808.86. The year end accounts show that there was a small surplus and therefore there was no service charge adjustment for 2008. It also shows that the amount claimed by way of service charge estimate for 2009 was £856.45 plus a contribution to reserves of £100.58 making a total of £957.03. An order will be made in respect of those sums, credit being given for any payments on account. The statement of account also shows a service charge adjustment of £120.80 for the year 2007. That sum was not the subject of this application and no order will be made in respect of it.
69. Section 20C – The Applicant made no submissions on this issue other than those contained in her application that the services provided have been cut back and are below standard. The Respondent said that it did not wish to make a statement in

connection with the application because it has insurance cover in place to cover the associated costs. However, the Tribunal is bound to consider the application and make such order as it considers just and equitable in the circumstances. As the Tribunal has found that the service charges are reasonable, the Tribunal finds that it is not just and equitable to make such an order in this case and it dismisses the application.

Signed

Mr. J G Orme

Chairman

Dated 6 July 2009





decision was sent to the party. Time for applying for permission to appeal therefore expired on 28 July 2009.

3. On 27 July 2009 the Applicant sent an email to the Tribunal in the following terms: *"I am requesting an extension on appeal time: I have been and remain severely unwell as a consequence of the problems with the above. I believe that there is a discrepancy in the figures for the year 2009 that the above have given as reflected in your decision. I am in the processes of investigating this. But, as Labyrinth has severed all communication with me, it is difficult to move forward in my investigation."* The reference to Labyrinth is a reference to the Respondent's managing agents.
4. Regulation 24 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 provides that the Tribunal may extend any period prescribed by the regulations within which anything is required to be done. A party may make a request to the Tribunal to extend any such period but must do so before that period expires.

#### **Conclusion**

5. The Tribunal accepts that the Applicant requested an extension of time before the period for applying for permission to appeal expired.
6. The Applicant has given no indication of the basis on which she might seek permission to appeal other than to say that she is investigating whether there might be a discrepancy in the 2009 figures.
7. The Applicant has not produced any medical evidence relating to her illness or her inability to make an application within the time allowed. The Applicant has previously indicated that illness was preventing her preparing her case but no evidence of that illness was produced.
8. The Tribunal considers that, having issued its decision with full reasons, there needs to be finality between the parties. It considers that the interests of justice are not served by extending the time for applying for permission to appeal when there is no indication of the likely grounds of making that application and when there is no substantial reason for delay in making that application.

**Dated 15 August 2009**

  
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Mr J G Orme  
Chairman