

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE.**

SOUTHERN RENT ASSESMENT PANEL.

LEASEHOLD VALUATION TRIBUNAL.

S27A Landlord and Tenant Act 1985.

Application for a Determination of Reasonableness and Liability to pay service charges.

**DECISION AND REASONS.**

Case Number: CHI/18UD/LIS/2009/0082

Property 94 Oakfields Tiverton Devon EX16 6XF

Freehold Owner: Barratts BDW Trading Limited

Applicant: Oakfields No1 Management Company Limited.

Respondent: Michael Evans.

Inspection: 18 January 2010

Date of Hearing: 18 January 2010

**Directions:** 20 January 2010

Date of Decision: 13<sup>th</sup> April 2010

Tribunal members:

Siobhan Casey LLB (Hons) Lawyer Chair

Mr J B Tarling MCMl

Mr R T Brown FRICS

Also In Attendance:

For the Applicant Miss Helen Macrea of Leasehold Legal Services

Miss Emily Holden Property Manager of Labyrinth Properties

Mr Ian Rankin Assistant Property Manager of Labyrinth Properties

The Respondent Mr Evans in person

The Respondent Michael Evans in person

**Definitions and Interpretations used throughout these reasons:**

1. "the Applicant" refers to Oakfield's Management Company Limited (Tiverton) who manages the property on behalf of the Landlord.
2. "the Respondent" refers to the Lessee/Tenant, Michael Evans.
3. "the Act" refers to the Landlord and Tenant Act 1985 as extensively amended.
4. "the Lease" refers to the Lease:

Dated 5<sup>th</sup> May 2006 made between:

- (1) Barratt Homes Limited.
- (2) Oakfield No1 Management Company (Tiverton).
- (3) Michael Evans 'the Tenant'.

5. "the Premises" refers to 94 Oakfields, Tiverton, Devon EX16 6XF.
6. "The Application" refers to the application dated 17 September 2010 made by the Applicant for these proceedings.
7. References to pages in the bundle are set out in the square brackets [ ].
8. The Application requires the Tribunal to make certain decisions regarding service charges alleged to be payable by the Respondent for the past years 2008, 2009 and future charges for 2009 to 31-03-10. The Applicant requested that the Tribunal determine that the service charges for the past years were reasonably incurred and, where they were incurred on the provision of services or the carrying out of works those services or works were of a reasonable standard.

**SUMMARY OF DECISION.**

9. This decision is based upon written submissions made by both the Applicant and the Respondent together with oral evidence given at the hearing held on 18 January 2010. The Tribunal determined that pursuant to Section 27 A of the Act:

10. The Lease makes provision for service charges in the Third Schedule and Fourth Schedule.
11. The Tribunal at the conclusion of the Hearing on 18 January 2010 needed to have a certified copy of the original plan in the counterpart Lease to assist them in their determinations. A direction was made on 20 January 2010 for four copies of the original counterpart lease certified by a solicitor to be filed. The Direction was complied with on 22 January 2010. Upon considering the plan attached to the original counterpart lease the Tribunal found that the estate grounds were slightly larger than indicated during the inspection in particular the hatched area to the west of the development however this has not altered the decisions of the Tribunal reached on 18 January 2010.
12. Deductions from the total service charge account would be made for items which were not considered relevant items authorised by the lease and or unreasonable under the provisions of S.19 of the Act in terms of charges made or the standard of services provided.
13. The Applicant's had failed to serve proper certified and signed service charge accounts as required by the lease so that at the date of the hearing the service charges demanded were not payable. Following the issue of Directions on 20 January 2010 the Applicants did serve the accounts in the proper form required by the Lease and the Act.
14. The Respondent confirmed at the hearing that he wished to make an Application under S20(C) of the Act for a determination that any costs of these proceedings incurred by the Applicant shall not be treated as service charges. Following the issue of Directions on the 20 January the Respondent made a formal request in writing for the Tribunal to consider this application. The Tribunal determined that the Applicant's costs incurred in connection with these proceedings in so far as they are recoverable under the lease, shall not be regarded as relevant costs to be taken into account in determining the amount of any future service charge payable by the Respondent.

## Inspection.

15. The Tribunal members inspected the development on 18th January 2010. Also In attendance; were the Applicant's representatives and the Respondent in person.
16. The estate developed by Barratt homes circa 2005/6 is a mixed development of 53 apartments and houses located on the north side of Tiverton.
17. The subject property, which was not inspected internally, is a 2 bedroom apartment in a block of six constructed in contemporary materials. There are no internal common parts.
18. The 'estate' (edged green on the plan to the lease) for the purposes of the service charge includes: communal parking spaces, a viewing area, and shrub borders to the estate roads and to the north an area of open grassland with a footpath running east to west. The Tribunal noted other areas of apparently communal areas (shaded green on the plan provided by the Applicants) which they were informed was part of the public open space to be adopted by the local authority.
19. During their inspection the Tribunal noted with regard to the estate the following;
  - Evidence that the shrub borders had recently been 'pruned' but that there was evidence of long term neglect in the form of weeds overgrowing the footpaths, bramble and rubbish left in borders.
  - Evidence that grassed areas (both level and sloping) had not been properly maintained including evidence of damage by moles.
  - Evidence of green moss growing on outdoor stairways.
  - Evidence of weed growth in communal parking bays.

**The Hearing.**

20. Following the Inspection the Tribunal and the parties met at the Best Western, Tiverton Hotel, Blundells Road, Tiverton, Devon EX16 4DB for a hearing of the Application.

**Applicant's Case.**

21. As authority to demand the service charges the Applicant relied upon the Third Schedule [p54] and Fourth Schedule [p59] of the Lease. [p54-60 inclusive]  
Each year's claim was set out in the Application as follows;

Year to: 31-03-2008 [p7 to 15]

Year to: 31-03-2009 [p16 to 18]

Year to: 31-03-2010 [p19-24]

22. The Tribunal were referred to Clause 3 of the Lease, headed 'The Tenant's Covenants' [p32] which states the Tenant covenants with the Landlord and as a separate covenant with the Management Company as follows:

'To pay the Rents on the days and in the manner set out in this lease free of all deductions of whatsoever nature and without legal or equitable set off and not to exercise any right or claim to withhold Rents'. In the Lease 'the Rents' is described as follows: 'the rent the Insurance Rent and the Service Charge', 'the Service Charge 'is described as ; 'the Service Charge percentage of the Annual Expenditure'. The Fourth Schedule details the Service Charge Provisions, paragraph 4 states...'The Tenant Shall pay for the next and each subsequent Financial Year a provisional sum calculated upon a reasonable estimate by the surveyor of what the annual Expenditure is likely to be for that financial Year by two equal instalments in advance on 1 April and 1 October each year.'..

23. In the Lease the 'Annual Expenditure' is described as follows:

1.1.1 all costs expenses and outgoings whatsoever reasonably and properly incurred by the Landlord or the Management Company (whether directly or by way of

contribution or reimbursement) during a Financial Year in or incidental to the Tenant providing all or any of the Services and ,

1.1.2 all incidental costs whatsoever reasonably and properly incurred including reasonable provision for anticipated expenditure as listed in the Third Schedule

1.1.3 any V.A.T on such sums costs expenses and outgoings but excluding any expenditure in respect of any part of the Building for which the Tenant or any other Tenant is wholly responsible and excluding any expenditure that the Landlord recovers or is met under any policy of insurance maintained by the Landlord pursuant to its obligations in this Lease.

1.2 In the Lease 'the Services' are described as follows: the services and facilities and amenities specified in Part 1 Part 2 and Part 3 of the Third Schedule [p51-56], which comprise , items for the benefit of the building in Part 1; Items for the benefit of the Common Items Part 2 and Incidental Costs in Part 3.

24. The Applicant relied on the following documentation in the bundle:

[p69]Statement of Account-94 Oakfields these detail the charges applied to the individual service charge account and the alleged arrears.

[p94]Correspondence re: 94 Oakfields.

Period Ending 31<sup>st</sup> March 2008

[p104]Certified Accounts for the Service Charge year ended 31<sup>st</sup> March 2008

[p112]Copy Invoices for the period ending 31<sup>st</sup> March 2008

Period Ending 31<sup>st</sup> March 2009

[p176]Copy Invoices for the period ending 31<sup>st</sup> March 2009

Period Ending 31<sup>st</sup> March 2010

[p261]Budget for Service Charge year ended 31<sup>st</sup> March 2010

[p265]Property Expenditure Report year ended 31<sup>st</sup> March 2010 [p168].Certified Accounts for the year ended 31<sup>st</sup> March 2010  
the Service Charge year ended 31

Copy Invoices for the period ending 31<sup>st</sup> March 2010

Each period comprised of service charge accounts for, 'the Block', and for, 'the Estate'.

## **THE RESPONDENTS CASE**

25. The Respondent challenged the Application, he accepted that under the terms of the Lease he was responsible for 16.66% of the Service Charge costs incurred by the Applicant, but, he argued, the Landscaping services were not of a reasonable standard and therefore not due. The specifics of this argument were set out in the bundle [p341-343] complaining that the works were below a reasonable standard expected for the communal landscaped garden areas due to lack of maintenance, existence of many mole hills, rubbish which needed to be collected, failure to properly maintain the garden areas and common parts, areas overgrown and littered due to lack of maintenance. No works had been carried out for some months.

26. The Respondent referred in his statement to the following; an exhibited plan for ease of reference to identify the relevant common parts and landscaped areas, the photographs he provided prior to the hearing date; the observations during the course of the Inspection and the Specification [p 272]. He argued the works were not carried out to the level in the Specification, were not of a reasonable standard and in consequence the charge demanded for this service was unreasonable.

## **EVIDENCE**

27. The Applicant explained that Barratts BDW Trading Limited, the original developers of the estate still hold the freehold interest. Management is undertaken by Oakfield No 1 Management Company (Tiverton) Ltd who are a party to the lease. The Applicant used the services of Labyrinth Properties to manage the common parts, the communal areas, and the landscaped areas in order to meet the Landlord's responsibilities contained in the Lease. All lessees on site own a share of the Applicant Company and from these shareholders a Shadow Board of Directors has been compiled to represent the Leaseholders' interests in the management decisions. The current board were appointed

solely to oversee the interim period from the setting up of the company to the time when the shareholders are in a position to elect their own board.

28. Miss Emily Holden an employee of Labyrinth Properties Ltd gave evidence that she had been working for the company for the past 4 years, she was responsible for forty two separate developments. The services offered to the Applicant (to assist Oakfield No 1 Management (Company) Limited ) by Labyrinth Properties Limited were described by her as including attendance at directors meetings; attendance at annual general meetings; site visits; preparation of service charge budgets; raising service charge demands; dealing with leasehold enquiries, and correspondence arising from this role. Miss Holden said that she attends this particular site four times per annum to complete a 'check list report', take meter readings, inspect the gutters, landscaping, and check that the site is clean and the grounds tidy . She said she then files a report of her observations, (no copies were available in the bundle.). In addition she said she deals with complaints, is responsible for notifying residents if service contracts are suspended and is responsible for retaining reports so they are available for the Directors. She said she prepares the specification for landscaping and will arrange for other specifications to be drawn up, where appropriate either by her or where appropriate a professional, .i.e.; a specification for redecoration of the blocks would be carried out by a qualified surveyor. The specification for landscaping [p272] was prepared by Miss Holden. Once a specification for any works is prepared she said that the usual procedure would be it would be sent to three local contractors for tender together with site plans where appropriate; she would also check that any prospective contractor has current public liability insurance and appropriate health and safety procedures .

29. She was asked if she had criteria for selection and she said that she did not. She would give prospective contractors the, 'benefit of the doubt' generally using people that have been used previously and found to be dependable. There is no documented level of service expectations and no minimum standards are set other than the specification upon which they have quoted. The chosen contractor must conform to relevant Health and Safety standards and have appropriate insurances. Copies of the contractors insurances



are sent to and held at Head Office. Miss Holden said she uses a list of approved suppliers on occasion. If looking for a new contractor she may refer to, 'yell.com'.

30. If a company were to fail to perform this would be discussed with the shadow board and it might be decided to send the contractor a warning letter and after that the contract might be terminated with one months notice. Regarding supervision of the works the contractors are trusted to do the work to the agreed specification; the Shadow Board do live on site and would notify the managing agents if the contractors had not attended or performed as agreed.

31. Dealing with the preparation of the service charge accounts, the Tribunal were told that the individual Property Managers will each provide figures for the Audit Department of Labyrinth Properties Head Office. Head Office will then send these out to independent accountants and these accountants prepare the final service charge accounts. After a series of checks the accounts are then served upon the Leaseholders.

32. The Tribunal said that they had not seen signed and dated accounts for the relevant periods in the application. It was essential that the Applicant was able to produce these documents as they were a pre-requisite to the payments being due. There was a short adjournment to allow the Applicant to obtain the signed and dated accounts as required by the Lease. Accounts were faxed to the hearing but they were signed and dated that same day (18/01/2010), the Applicant was unable to provide the required evidence during the course of the hearing and directions were given on 20 January 2010 for the service of the accounts properly signed and dated as required by the Lease.

33. The Applicant said that it accepted there had been problems with the Landscaping services there had been a "one off" visit by the contractors at the end of November 2009 which was part of the existing contract with RTS Landscaping. The Landscaping works had historically been carried out by RTS Landscaping. At the start of the New Year the specification was sent out to tender and RTS Landscaping submitted the lowest quote. In March/ April 2009, the shadow board approved this quote and RTS Landscaping was retained to continue with the landscaping contract. The monthly invoices from RTS were disclosed, [p116-127] these invoices are apportioned between Phase 1 and Phase 2. It was anticipated that works would be carried out fortnightly in the summer, April to October

and once per month November to March. The monthly bill is: the total divided by 12. Due to cash flow problems the actual expenditure this year has been lower (as there had been fewer visits) than the quoted price. Works had to be suspended as there were insufficient monies in the service charge account (a situation usually caused by non-payment of the service charges) to maintain the monthly payments to RTS Landscaping. This was the reason why the services provided were below the specification standards.

34. The calculation and apportionment of the Management fees throughout the whole estate was calculated on the basis that the fees were £1409.55 divided by 1.175 to net out the VAT giving a figure of £1199.62 divided by 53 being the number of units in the estate equalling £22.63 per unit net of VAT. For the individual block the sum of £637.38 divided by 1.175 = £542.45 divided by 6, (the number of units in this block) = £90.41 per unit net of VAT. Miss Holden could not provide any information to explain or justify the increase in management fees for the final period.

35. The Respondent had only raised objections in his statement and evidence to the Landscaping charges however the Tribunal was entitled under the jurisdiction of S27A of the Act to examine all of the charges raised in the Application.

36. Estate charges relating to the Lease, Part 1, Third Schedule, items for the period 2007 to 2008 were set out in the Estate Account [p107]. The most significant were management fees and landscaping. The Tribunal were already aware of the scope of the management services provided but would have found it useful to have had sight of the contract of service between the Applicant and Labyrinth Properties but no such document was available. The landscaping services are addressed above; once again it would have assisted the Tribunal to have had sight of all of the necessary documentation.

37. The accountancy fees had been duly apportioned and supported by invoices in the bundle. The Tribunal asked for justification for the inclusion of Directors and Officers insurance, and LVT insurance [p109]. The Applicants were unable to clarify the purpose of these policies. The Applicants were asked to clarify the charge for Emergency Response [P109 and Lease Clause 6 p54] and whether a Tenant could reasonably expect this service to be provided within the 'management services' taking into account the

management responsibilities as described by the Applicant and set out in the Lease. It was noted that the policy has not been used over the last 2 year period.

Health and Safety charge [p109]+[p134] fees to Britannia for health and safety consultancy and fire risk assessment carried out in August 2007. This was a fee to professionals to inform management of works to be done. A copy of this report is available to all leaseholders and to the shadow board.

The Emergency Response insurance was a policy of insurance for out of hours emergency attendance for repairs up to a value of £500.00. Part of this insurance also related to the demised flats and in those circumstances was to be categorized as a service charge exclusively for the communal areas. This was to provide limited assistance in specifically defined circumstances for home emergencies arising from an insured risk[324-327].

Building Insurance [p109] is arranged by the freeholder directly and not by Labyrinth Properties. Oval are the landlords brokers, [see p159 for the apportionments, £111-48 per property, and [p159] show the block of 6 responsible for £668.89 of the total charge of £2006.71 to Oval Insurance Broking Ltd.

38. The Tribunal analysed the Block and Estate accounts for the periods and invited representations from both parties; the items appear in two tables below one, for the Estate Accounts for the three periods and one for the Block account for the three periods, the items are marked as to whether there was provision in the Lease to charge and whether the Tribunal decided there should be any adjustments by reference to; the evidence available; comparison of the actual costs year by year over the three periods and their own expert knowledge and experience.

39. The Tribunal adjourned the Hearing to enable the Applicants to contact their offices and make arrangements for the plan attached to the counter- part lease to be brought to the Hearing. After a short adjournment the Applicants advised the Tribunal that they were unable to produce the plan on that day. Directions were made for the Applicants to file and serve upon the Tribunal and the Respondent a copy of the plan attached to the original counter- part Lease. This direction was complied with on 22 January 2010.

40. In addition direction were made for the Applicant to serve upon all lessees signed and dated service charge accounts for the years, end March 2008 and end March 2009. This direction was complied with 22 January 2010.

**THE LAW: APPLICATIONS TO LEASEHOLD VALUATION TRIBUNAL S27A  
LANDLORD AND TENANT ACT 1985, POST 30 SEPTEMBER 2003.**

41. The jurisdiction of the LVT in Service Charge cases s27A provides that;

“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 “

42. Where a variable service charge is payable to the Landlord of a “dwelling” in addition to rent, its recovery from the tenant is subject to the provisions of Sections 18-30 of the Act as extensively amended.

A “Service Charge “is defined in S18 (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, improvement 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 (including overheads, S18 (3) (a)).

43. Section 19 (1) contains the test of reasonableness. It provides that the relevant costs shall be taken into account in determining the amount of a service charge for a period,

- (a) Only to the extent that they are reasonably incurred ; and
- (b) (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 will be limited accordingly.

44. Section 20(C) Limitation of service charges: costs of proceedings.

(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 court, [, residential property tribunal] or leasehold valuation tribunal, or the [ Upper Tribunal], or in connection with arbitration 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 tenant to any other person or persons specified in the application .

(2) The application shall be-

(a) In the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;

[(aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;]

(b) In the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;

(c) In the case of proceedings before the [ Upper Tribunal], to the tribunal;

(d) In the case of arbitration proceedings, to the arbitral tribunal or, if the application proceedings, to which is made after the proceedings are concluded to a county court.

(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.

### **Decision of Tribunal**

45. Any Service Charge claimed by the Landlord must be clearly provided for in the Lease. In deciding whether the words used achieve this end, they must be given their natural meaning and must be seen in their context. If the meaning of the clause is ambiguous any ambiguity must be resolved in favour of the tenant, (*Rapid Results College v Angell*) 1986.

46. Even under a Lease which contains a detailed Service Charge clause, there may be items which fall outside the wording of the clause. These cannot be charged to the Tenant. There is no presumption that Landlords should recoup all their expenditure.

47. Section 19 of the Act requires all charges and services must be to a reasonable standard and that the costs also must be reasonable.

48. There was no evidence produced by the Applicant that demands had been properly served for any of the periods in dispute. The Applicant referred the Tribunal to [p 84 and p85] this was a standard letter to all residents at Oakfield's No 1 for service charge budget 2008/2009 it was dated but not signed and failed to identify a recipient. Furthermore the statement of account dated 9 November 2009 [p91 and p92] did not contain the name or address of the management company. It was the case that unsigned and undated copies of the service charge accounts had been served upon the Leaseholders. The Lease was clear that signed copies had to be served. Until this was done the amounts were not payable. Directions were issued for service upon all Lessees signed and dated copies of the service charge accounts for the years, end March 2008 and end March 2009. The Applicant complied with this direction and the Tribunal determined that the service charges had then been properly demanded.

49. The Management Co holds Directors and Officers insurance which is normally arranged to protect individual directors against third party claims. This item is defined in the bundle [p80] as 'Insurance for the Directors and Officers of Oakfields No 1 Management Company Ltd to protect them against potential claims'. The Tribunal determined that Labyrinth Properties would reasonably be expected to hold Professional Indemnity to protect them against negligence in the carrying out of their duties and the premium which Labyrinth paid for that PI insurance would normally form a part of the overall Management fee charged to the Respondent.

From the information available and in the absence of any evidence to the contrary, it appeared that these were insurances to protect Labyrinth Properties and or the Directors themselves against any possible claims made against them by the Lessees.

Although requested, there was no copy of the Companies Memorandum and Articles of Association to assist in determining if these expenses could be incurred by the Company. The Applicant was not able to establish on a balance of probabilities that it had the power to incur these expenses. The Tribunal concluded those charges were not payable for any of the years as they appeared to be outside the provisions of the Lease.

50. Taking into account all of the evidence on paper, arising from the inspection and the oral evidence the Tribunal concluded that the landscaping and maintenance of the communal areas was subject to a contract price that was reasonable in relation to works to be provided, frequency of attendances and expectations as set out in the specification. Due to cash flow constraints resulting in reduced attendances by RTS Landscaping the services in the final period 2009-2010 were not of a reasonable standard and those charges would be reduced accordingly. But we also reduced the charges for the preceding years

51. The Tribunal examined the service charge statements comprising of an account for both the Estate and the relevant Block (Phase two, Block 2) for each of the service charge years. The Tribunal have set out each period in two tables, one for the Estate and one for the Block together with their determination of adjustments where relevant. Figures for the three years of the Estate charges appear first and then figures for the three years for the Phase two, Block 2 appear. Where the Tribunal have felt it appropriate they have adjusted

or disallowed the charge on the basis that the lease did not provide for the charge, or the charge itself is unreasonable. The tables present the determinations made by the Tribunal.



**Table 1.**

Estate Services [107]		Page 107 Year End 2008	
Item	Does lease Provide  For this charge?	Charge	Tribunal  Determination of sum allowed
Accountancy	Yes  [54]	166.26	166.26
Annual Return Fee	Yes	30.00	30.00
Secretarial Fee	Yes	206.36	172.50 these fees are calculated on a sliding scale relating to works carried out. They are not sent out for tender. The tribunal examined the works involved and concluded this was a reasonable figure.
Communal Cleaning	Yes	0.00	0.00
Electricity	Yes	00.00	0.00
Insurance Property	Yes	00.00	0.00
Page 107 Landscaping	Yes	2363.90	1180.00 The Tribunal concluded that using their knowledge and judgement that this was a reasonable charge for the standard of work provided.
Maintenance & Repair	Yes	00.00	0.00
Management Fees	Yes	1409.55 calculated £25+VAT per unit yearly	1409.55

Sundries	Yes	59.40	59.40
LVT Insurance	No	00.00	0.00
Health & Safety	Yes	117.50	117.50
Directors & Offices Insurance	No	160.22	00.00
Window Cleaning	Yes	0.00	0.00
Not applicable to estate			
General Reserve	Yes	100.00	100.00

Estate Services page 172		Pg 172 Year End 2009	
Item	LSE Provides	Pg 172 Cost Charge	Pg 172 ADJUSTMENT
Accountancy	Yes	99.11	99.11
Annual Return Fee	Yes	10.00 Online fee	10.00
Secretarial Fee	Yes	258.03	200.00
Insurance Property	Yes	77.59	77.59
Landscape	Yes	1952.17	This was a reasonable figure for the services provided 1952.17
Maintenance &	Yes	76.38	76.38

Repair			
Management Fees	Yes	1459.70	1409.55 (no increase from earlier year justified)
Sundries	Yes	155.09	100.00 (insufficient evidence to justify increase from previous year)
LVT Insurance	no	567.60	Tribunal determine not authorized by lease
Directors & Offices Insurance	No	515.65	Tribunal determined not authorized by lease
General Reserve	Yes	100.00	100.00

Estate Services Page 231		Pg 231 Year End 2010 Budget	
Item	Does the Lease Provide	Pg 231 Cost Charge	Pg 231 Sum allowed
Audit	Yes	160.00	100.00 is a reasonable sum and reasonably incurred.
Annual Return Fee	Yes	30.00	30.00
Co. Secretarial Fee	Yes	320.00	200.00
Electricity communal (pathway)	Yes	900.00 Pathway lighting --not so far charged, it had been thought area would be adopted by local authority-- therefore approve and await in future year's sight of the actual expenditure.	900.00

Property Owners Insurance	Yes	185.00	100.00 no justification for increase from the following year
Landscaping	Yes	2211.50	2000.00 The Tribunal rounded this figure they concluded it was excessive as an estimate for the current year! when considered in the light of previous years
Maintenance & Repair	Yes	200.00	200.00
Management Fees	Yes	1525.00	1409.55 no fee increase justified
Sundries	Yes	200.00	100.00 insufficient evidence to justify 200.00
Reserve Fund	Yes	100.00	100.00
Directors & Offices Insurance	No	430.00	00.00
General Reserve	Yes	100.00	100.00

Table 2.

Table 2.

Phase 2 Block 2 109		Page 109	
		End March 2008	
Item	Lease	Charge	Sum allowed
Accountancy	yes	165.07	165.07
Company Secretarial Fees	yes	0.00	0.00
Landscaping	yes	1110.90	565.00 The Tribunal reduced this figure to reflect, on the evidence presented, the standard of service
Maintenance & Repair	yes	00.00	0.00
Management Fees	yes	637.38	637.38
Property Owners Insurance	yes	611.98	611.98
LVT Insurance	no	44.92	00.00
Sundries	yes	00.00	0.00
TV Aerial	yes	00.00	0.00
Health & Safety	yes	78.33	78.33
Emergency Response-This also known as Emergency Assistance Insurance	no	36.50	Tribunal determined this was a service properly provided in the management fees.
General Reserve	yes	200.00	200.00

Phase 2 Block 2 pg		
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171		Pg 171	
		End 31 March 2009	
Item	Lease	Charge	Adjust
Accountancy	yes	151.80	151.80
Landscaping	yes	557.42	557.42
Maintenance & Repair	yes	00.00	0.00
Management Fees	yes	701.25	637.38 Tribunal determined the increase in fee was not justified
Property Owners Insurance	yes	668.58	668.58
LVT Insurance	no	79.23	00.00 Not a relevant charge.
Sundries	yes	12.83	12.83
TV Aerial	yes	00.00	0.00
Health & Safety	yes	00.00	0.00
Emergency Response- This also below Emergency Assistance Ins	no	182.50	Tribunal determined this was not a relevant charge.
General Reserve	yes	200.00	200.00
Page 171			
Electricity	yes	00.00	0.00
Directors & Officers Insurance	no	54.75	0.00
Insurance re-valuation	no	160.98( a freeholder had requested	160.98

		this.[p221])	
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Phase 2 Block 2		Pg 233	
Pg 233		End March 2010	
Item	Lease	Charge	Adjust
Accountancy	yes	100.00	100.00
Company Secretarial Fees Not on this schedule	Page 233		
Landscaping	yes	920.00	600.00 fees were reasonably incurred but below an acceptable standard. Brambles molehills present. Suspension of contract due to lack of funds.
Maintenance & Repair	yes	100.00	100.00
Management Fees	yes	690.00	690.00
Property Owners Insurance	yes	770.00 Tribunal accepted this increase could arise from the revaluation.	770.00
Legal Expenses Page 233	no	275.00	00.00
Sundries	yes	20.00	20.00
TV Aerial	yes	00.00	0.00
Emergency Assistance	no	219.00	00.00

Insurance			
Reserve Fund	yes	200.00	200.00

52. The Tribunal determines it would not be just or reasonable in all the circumstances for the Applicant to include any such costs as a service charge. The Respondent had made it clear that the only item he was disputing was the Landscaping fee on the basis that the works had not been carried out to a reasonable standard and the Tribunal concurred with this view. Furthermore the Tribunal determined that the demands for payment were only properly made by the Applicant on 22 January 2010. The Tribunal makes an order under section 20C of the Act that the Applicants costs in these proceedings shall not be regarded as relevant costs to be taken into account in determining the amount of any future service charge payable by the Respondent.

CHAIRMAN

Siobhan Casey



DATE 13 April 2010