

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

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

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/21UD/LSC/2009/0132

Property: 42/43 Marina
St. Leonards-on-Sea
East Sussex
TN38 0BU

Applicant: 42 Marina Management Limited

Respondents: Mr. and Mrs. T. Smith (Flat 1)
Mrs. Land (Flat 2)
Mr. and Mrs. Harrod-Edwards (Flats 7 & 8)
Mrs. Ferriera (Flats 5 & 6)
Mr. Davey (Flat 3)
Ms Barker (Flat 4)

Date of Hearing: 14th December 2009

**Members of the
Tribunal:** Mr. R. Norman (Chairman)
Mr. N.I. Robinson FRICS
Mr. T.W. Sennett MA MCIEH

Date decision issued: 31/12/09.

RE: 42/43 MARINA, ST. LEONARDS-ON-SEA, EAST SUSSEX, TN38 0BU

Background

1. 42 Marina Management Limited ("The Applicant") is the freeholder of 42/43 Marina and has made an application under Section 27A of the Landlord and Tenant Act 1985 for a determination of liability to pay service charges. Mr. and Mrs. T. Smith (Flat 1), Mrs. Land (Flat 2) Mr. and Mrs. Harrod-Edwards (Flats 7 & 8), Mrs. Ferriera (Flats 5 & 6), Mr. Davey (Flat 3) and Ms Barker (Flat 4) are the lessees of the flats which form the residential part of 42/43 Marina, St. Leonards-on-Sea, East Sussex, TN38 0BU ("the subject property") and are collectively referred to as "the Respondents". The ground floor and basement of the subject property is a commercial unit. Mr. Okines of Arko Property Management is the Applicant's company secretary and the managing agent and represents the Applicant.

2. The Respondents and the leaseholder of the commercial unit are shareholders in the Applicant Company.

3. The service charges in respect of the years ended 23rd June 2008, 23rd June 2009 and the budgeted service charges in respect of the year ending 23rd June 2010 including provision for some major works are the subject of this application.

4. Directions were issued on 17th September 2009. They required that the Applicant send to each of the Respondents and to the Tribunal a bundle of documents setting out the Applicant's case and that the Respondents send a written statement to the Applicant and to the Tribunal setting out those matters contained in the Applicant's statement and accompanying documents which they agree and which matters they do not agree. The Tribunal received the Applicant's bundle from Mr. Okines. Nothing has been received from the Respondents except for a letter from Messrs. Butters David Grey LLP Solicitors on behalf of Mrs. Land enclosing copies of two letters addressed to Mr. Okines. That correspondence did not amount to a Respondent's response as required by the directions.

Inspection

5. On 14th December 2009, in the presence of Mr. Okines, Mr. Knight who was assisting Mr. Okines, Mr. and Mrs. Smith the lessees of Flat 1 and Mrs. Land the lessee of Flat 2, the Tribunal inspected the exterior of the subject property, the common parts and the balconies to Flats 1 and 2

6. The subject property consists of two adjoining mid terraced properties which have been converted into 8 flats, above commercial properties which occupy the ground floor and basement. Access to the flats is from the rear of the building by 2 separate staircases; one for Flats 1 & 2 and the other for Flats 3-8.

7. It was agreed by Mr. Okines and the lessees present that a good deal of work was required to repair the subject property including work to the parapet gutters and to deal with problems of drainage of the balconies. We could see that the parapets at the front and rear of the subject property, the render at the front and window and door reveals were in need of repair and decoration. We were told that rainwater had entered the front and rear of the building causing damage to both the residential and commercial parts of the subject property. We could see scaffolding in place at the rear of the building and were told that it had been erected to deal with the rear parapet/roof slope problem.

Hearing

8. The hearing on 14th December 2009 was attended by the same people who had attended the inspection and they all addressed the Tribunal.

9. We explained that our jurisdiction in this matter extended only to a consideration of whether the service charges demanded for the years 2008 and 2009 had been reasonably incurred and were payable by the Respondents and whether the

service charges demanded for the year 2010 were reasonable and payable by the Respondents.

10. We explained that the normal way in which leasehold flats operate is that the landlord (in this case the Applicant) has the obligation to keep in repair and maintain the main structure of the building and to insure it and to maintain the common areas. The landlord then charges the lessees (in this case the Respondents) for the cost of complying with that obligation and the lessees pay that charge. The exact way in which this operates is governed by the leases and the landlord and tenant legislation.

11. In this case the landlord is a limited company and has to comply with the legislation relating to companies but also has also to comply with the landlord and tenant legislation. The Respondents and the lessee of the commercial unit hold shares in that company. This means that the people who hold the leases are lessees but they are shareholders in the Applicant company which is the landlord.

12. No challenge was made either in documentary form or orally at the hearing in respect of the sums demanded in respect of service charges for the three years in question.

13. There was no evidence presented to the Tribunal that any of those charges were unreasonable or excessive. We considered the charges and found as a fact that they were, in the case of the years 2008 and 2009, reasonably incurred. As to the service charges demanded in respect of 2010 we were satisfied that they were reasonable. The sums set out below are payable by the Respondents in respect of each of the three years in question.

14. We should make it clear that our decision does not mean that we consider that the sum demanded as service charges in respect of the works still to be carried out will be sufficient to carry out all those works. We are satisfied that the sum demanded is not excessive but we consider that it will not be sufficient and that further sums will have to be raised to carry out all the work which is required.

Decision

15. We find that the sums payable by the Respondents to the Applicant in respect of the three years in question are as follows and if any of those sums have not been paid they are payable within 28 days of the date this decision is issued:

	2008	2009	2010
	£	£	£
Flat 1	618.50	702.21	3,728.90
Flat 2	721.59	832.05	4,466.17
Flat 3	721.59	832.05	4,466.17
Flat 4	721.59	832.05	4,466.17
Flat 5	515.43	572.35	2,991.61
Flat 6	515.43	572.35	2,991.61
Flat 7	412.34	442.51	2,254.33
Flat 8	463.89	507.43	2,622.96

16. There are sums claimed from the lessee of the commercial unit but this Tribunal does not have jurisdiction to make a decision in respect of those claims. There are also additional sums claimed from the lessees of Flats 7 and 8 which are not service charges and as a result do not fall within this application.



R. Norman
Chairman