

SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/24UF/LSC/2009/0178

REASONS

Application : Section 27A of the Landlord and Tenant Act 1985 as amended (“the 1985 Act”)

Applicant/Landlord : Rowner Estates Ltd

The Village Residents Association : the association of residents in the Buildings

Respondent/Leaseholders : all the leaseholders in the Buildings

Buildings : blocks in The Village, Rowner, Gosport, Hants, PO13 8AJ

Flats : The residential flats or maisonettes in the Buildings

Date of Application : 18 December 2010

Date of Directions : 11 January 2010 and 21 January 2010

Date of Hearing : determined on the papers without a hearing pursuant to Regulation 13 of the Leasehold Valuation Tribunal Procedure (England) Regulations 2003 as amended

Members of the Tribunal : Mr P R Boardman JP MA LLB (Chairman), Mr D L Edge FRICS

Date of Tribunal’s Reasons : 19 April 2010

Introduction

1. This Application by the Applicant/Landlord is under section 27A of the 1985 Act, namely for the Tribunal to determine whether budgeted service charges for the year 1 January to 31 December 2010 are reasonable and payable by the Respondent/Leaseholders

2. On the 29 October 2008, an LVT, under case reference CHI/24UF/LSC/2007/0112, decided, on an application by the Applicant/Landlord, that, with the exception of management fees, the actual sums expended for 2006 and 2007 were reasonable and payable by way of service charge, that the budgeted figures for expenditure for 2008 were reasonable and payable, and that for each of those years a reasonable sum for management fees was £39,130
3. On the 16 February 2009, an LVT, under case reference CHI/24UF/LSC/2008/0123, decided, again on an application by the Applicant/Landlord, that the proposed service charges set out in the budget for 2009 were reasonable and payable by way of service charge (“the 2009 LVT decision”)
4. On the 11 January 2010 the Tribunal gave directions that service of the application on the Respondent/Leaseholders should be by way of local advertisement in two newspapers circulating in the locality of the Buildings
5. There are before the Tribunal copies of advertisements in The Journal and The News on 21 January and 19 January 2010 respectively
6. On the 21 January 2010 the Tribunal gave further directions
7. No notice of opposition to the application has been received by the Tribunal

Statutory provisions

8. The relevant statutory provisions are contained in sections 18, 19, and 27A of the 1985 Act

Applicant/Landlord’s statement of case (Applicant/Landlord’s bundle page 53)

9. The Applicant/Landlord stated that the budgeted expenses which the Applicant/Landlord wished the Tribunal to determine were those listed in the 2010 budget at page 61 of the Applicant/Landlord’s bundle, a copy of which is attached to these reasons as Appendix 1. It differed from the budget submitted with the original application as the management fees had now been reduced and adjusted to the correct proposed figure
10. The budget had been formed on the basis of the 2009 budgeted figures which had been determined as reasonable by the 2009 LVT decision, with an increase of 4% on all expenditure items to allow for inflation costs
11. Exceptions were as follows :
 - a. security costs: these had remained the same, as the company undertaking the security services had advised that there would be no increase in costs for 2010

- b. buildings insurance premium: there had been a reduction in the premium for the period 31 July 2009 to 30 July 2010, and the 2010 budgeted figures had been reduced accordingly
 - c. water charges: the water charges were for the water points used to clean the walkways; in previous years those charges had not appeared as a separate budget item, but had now done so, but based on actual expenditure which had occurred in 2009
12. The Buildings were due to be redeveloped. There had accordingly been no allocation for a reserve fund, and no major works were planned for 2010
13. There had been difficulties in the past in the collection of service charges. This application would allow the Applicant/Landlord to manage the development efficiently

The Leases

14. There is before the Tribunal, starting at page 14 of the Applicant/Landlord's bundle, a copy of the lease dated 17 February 1988 relating to Flat 40, Darwin Way, Grange Road, Gosport. The relevant provisions are set out in the Applicant/Landlord's statement of case. Under the fifth schedule, the tenant is to pay a service charge by way of a payment on account of a sum estimated by the landlord's agent, and then the balance, if any, after service of a service charge certificate. The works which the landlord can include in the service charge are set out in the seventh and ninth schedules of the lease
15. On 26 September 2007, the Lands Tribunal, under reference LRX/3/2006, decided, on an appeal by the Applicant/Landlord, that the service charge proportions should be assessed as 0.2982% for two-bedroom Flats and 0.3451% for three-bedroom Flats ("the 2007 Lands Tribunal decision")

Inspection

16. The Tribunal inspected the Buildings on the morning of 19 April 2010. No one on behalf of either party was present during the inspection, although the Tribunal met a security guard, a Mr S Perryman
17. The Buildings comprised long connected blocks grouped in U-shapes set out as shown in the estate plan at page 17 of the Applicant/Landlord's bundle. A copy of that plan is attached to these reasons as Appendix 2. The height of the Buildings ranged from three storeys to nine storeys. The public house named on the plan as "The Spredaeagle" was now called "The Grange". The plan shows it as being included within the estate. However, according to the 2007 Lands Tribunal decision, this is no longer the case
18. There were some commercial units, but, apart from two shops, most appeared to be unoccupied
19. According to the 2007 Lands Tribunal decision the Buildings contain 301 Flats

20. The condition of the Buildings and the estate was generally poor

The Tribunal's findings

21. The Tribunal was satisfied that the proposed budgeted expenditure fell in principle within the categories of expenditure listed in the the seventh and ninth schedules of the lease as being expenditure which could be included in the service charge, as follows:
- a. lighting and electrical: seventh schedule paragraph 3
 - b. repairs: seventh schedule paragraph 1
 - c. security: ninth schedule paragraph 5
 - d. landscaping/cleaning: cleaning seventh schedule paragraph 3, landscaping ninth schedule paragraph 3
 - e. management fee: ninth schedule paragraph 15(b)
 - f. insurance premium: ninth schedule paragraph 7
 - g. accountancy: ninth schedule paragraph 15(c) "all other consultants of any sort providing services to the company in connection herewith"
 - h. rubbish removal: ninth schedule paragraph 4(b)
 - i. sundries: ninth schedule paragraph 13
 - j. water charges: ninth schedule paragraph 8(c)
22. The Tribunal noted the Applicant/Landlord's assertion that the figures in the 2010 budget in the column marked "service charge budget 2009" were the figures approved in the 2009 LVT decision, and the Tribunal has proceeded with its consideration of the figures in the 2010 budget on the basis of that assertion
23. The Tribunal is however surprised that there are no details before the Tribunal of actual expenditure figures for previous years, which would have enabled the Tribunal to make a more meaningful assessment of the reasonableness or otherwise of the 2010 budget figures now submitted than the mere comparison with the 2009 budget figures, which are all that are available to the Tribunal
24. The Tribunal makes the following findings about the figures in the 2010 budget
- a. water charges: this is the only figure in the 2010 budget not included in the 2009 budget; the Tribunal notes and accepts the explanation in the statement of case in that respect and finds that the figure is not unreasonable as a budgeted figure
 - b. security costs: the 2010 budgeted figure is the same as the 2009 budgeted figure; again, the Tribunal notes and accepts the explanation in the statement of case in that respect,

and finds that the figure is not unreasonable as a budgeted figure

- c. management fee: the 2010 budgeted figure of £47,837.66 is the equivalent of just under £160 for each of the 301 units; the Tribunal finds that that figure is not unreasonable as a budgeted figure
- d. insurance premium: the 2010 budgeted figure is less than the 2009 budgeted figure, and, again, the Tribunal notes and accepts the explanation in the statement of case in that respect, and finds that the figure is not unreasonable as a budgeted figure
- e. each of the other items: the Tribunal notes and accepts the explanation in the statement of case that the increase in the 2010 budgeted figures compared with the 2009 budget figures represents 4% for inflation, which the Tribunal finds to be reasonable as a budgeted increase
- f. the figures in each case are accordingly payable by the Respondent/Leaseholders by way of service charge under the leases

25. In each case, the Tribunal has approved the 2010 figures as budgeted figures. The actual expenditure will of course have to be shown in a service charge certificate served on each of the Respondent/Leaseholders under paragraph 4(a) of the fifth schedule to the leases, and any balance will have to be dealt with in accordance with paragraphs 4(b) and (c) of the fifth schedule

26. No doubt in any future applications to the Tribunal the Applicant/Landlord will include details of actual expenditure for relevant years

Dated 19 April 2010



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P R Boardman
(Chairman)

A Member of the Tribunal
appointed by the Lord Chancellor

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Appendix 1

2010 budget

**THE VILLAGE, ROWNER
2010 Budget**

All line item increases are set at 4% as per the 2009 Service Charge Budget.

	Service Charge Budget 2009	Proposed Service Charge Budget 2010
Lawrence Walk and Livingstone Roof Overlay	£0.00	£0.00
Re-asphalting Walkways	£0.00	£0.00
Stairs Cladding Repairs 64 Flights/Landings	£0.00	£0.00
External Redecoration	£0.00	£0.00
Lighting and Electrical	£10,400.00	£10,816.00
Water/Sewerage	£0.00	£0.00
Lightening Conductor Upgrade	£0.00	£0.00
Day to Day Repairs	£20,800.00	£21,632.00
Security	£119,600.00	£119,600.00 *
Landscaping/Cleaning	£82,400.00	£84,896.00
Management Fee	£45,997.75	£47,837.68
Insurance	£135,200.00	£108,458.00 **
Asbestos Removal	£0.00	£0.00
Accountancy	£3,640.00	£3,788.00
Concrete Repairs	£0.00	£0.00
Cladding, Window & Door Repairs	£0.00	£0.00
External & Garage Repairs	£0.00	£0.00
Intercom Repairs	£0.00	£0.00
Rubbish Removal	£6,760.00	£7,030.00
Skip Hire	£0.00	£0.00
Health & Safety	£0.00	£0.00
Professional Charges	£0.00	£0.00
Sundries	£1,040.00	£1,081.60
Water Charges	£0.00	£600.00
	£405,837.75	£385,737.28
Reserve	£0.00	£0.00
Total	£405,837.75	£385,737.28

* Security costs have not increased and therefore the budgeted figure shall remain the same for 2010.

** A reduction was noted in the Buildings Insurance premium for the period 31/07/09 - 30/07/10 and this has been reflected in the 2010 budget.

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Appendix 2

Estate plan attached to lease

H.M. LAND REGISTRY

HP308989

ORDNANCE SURVEY
PLAN REFERENCE

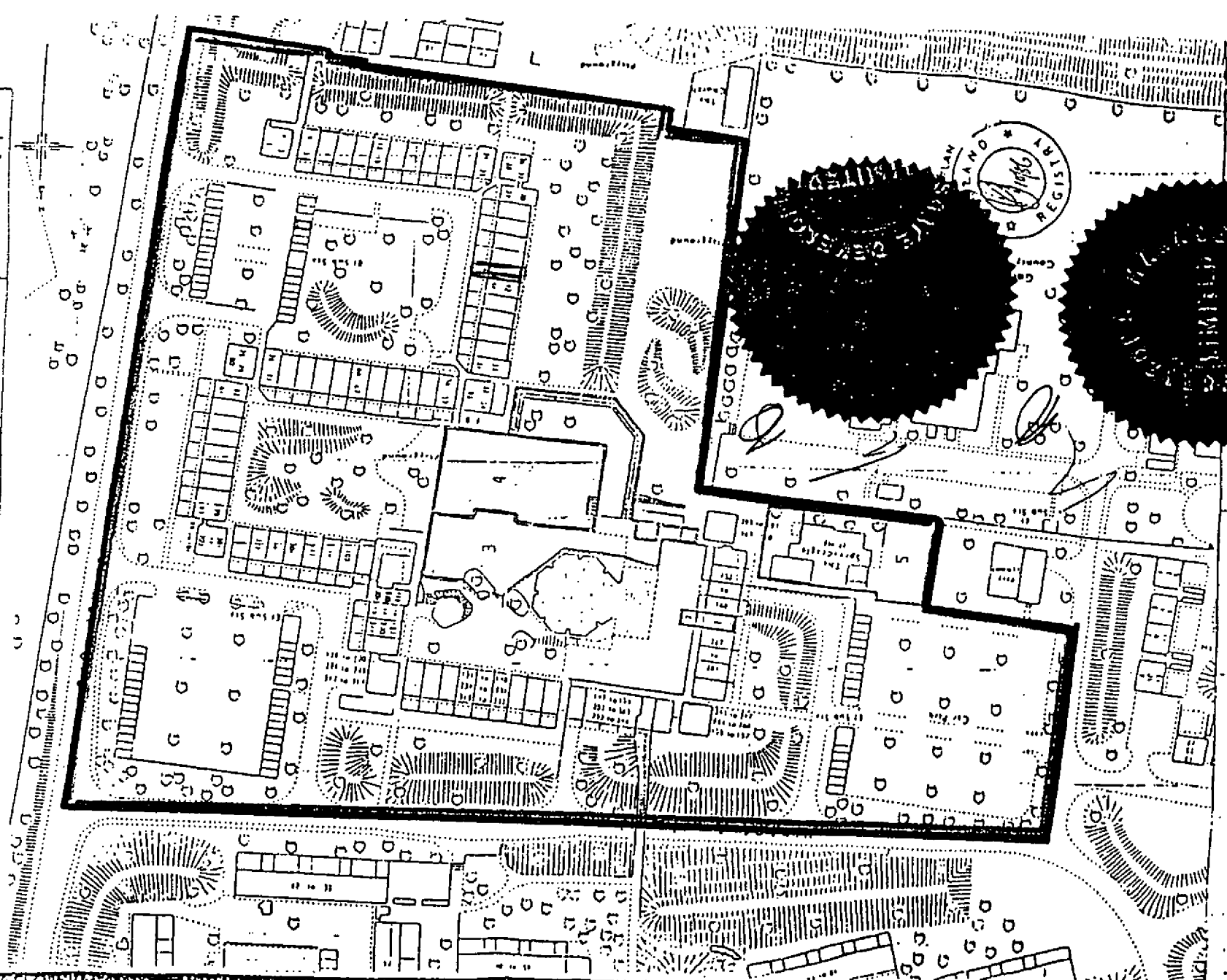
SUS800HI

Scale
1/1250

COUNTY HAMPSHIRE

DISTRICT GOSPORT

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OFFICE COPY OF FILED PLAN

ISSUED BY THE
WEYMOUTH DISTRICT | 22 JAN 1987

THIS IS THE PART OF
THE PLAN
REGISTERED
ON THE 12th DAY OF
MAY 1986
AND IS NOT TO BE
REPRODUCED IN ANY MANNER
WITHOUT THE WRITTEN
CONSENT OF THE
LAND REGISTRY