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**THE LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT
ASSESSMENT PANEL**

**THE LANDLORD AND TENANT ACT 1985 (as amended), Sections 27A
and 20C**

Case Reference: LON/00AR/LSC/2010/0025

Decision

**Premises: 39 Holly Court, Dolphin Approach, Romford, Essex
RM1 3AP**

Applicant: Mr Daniel Daly

Respondent: Swan Housing Association

Appearances:

For the Applicant: Mr Daniel Daly

**For the Respondent: Mr R Wentworth, Property Manager, Mr R Pearce,
Leasehold Manager, and Ms G McDonald,
Leasehold Officer.**

Leasehold Valuation Tribunal:

**Miss A Seifert FCI Arb
Mr P Tobin FRICS MCI Arb
Mrs L West JP MBA**

Date of decision: 21 July 2010

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ASSESSMENT PANEL**

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Premises: 39 Holly Court, Dolphin Approach, Romford, Essex RM1 3AP

The Tribunal's decision

Background

1. The applicant, Mr Daniel Daly, submitted an application to the Tribunal under Section 27A of the Landlord and Tenant Act 1985 (as amended) ("the Act") dated 13th January 2010. In the application he sought a determination as to his liability to pay and the reasonableness of service charges under his lease of 39 Holly Court ("the flat"). The respondent to the application is Swan Housing Association ("Swan").
2. Holly Court is a purpose-built block of 40 flats constructed in 2006. There are 20 shared ownership leasehold flats and 20 flats occupied by protected tenants under the Housing Act 1988.
3. Swan is a Registered Social Landlord, and is registered with the Housing Corporation. The flat is part of The Axis development ("the development") of which Barratt Homes is the freeholder. The development is managed by Peverel OM Limited ("Peverel").

The Head Lease

4. A copy of the Head Lease of the development, dated 24th February 2006, made between Barratt Homes Limited (as Lessor), Peverel (as Manager) and Swan (as Lessee), was provided.
5. In the Head Lease "The Estate" is described as the development land at The Axis, Dolphin Approach, Romford.
6. The Sixth Schedule of the Head Lease sets out those items included in The Maintenance Expenses. Part "A" is Estate Costs, Part "B" is the Block Costs and so on. The Part A proportion is 17.47% (Estate Costs) and Part B proportion is (100%) (Block Costs).
7. The Eighth Schedule of the Head Lease contains the Lessee's (Swan's) covenants. These include a covenant to pay to the Manager the Lessee's Proportion. The "Lessee's Proportion" means the proportion of the Maintenance Expenses payable by Swan in accordance with the provisions of

the Seventh Schedule. The "Maintenance Expenses" means the moneys actually expended or reserved for periodical expenditure by or on behalf of the Manager or the Lessor at all times during the term of the Head Lease in carrying out its obligations under the Sixth Schedule.

8. The Seventh Schedule of the Head Lease contains the provisions in respect of the Lessee's (Swan's) Proportion of the Maintenance Expenses under the Head Lease. Lessee's Proportion included:

The Part A Proportion of the amount attributable to the Estate in connection with the matters in Part "A" of the Sixth Schedule and whatever of the matters referred to in Part "E" of the Sixth Schedule are expenses properly incurred by the Manager which are relative to the matters mentioned in Part "A"

The Part B Proportion of the amount attributable to the Block costs in connection with the matters mentioned in Part "B" of the Sixth Schedule and whatever of the matters referred to in Part "E" of the Sixth Schedule are expenses property incurred by the Manager which are relative to the matters mentioned in Part "B".

The Lease

9. A copy of Mr Daly's lease dated 19th December 2007 between Swan as Lessor and Mr Daly as Lessee was provided. This included the following:

Clause 7.1 In this clause "Service Charge" shall mean a reasonable proportion (as the Landlord shall determine unilaterally) of the Maintenance Expenses as defined in the Head Lease

Clause 7.2 The Leaseholder covenants to pay the Service Charge and shall be subject to the service charge provisions contained in the Head Lease as if those provisions had been set out in full herein save that the Landlord shall decide what proportion of the total charge payable under the Head Lease shall be applicable to the Premises

10. Mr Daly's contribution to the service charge is apportioned in accordance with Clause 7.1 of the lease and is based on an equal split between the 40 flats in Holly Court, which equates to 2.5%. The Leaseholders therefore each pay 1/40 and the Tribunal was informed that they do not subsidise the protected tenants.
11. Swan's service charge year is 1st April to 31st March. Peverel's service charge year is 1st August to 31st July.
12. Swan's proportion of Peverel's service charge for the development was contained in Schedule 5b and 6 of their Estimated Statements for the years

31st July 2008 and 31st July 2009. These Estimated Statements are included in the hearing bundle together with paid invoices for those years.

13. The Tribunal was told that Swan receives bi-annual invoices from Peverel and because of the differing service charge year, Swan's actual accounts are based on one half yearly payment to Peverel of their estimated costs.
14. The service charge years in dispute are the service charge years ending 31st March 2008, 31st March 2009, and the estimated charge to 31st March 2010. In respect of 2007 to 2008, Mr Daly moved into the flat on 19th December 2007 and contested the service charge from that date.

Statutory Provisions

15. Section 18 of the Act provides:

In the following provisions of the Act "service charge" means an amount payable by a tenant of a dwelling as part 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.
- (1) 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.

16. Section 19 of the Act 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 are incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

17. Under Section 27A of the Act, an application may be made to a Leasehold Valuation Tribunal for a determination whether a service charge is payable.

The Hearing

18. A hearing was held at which Mr Daly attended in person. Swan was represented by Mr R Wentworth, Property Manager, Mr R Pearce, Leasehold Manager, and Ms G McDonald, Leasehold Officer. Mr A Hassell attended as an observer, as did Ms S Brandelli, Regional Property Manager. Mr Wentworth, Mr Pearce and Ms McDonald gave oral evidence.
19. During the hearing, Swan made amendments to the service charge schedules previously served on Mr Daly and included in the hearing bundle. Details of the amended schedules are set out under the Tribunal's Conclusions section of this decision. The main items remaining in dispute at the hearing were:
- (A) Water Charges
 - (B) Electricity Charges
 - (C) Audit Fees
 - (D) Reserve Fund
 - (E) Communal Cleaning Charges
 - (F) Window Cleaning Charges
 - (G) Administration Charges
 - (H) Bank Charges
 - (I) Management Fees
 - (J) Communal Ground Maintenance
 - (K) Lift Maintenance
20. In addition to the hearing bundle, a supplementary bundle of documents provided by Peverel was produced.
21. Mr Pearce gave oral evidence. He had personal knowledge of Holly Court since August 2009 and also had had regard to the information on his firm's files. He confirmed that Holly Court is a block of 40 flats, and is part of an estate. Swan pays a proportion of the costs of Peverel for estate services provided under the Head Lease. Certain items are estate charges, and once Swan is satisfied these are properly charged they are apportioned and passed on to the leaseholders of Holly Court under their leases with Swan. Certain items were block items which are raised by Swan and the costs apportioned to the leaseholders. Some items are partly paid by Peverel and partly by Swan and then apportioned to the leaseholders accordingly. In respect of the preparation of the service charge statements generally, Mr Pearce said that estimated service charge for 2009/2010 had not been prepared at the time of the hearing. The service charge year ended on 31st March and the actual expenditure schedule would be distributed in September at the latest. Mr Daly's bill for the service charge year to 31st March 2008 was sent in October 2008.

22. In his oral evidence, Mr Wentworth said that the accounts have to be produced within six months of the end of the service charge year.

The Tribunal's findings and conclusions

23. Mr Daly challenged the service charges for the years 2007/2008 (for the period when he moved in on 17th December 2007), 2008/2009 and the estimated service charge for 2009/2010.

The Service Charge Schedules as amended by Swan at the hearing

24. The service charge schedule dated 17th September 2008 was amended by Swan at the hearing as follows:

Service Charge year 1/4/2007 to 31/3/2008

<u>Services</u>	Actual £
Electricity	192.49
Communal Cleaning	452.89
Window Cleaning	11.80
Maintenance of External cradle system	8.41
Communal Repairs	3.13
Communal Equipment	2.92
Communal Grounds Maintenance	11.72
Water / Sewerage Charges	121.75
Lift Maintenance	44.06
H & S Risk Assessment	5.00
Audit Fees (1)	25.78
Bank Charges	0.18
Reserve Fund	65.46
Management Fees	3.61
Audit Fees (2)	4.50
Total cost of Services	£953.70
Previously billed for 1/4/07 to 31/3/08	193.54
Balance	760.16
Adjustment for part year	<u>669.70</u>
Adjusted balance alleged due	90.46

25. It respect of the 2007/2008 schedule:
 The explanation for the two audit fees was that one relates to Peverel's accounts and the other to Swan's accounts, Peverel and Swan have different service charge years.
 The schedule as originally submitted to Mr Daly included two items for "Administration Charge". Both of these charges for Administration were deleted by Swan at the hearing.

Swan's representatives confirmed that although originally described as including a concierge service, only cleaning was charged for. There was no charge for buildings insurance for 2007/2008. However, Mr Pearce confirmed that Holly Court was insured during this period, but the cost had not been recharged to the leaseholders.

26. The Service Charge schedule dated 22nd January 2010 was amended by Swan at the hearing as follows:

Service Charge Year – 1/4//2008 to 31/3/2009

<u>Services</u>	Total £	% Share	Charge £
<u>Charges for the Estate</u>			
Electricity	9,011.07	2.50	182.49
Lighting Maintenance	219.87	2.50	5.50
Gas (credit)	-303.37	2.50	-7.59
Communal Cleaning	17,061.30	2.50	426.53
Window Cleaning	2,503.79	2.50	23.11
Fire Equipment provision/maintenance	259.08	2.50	6.48
Communal Repairs	125.00	2.50	3.13
Mechanical Plant Maintenance	778.71	2.50	8.41
Communal Grounds Maintenance	269.88	2.50	6.75
Water/Sewerage Charges	4,870.00	2.50	121.75
Buildings Insurance	1,741.50	2.50	43.54
Lift Maintenance	1,943.21	2.50	48.58
Audit Fees (1)	11.25	2.50	0.28
Bank Charges	59.01	2.50	0.12
Sinking Fund Charges	2,618.50	2.50	65.46
Management Fees	1,202.00	2.50	30.05
<u>Charges for the Property</u>			
Audit (2)	25.78		25.78
Total Cost Services			990.37
<u>Estimate</u>			
Previously Billed for period 1/4/08-31/3/09			647.95
<u>Balance</u>			342.42

27. At the hearing Swan removed the two items for "Administration Charge" from the schedule previously sent to Mr Daly.
28. The estimated service charge schedule for 2009/2010 was amended to the following:

Service Charge Estimate - Year 1/4/2009 to 31/13/2010

<u>Services</u>	£
Electricity	46.21
Lighting Maintenance	10.99
Communal Cleaning	448.50
Window Cleaning	10.00
Fire Equipment Maintenance	6.48
Communal Repairs	6.25
Mechanical Plant Maintenance	13.94
Communal Grounds Maintenance	13.49
Water / Sewerage Charges	243.50
Buildings Insurance	87.08
Lift Maintenance	88.13
Audit Fees (1)	0.56
Bank Charges	2.95
Reserve Fund	130.93
Management Fees	226.89
Audit Fee (2)	25.78
Total Annual Cost of Services	[990.37 + 3.5% less miscellaneous £110.89]

At the hearing Swan removed the item "miscellaneous" from the schedule previously sent to Mr Daly.

Main items in dispute

(A) Water Charges

29. Amount claimed for this item in the amended schedules: £121.75 (2007/2008), £121.75(2008/2009), £143.50 (estimated charge 2009/2010).
30. Mr Daly considered that Swan's method of apportioning the charge on the basis of 1/40 of the total charge was unfair. He considered that a fairer method of charging for water charges (and all other service charge items) would be on the basis of how many bedrooms are in each flat. He said that he understood that there were 20 one bedroom flats and 30 two bedroom flats. Mr Daly considered that it was not clear from the invoices provided how much was charged to Holly Court. He pointed out that Holly Court does not have its own water meter.

The Tribunal's decision – Water Charges

31. Mr Daly's contribution to the service charge is apportioned in accordance with Clause 7.1 of his lease of the flat and is based on an equal split between the 40 flats in Holly Court, which equates to 2.5%. The Leaseholders therefore each pay 1/40 and the Tribunal was informed that they do not subsidise the protected tenants. Mr Daly considered that a fairer method would be to apportion by number of bedrooms / size. However, in the circumstances Swan is entitled to select the basis of the apportionment of the costs, and the

Tribunal considers that apportionment on an equal share basis of 2.5% is not unreasonable. The Tribunal finds that the Water charges are reasonable / reasonably incurred in each of the service charge years in issue.

(B) Electricity Charges

32. The amount claimed for this item in the amended schedules: £192.49 (2007/2008), £182.49 (2008/2009), £46.21 (estimated charge 2009/2010).
33. Mr Daly considered, that as Holly Court is an entirely residential property, that electricity supplied to the common parts should be charged by Swan at the domestic rate for VAT as opposed to the standard rate. However, Mr Daly provided no evidence to support this contention.
34. Mr Pearce said that electricity was a cost incurred by Swan. Electricity was supplied to the common areas of Holly Court. Swan had spoken to the supplier who confirmed that VAT was chargeable to Swan for electricity supplied to the common parts at Holly Court at the standard rate of 17.5%.

The Tribunal's decision – Electricity Charges

35. The Tribunal was not satisfied that it had been shown that VAT was payable at a rate other than the standard rate. The Tribunal finds the Electricity Charges in each of the service charge years to be reasonable / reasonably incurred.

(C) Audit Fees

36. The amounts claimed for this item in the amended schedules: £4.50 and £25.78 (2007/2008), £0.28 and £25.78 (2008/2009), £0.56 and £25.78 (estimated charge 2009/2010).
37. Mr Daly considered that the charges were excessive and suggested a total audit charge of £500 to £600 for both estate and block audit fees in each year.
38. Mr Pearce pointed out that Swan had an obligation to have the accounts audited. He referred to a detailed breakdown of the audit fees for Peverel and for Swan in each of the service charge years 2007/2008, 2008/2009 and estimated charge for 2009/2010. Peverel and Swan each produce accounts for their respective service charge years that are independently audited. Therefore two separate service charges are shown on Mr Daly's service charge schedules.
39. Peverel's costs are costs paid by Swan as part of the half yearly invoice submitted by Peverel. The cost is apportioned. There was an error in the 2007/2008 audit fee (1) charge which was corrected at the hearing and reflected in the amended schedule above.

40. Swan's costs are apportioned by equal split between the accounts audited for each period. A total of 640 accounts were audited.

The Tribunal's decision – Audit Fees

41. The Tribunal considers that the audit fees charged to Mr Daly in each of the service charge years are reasonably incurred / reasonable. Although Mr Daly considered a more appropriate audit fee for both Peverel and Swan was in the region of £500 to £600, he provided no evidence to support this figure.

(D) Reserve (Sinking) Fund Charges

42. The amounts claimed in the amended schedules: £65.46 (2007/2008), £65.46 (2008/2009), £130.93 (estimated charge for 2009/2010).
43. In the Statement of Case, Mr Daly raised a number of queries in respect of the Reserve Fund, including whether the sums were held in a higher interest bearing account. At the hearing he said that when he questioned Swan about the reserve fund, he was told that the rate of interest received was 0.5% below base rate.

The Tribunal's decision – Reserve Fund

44. The Head Lease includes under Estate costs in the Sixth Schedule Part 'B' Block Costs: 'Reserve Funds for long term Maintenance, including major repair of passenger lift external decoration and Major Structural Repairs'.
45. The Tribunal considers the amount of interest was not unreasonable. The Tribunal finds that the sums charged in each of the service charge years for Reserve Fund Charges were reasonable / reasonably incurred.

(E) Communal Cleaning

46. The amounts claimed in the amended schedules: £452.89 (2007/2008), £426.53 (2008/2009), £448.50 (estimated charge 2009/2010).
47. Mr Daly did not consider that the invoices or information provided in respect of the charges for Communal Cleaning were full or correct. He noted that in support of their charges, Swan had only provided spread sheets rather than invoices.
48. Mr Daly did not challenge the quality of the cleaning service provided, but considered the information provided was unsatisfactory and the charges excessive. He pointed out that there was reference in the spreadsheets to 44 flats when there were only 40 in Holly Court.

49. Mr Pearce said the item communal cleaning is a block cost and also forms part of the Estate costs. Mrs McDonald said that cleaning services are also carried out to the car park area and podium area of the Estate.
50. Mr Pearce said that the cleaning and caretaking service is provided 'in house'. Swan employs the cleaners. They provide time sheets and inventories of materials and a spreadsheet had been prepared. No invoices were raised. He said that the block is cleaned twice a week. This includes one full clean.
51. Two cleaners work together as a mobile service. The hours vary. The duties included sweeping, mopping and other general cleaning duties such as dealing with graffiti, and also reporting of any problems with anti social conduct of tenants or visitors to the housing manager. However, he was unable to provide a satisfactory explanation or breakdown of the charge of £26 per hour for the cleaning service.

The Tribunal's decision – Communal Cleaning

52. The Tribunal was not persuaded on the evidence produced that the charge for Communal Cleaning was reasonable or reasonably incurred.
53. In the hearing bundle, Swan provided a spreadsheet described as a 'full clean checklist and work programme'. This showed that 'Costs' (which the Tribunal were told included the cost of vehicles, fuel and overheads), and a separate heating for Materials (which we were told was cleaning materials). The number of properties was '44', when there are 40 in Holly Court, and no explanation was provided for this.
54. In the note to the schedule headed Communal Cleaning/Concierge, it as stated by Swan that the cleaning is 'in house', and that Swan considers that the cleaners provide a good service but agreed that they 'may not be the cheapest'. Although there was no specific evidence of this in respect of Holly Court, it was stated that Swan provides additional services such as minor repairs 'where possible' removes graffiti and reports any anti-social behaviour to the management.
55. The Tribunal considers that the Communal Cleaning charge is excessive and finds that the appropriate charge for one lessee for the total service charge year 2007 / 2008 is £52, 2008/2009 is £53.82 (i.e. £52 + 3 ½ %), and the estimated charge for 2009/2010 is £55.70 i.e.£53.82 + 3 ½%). This is based on a reasonable charge for the service charge year 2007 / 2008 for 40 flats being £2080 (4 hours cleaning at £10 per hour for 52 weeks) with an uplift of 3 ½% in each of the following service charge years.

(F) Window Cleaning

56. The charges for window cleaning were £11.80 (2007-2008), £23.11 (2008/2009) and £10 (estimated charge 2009/2010).
57. Mr Daly said that as he is at work during the day he did not know whether the windows were cleaned quarterly or monthly.
58. Mr Pearce said that the communal window cleaning service did not include cleaning the windows of the flats. Mrs McDonald said that the window cleaners use abseiling equipment.

The Tribunal's decision – Window Cleaning

59. The evidence indicated that the window cleaning service had been provided. The Tribunal finds that the charges for this item in each of the service charge years to be reasonable / reasonably incurred.

(G) Administration Charges

60. Mr Pearce said that this was the back office cost of providing the services. This was a fixed charge which was historical when Swan took over and has been increased by inflation. Mr Pearce conceded that Swan would delete this charge for the service charge years 2007/2008, 2008/2009 and the estimated charge for 2009/2010, and the service charge schedules were amended accordingly.
61. In view of the above concession and amendment, it is not necessary for the Tribunal to make a finding on this item.

(H) Bank Charges

62. The amounts claimed in the amended schedules: £0.18 (2007/2008), £0.12 (2008/2009), £2.93 estimated charge (2009/2010).
63. Mr Daly, in his Statement of Case, queried whether these charges should be recovered through the service charge or should be included in management / administration charges. At the hearing he emphasised that he considered that bank charges should be included in the administration charges. Mrs McDonald said that an annual contribution is paid to the bank for a commercial account.

The Tribunal's decision - Bank Charges

64. The administration charges have been deleted from the service charge schedules by Swan. In the circumstances the Tribunal considers that the bank charges in each of the service charge years in question are reasonable / reasonably incurred.

(I) Management Fees

65. The amounts claimed in the amended schedules: £3.61 (2007/2008), £30.05 (2008/2009), £226.89 (estimated charge 2009/2010).
66. Mrs McDonald said that the management charge is a fixed fee based on the market price. For the individual blocks such as Holly Court this is £48.70 plus VAT per flat.

The Tribunal's decision – Management Fees

67. The charges for 2007/2008 and 2008/2009 are considered reasonable and reasonably incurred. The Tribunal considers that a charge of £48.70 plus VAT per annum to be reasonable as the estimated charge for 2009 /2010. No satisfactory explanation was provided by Swan to support the claimed increase in management fees from £30.05 (2008 /2009) to £226.89 in the estimated charge for 2009/2010. The estimated charge for 2009 / 2010 is adjusted to the sum of £48.70 plus VAT (i.e. £52.85).

(J) Communal Grounds Maintenance

68. The amounts claimed in the amended schedules: £11.72 (2207/2008, £6.75 (2008/2009), £13.49 (estimated charge for 2009/2010).
69. Mr Daly said that he did not agree with this charge as there was a tiny garden in Holly Court on the podium level. Swan's representatives pointed out to him the he paid a percentage of 17.46% under the lease as it is an estate cost.

The Tribunal's decision – Communal Grounds Maintenance

70. The Tribunal considers that the charge for Communal Grounds Maintenance is chargeable to Mr Daly and is reasonable and reasonably incurred.

(k) Lift Maintenance

71. The amounts claimed in the amended schedules: estimated charge for £44.06 (2007/2008), £48.58 (2008/2009), £88.13 (estimated charge for 2009/2010).
72. Mrs McDonald said that there were two lifts, one to the podium level, and one inside the block. Both are maintained. Mr Daly considered that these charges should not be estate costs. He did not challenge the standard of the maintenance service.

The Tribunal's decision – Lift Maintenance

73. The charge for lift maintenance is a Schedule 6 charge and relates to two lifts only. The Tribunal considers that the charges are reasonable and reasonably incurred.

Other Items

74. Various other items of charge were included on the amended schedule (i.e. Fire Equipment Provision / Maintenance,) and Communal Equipment etc. but were not the subject of detailed evidence at the hearing. For the avoidance of doubt the Tribunal finds the items on the amended schedules not expressly mentioned above to be reasonable and reasonably incurred.

Section 20B of the Act

75. Mr Daly also submitted that a notice under Section 20B of the Act had not been issued in respect of the Service Charge balancing charge for the year ended 31st March 2008.

- 76 Under Section 20B of the Act:

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

77. In his Statement of Case Mr Daly contended that a Section 20B notice was not issued in respect of the Service Charge Balancing Charge for the year ended 31st March 2008. The Statement of Actual Expenditure for 2007 / 2008 is dated 17th September 2008. The letter that accompanied the statement is dated 2nd October 2008 and postmarked 6th October 2008.

78. Swan accepted that a Section 20B (2) notice was not served. However, no section 20B notice was required in this case because all the costs included in the balancing charge for 2007 / 2008 were incurred within the period of 18 months of the service of the demand. In the circumstances Swan is not prohibited under Section 20B (1) from recovering the relevant costs.

Section 20C application

79. Under section 20C of the Act, a tenant can make an application for an order that all or any of the costs incurred, or to be incurred by the landlord in connection with any 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 person specified in the application.

80. At the hearing Swan's representatives said that it was not Swan's policy to try to recover costs incurred by Swan in connection with proceedings before the Tribunal and it was confirmed that any such costs would not be passed on to Mr Daly through the service charge. On the basis of this express assurance from Swan, the Tribunal makes no order under Section 20C.

Summary of decision

81. (1) Mr Daly's proportion of the charges set out in the amended schedules at paragraphs 24, 26 and 28 of this decision are reasonable and reasonably incurred and are payable to Swan, save that:
- (a) The Communal Cleaning charges are reduced in each of the service charge years in issue as set out in paragraph 55 of this decision.
 - (b) The estimated charge for Management Fees for 2009 /2010 is reduced to £48.70 plus VAT (i.e. £52.85) as set out in paragraph 67 of this decision.
 - (3) Swan is not prohibited from recovering service charges for 2007 / 2008 under Section 20B.
 - (4) No order is made under section 20C of the Act.

CHAIRMAN: A Seifert

Date: 21 July 2010

Members of the Leasehold Valuation Tribunal:

Miss A Seifert FCI Arb
Mr P Tobin FRICS MCI Arb
Mrs L West JP MBA