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LEASEHOLD VALUATION TRIBUNAL

Property : 17 Vauxhall Grove, Hull HU3 2QY

Applicant : RAYMOND PARKER

Respondent : PLACES FOR PEOPLE HOMES

Case number : MAN/00FA/LSC/2012/0011

Date of Application : 30 January 2012

Type of Application : Landlord and Tenant Act 1985, section 27A
Application to determine service charges

The Tribunal : A M Davies LLB (chair)
C R Wormald, FRICS
J Hall, JP

Date of decision : 26 April 2012

ORDER

- 1) The Applicant's service charges for the years ending 31 March 2011 and 31 March 2012, and the estimated service charge for the year ending 31 March 2013 are payable in accordance with the service charge accounts issued by the Respondent.
- 2) No order is made pursuant to section 20C of the Landlord and Tenant Act 1985.

REASONS

Background

1. The Applicant is the tenant of 17 Vauxhall Grove, Hull under a "Leasehold for the Elderly" lease dated 4 April 1996. The lease creates a term of 125 years from 1 April 1995. The Respondent is now the landlord and is responsible for maintaining, repairing, decorating, and renewing as necessary the structure of 17 Vauxhall Grove, and the other common parts of the estate of which that property forms part. The Applicant pays his "Specified Proportion" of the cost of doing so as a service charge

under the terms of his lease. The Respondent also contributes one sixth of the cost of providing Supporting People Services to the occupiers of the 6 bungalows on the estate, of which 17 Vauxhall Grove is one.

2. The Applicant disputes the Respondent's calculation of their costs and his contribution towards those costs, and made this application on 30 January 2012. The Tribunal inspected the common parts of the estate on the morning of the hearing, and subsequently heard the representations of Mr Parker (assisted by Mr Bird), and of Mrs Taylor and Mrs Chambers for the Respondent. The Tribunal also had the benefit of bundles of papers and written representations submitted by both parties.
3. Mr Parker claimed that he was being charged for maintenance and repairs despite the fact that no work was done by the Respondent at the estate. He objected to service charge increases in the years ending 31 March 2011, 2012 and 2013, and claimed specifically that the Respondent had benefited by over-charging residents of the estate £400 for the Piper warden call system, £585.56 for grounds maintenance, and £384.42 for repairs.

Inspection

4. On inspecting the Respondent's Vauxhall Grove property in the presence of Mr Parker, Mr Bird and representatives of the Respondent, the Tribunal found that it forms a small estate about half a mile from the centre of Hull, and consists of 4 houses and 6 semi-detached bungalows situated on a cul-de-sac which is a public highway. There are several reserved parking spaces for visitors, and off-road parking for each of the 6 bungalows. The properties on the estate have wooden perimeter fences, and wooden fences and gates separating their front and back gardens. The Respondent maintains the structure of the buildings and the fences, and in the service charge year 2008/09 provided new gates for each bungalow, paid for from the maintenance reserve fund.
5. The estate is well maintained and includes roadside areas of planting.

The lease

6. Clause 6 of the lease provides for the Respondent to estimate service charge costs for the following year; in practice this is done in September. As well as recovering current costs and those estimated as likely to be incurred in the account year, the Respondent charges *"an appropriate amount as a reserve for or towards such of the matters specified in sub-clause 5 of this Clause as are likely to give rise to expenditure after such Account Year....."*
7. Clause 6(5) permits the Respondent to recover from the leaseholders the costs and anticipated costs of complying with its insurance, management and repair obligations

under the lease, including an obligation (clause 4(5)) to provide a system enabling residents to call on the services of a warden. For historical reasons, the Applicant does not make a contribution towards the Respondent's direct management fees, to which the other leaseholders on the estate do contribute.

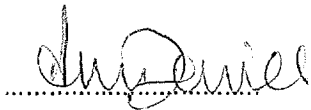
Findings

8. It is apparent to the Tribunal that during the years in questions services have been and are being provided by the Respondent, and that Mr Parker is liable for contributing towards the cost of them under the terms of his lease. He is bound to contribute towards the cost of the Piper warden call service even though he may not have used it.
9. At the hearing, the Respondent explained to the Tribunal and Mr Parker the method of calculation of the service charge accounts for the three years in questions. Although they are complex, the Tribunal is satisfied not only that the accounts are correct, but that Mr Parker fully understands them. Errors and overpayments regrettably complicate the accounts, and an allowance has also had to be made for a receipt from the insurers in respect of repairs for which the leaseholders had already been charged. All such adjustments have been made through the system of under- and over-charges (formerly described as surpluses and deficits) brought forward at the end of each accounting year.
10. The amounts charged by the Respondent for grounds maintenance and all other costs listed in the service charge accounts are reasonable for the services supplied. The Respondent has no statutory obligation to consult residents of the estate before incurring such expenditure.
11. The amounts charged by the Respondent as contributions to the reserve fund are reasonable in view of past expenditure, the balance in the reserve fund, and anticipated expenditure as set out in the Respondent's 50 year Asset Management Plan for this estate.
12. The Applicant queried why the percentage increase between his 2011/12 and 2011/13 estimated service charge account was higher than the percentage increase in the service charge accounts of the other residents. The Respondent explained that this was because the service charge adjustments are the same for everyone, but the Respondent pays a lower amount overall (because he does not pay the management fee) and therefore the changes are a higher percentage of his total. In the previous year his percentage change had been lower than that of the other leaseholders.

Costs

13. The Applicant made an application under section 20C of the Landlord and Tenant Act 1985 for an order that the Respondent's costs of the application should not be added to his service charge account. The Tribunal takes the view that not only did the application have no merit, but that the Applicant was or should have been aware that the service charge accounts are correct and the services have been properly provided. The Applicant asked the Tribunal to determine issues relating back as far as 2008 which have already been determined in response to his earlier applications to this Tribunal: those issues were removed at the directions stage of this application.

14. The Tribunal makes no finding as to whether the terms of the lease permit the Respondent to add the costs of this application to its service charge account, but makes no order under section 20C which would prevent the Respondent from doing so, having received an assurance at the hearing that any such addition would represent a moderate contribution to costs, in keeping with the Applicant's financial status.



A M Davies