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**HM Courts  
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Service**

**LEASEHOLD VALUATION TRIBUNAL  
OF THE  
MIDLAND RENT ASSESSMENT PANEL**

BIR/00FY/LIS/2012/0066

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON AN APPLICATION  
UNDER SECTION 27A OF THE LANDLORD AND TENANT ACT 1985*

Applicant: Mr John Crampton (leaseholder)\*

Respondent: Holding and Management (Solitaire) Ltd (freeholder)

Subject properties: Apartments A601, A602, B608 and B708\*  
Castle Exchange  
41 Broad Street  
Nottingham NG1 3AP

Date of application: 13 August 2012

Dates of hearing: 26 and 27 February and 1 March 2013

Members of the Tribunal: Professor N P Gravells  
Mr C Gell FRICS

Date of determination: 8 May 2013

\* See paragraph 2 of the decision

## Introduction

- 1 This is a decision on an application initially made to the Leasehold Valuation Tribunal by Mr John Crampton, leaseholder of four apartments (A601, A602, B608 and B708) at Castle Exchange, 41 Broad Street, Nottingham NG1 3AP ('the subject properties'). The application, dated 10 August 2012 and received by the Tribunal on 13 August 2012, is under section 27A of the Landlord and Tenant Act 1985 ('the 1985 Act') for a determination of the Applicant's liability to pay service charges in respect of the subject properties.
- 2 A further 21 leaseholders of apartments in Castle Exchange subsequently made similar applications and appointed Mr Crampton to represent them. Those additional leaseholders and their apartments are listed in Annex B. Save where indicated, this decision applies to those additional leaseholders and their apartments as it applies to Mr Crampton and his apartments.
- 3 The Respondent named in the application is Holding and Management (Solitaire) Limited, the freeholder of the Castle Exchange development. On behalf of the Respondent Solitaire Property Management Company Limited ('Solitaire') managed the development from 24 July 2006, when the conversion of the development was completed, until 17 October 2011. (Solitaire was acquired by the Peverel Group in 2010 and was renamed OM Property Management (No2) Ltd.) From 18 October 2011 the Castle Exchange RTM Company ('the RTM Company') assumed responsibility for the management.
- 4 Although Seasongreet Limited (the developer), Holding and Management (Solitaire) Limited and Solitaire concluded a comprehensive property management agreement in relation to the Castle Exchange development, the Applicant is not a party to that agreement and by the terms of the agreement the Contracts (Rights of Third Parties) Act 1999 is excluded. It follows that that agreement has no relevance to the present dispute, which is governed exclusively by the lease between the parties and the statutory regime contained in sections 18-30 of the 1985 Act.
- 5 The Castle Exchange development is located in the Hockley district of Nottingham city centre and is bordered by Broad Street, Old Lenton Street and George Street. The development comprises 116 apartment in Blocks A-E, three apartments in Block F and a car park containing 100 parking spaces ('the Parking Court').
- 6 Under the clause 4 of, and the Fifth Schedule to, the leases the Respondent is responsible for the management of (i) the Estate, (ii) the Blocks and (iii) the Parking Court.
- 7 The services provided in respect of the Estate have varied but during the period covered by the present application services itemised on the audited accounts have included:
  - Landscape maintenance
  - Pump maintenance
  - Sweeping
  - Electricity
  - Bin hire

Keyholding  
Repairs and maintenance  
Plant and machinery  
Insurance excess  
Account handling charges  
Bank interest  
Audit fees  
Management fees

- 8 The services provided in respect of Blocks A-E have varied but during the period covered by the present application services itemised on the audited accounts have included:

Cleaning of the common parts  
Electrical maintenance  
Concierge  
CCTV maintenance  
Security  
Health and safety  
Door entry system maintenance  
Fire equipment maintenance  
Lift maintenance and repairs  
Aerial system maintenance  
Light bulb replacement  
Electricity  
Keyholding  
Bin hire  
Repairs and maintenance  
Buildings insurance  
Insurance excess  
Reserves  
Account handling charges  
Bank interest  
Audit fees  
Management fees

- 9 The services provided in respect of Block F have varied but during the period covered by the present application services itemised on the audited accounts have included:

Repairs and maintenance  
Buildings insurance  
Reserves  
Account handling charges  
Bank interest  
Audit fees  
Management fees

- 10 The services provided in respect of the Parking Court have varied but during the period covered by the present application services itemised on the audited accounts have included:

Concierge  
Gate maintenance contract

Electrical maintenance  
Sweeping  
Electricity  
CCTV maintenance  
Repairs and maintenance  
Bank interest  
Audit fees

- 11 The apportionment of the service charge costs was somewhat complex. In the service charge year 2006/2007, there was only one set of accounts (for Blocks A-E). The principal costs were apportioned among the 116 apartments in those blocks and cleaning and security-related costs were apportioned among 114 of the Blocks A-E apartments and the three apartments in Block F, although the actual payments were adjusted to reflect the different commencement dates of the leases. In 2007/2008 and 2008/2009, separate accounts were produced for the Estate, Blocks A-E, Block F and the Parking Court. The Estate costs were apportioned equally among the 119 apartments in the Castle Exchange development: they appear in the accounts for the relevant block as 'contribution to common service'. The Block A-E costs were largely apportioned equally among the 116 apartments in those blocks, although electricity, cleaning, repairs and security-related costs were apportioned among 114 of the Blocks A-E apartments (for reasons that are not apparent, apartments E103 and E104 do not contribute to the latter costs) and the three apartments in Block F; and the lift-related costs were apportioned among the 107 apartments in Blocks A-D and the three apartments in Block F. (In the case of the Block F apartments, these costs were also included in the 'contribution to common service'.) The Block F costs (except insurance) were apportioned among the three apartments. Since the buildings insurance for Block F covered the ground floor commercial premises, each of the leaseholders of the three apartments paid 11.3334 per cent of the insurance premium for the block. The Parking Court costs were apportioned equally among the 100 apartments that have the benefit of a car parking space. From 2009/2010 onwards there was no cross charging. The Estate costs were apportioned equally among the 119 apartments in the Castle Exchange development. The external Block A-E costs were apportioned equally among the 116 Blocks A-E apartments. The internal Block A-E costs were apportioned equally among 114 of the Blocks A-E apartments and the three apartments in Block F. The lift-related costs were apportioned among the 107 apartment in Blocks A-D and the three apartments in Block F. The Block F costs and the Parking Court costs were apportioned as before. (As at the date of the hearing, there had been no apportionment of the costs incurred in the period 1 April 2011 to 17 October 2011.)
- 12 Following the receipt of the application, the Tribunal held a pre-trial review on 6 November 2012. The Applicant obviously has considerable experience of service charges: he has a portfolio of leasehold properties and has been involved in the establishment of a number of RTM companies, including the Castle Exchange RTM Company that took over responsibility for the management of the Castle Exchange development from the Respondent. On the basis of knowledge acquired through that experience he had sufficient evidence to raise questions about the service charges that had been demanded by the Respondent. The Tribunal therefore issued Directions,

(i) requiring the Respondent to provide detailed accounts and supporting invoices for the period covered by the Respondent's management of the Castle Exchange development and (ii) requiring the Applicant to initiate the production of a Scott Schedule, particularising his challenge to the service charges for the service charge years (1 April to 31 March) from 2006/2007 to 2011/2012. The Scott Schedule was subsequently completed by the Respondent.

### **Inspection**

- 13 On 26 February 2013 the members of the Tribunal inspected the Castle Exchange development. Present were (i) the Applicant, Mr Crampton, and two employees of the RTM Company and (ii) Ms Misbah Khan (Legal Consultant), Mr Sean Doherty (Accountant) and Ms Emma Welsh (former Property Manager of Castle Exchange), all representing the Respondent.

### **Hearing**

- 14 Immediately following the inspection a hearing was held at the offices of the Tribunal Service in Nottingham. The hearing was attended by Mr Crampton and by Ms Khan, Mr Doherty and Ms Welsh. The hearing was reconvened on 27 February and 1 March 2013 at the Family/Youth Court in Nottingham. On 27 February 2013, in addition to the persons named above, Mr Bettinson, Head of Insurance for Estates & Management Ltd, also attended to represent the Respondent.

### **Representations of the parties**

- 15 So far as relevant to the determination of the Tribunal, the representations of the parties are referred to below.

### **Determination of the Tribunal**

- 16 In determining the issues in dispute between the parties the Tribunal took account of all relevant evidence and submissions presented by the parties.

### **Service charges: leisure centre**

- 17 An initial dispute arises in relation to the leisure centre located in a neighbouring building also owned and managed by the Respondent.
- 18 It appears that some of the leaseholders (or sub-tenants) of apartments in the Castle Exchange development had been using the leisure centre facilities and that the Respondent had included a proportion of the costs of services provided in respect of the leisure centre in the service charge demands issued to the Applicant and the other Castle Exchange leaseholders. After lengthy correspondence, and having obtained legal advice, the Respondent wrote to the Applicant in September 2010, explaining that the Castle Exchange leaseholders were not entitled to use the leisure centre and that the leisure centre costs would not be included in the service charge for those leaseholders with effect from the service charge year 2009/2010.

- 19 The Applicant argued (i) that, if there was no obligation under the lease to contribute towards the leisure centre costs, that had been the position since the commencement of the lease, (ii) that the Respondent had never been entitled to include such costs in the service charge and (iii) that any payments made in respect of such costs should be reimbursed.
- 20 Ms Khan, on behalf of the Respondent, argued that the lease did provide for a contribution to the leisure centre costs. She referred to Part II of the Fifth Schedule to the Applicant's lease, which sets out the purposes for which the service charge is to be applied in relation to the Estate. Paragraph 7 states:  
'To carry out all repairs to any part of the Estate for which [the Respondent] may be liable and to provide and supply such other services in relation to the Estate for the benefit of the lessee and other tenants of properties on the Estate and to carry out such other improvements, works and additions and to defray such other costs ... as [the Respondent] shall consider necessary to maintain the Estate as desirable in the general interest of the lessees on the Estate.'
- 21 Ms Khan submits that paragraph 7 should be construed in the light of all the circumstances and she refers specifically to (i) the property management agreement between Seasongreet Limited, Holding and Management (Solitaire) Limited and Solitaire, which appears to include the leisure centre in the service charge provision and (ii) the marketing literature for the Castle Exchange apartments.
- 22 As already indicated, in its terms the management agreement cannot impose obligations on the Applicant and the other Castle Exchange leaseholders. Nor can the marketing literature. The rights and obligations of the parties must be determined exclusively by reference to the lease (and the statutory regime contained in sections 18-30 of the 1985 Act). In the view of the Tribunal, paragraph 7 only entitles the Respondent to include in the service charges costs incurred *in relation to the Estate*, which is defined in the lease by reference to a coloured plan as the land bordered by Broad Street, Old Lenton Street and George Street. The Estate does not therefore include the leisure centre, which is located in a neighbouring building.
- 23 Ms Khan also referred to paragraph 3 of the Third Schedule to the Applicant's lease, by which the Applicant covenants:  
'To pay all existing and future rates taxes duties assessments charges impositions and outgoings whatsoever whether parliamentary parochial local or of any other description which are now or during the said term shall be assessed charged or imposed on or payable in respect of the Flat or Parking Space or in respect of the occupation thereof or on [the Respondent] tenant owner or occupier in respect thereof ....'
- 24 In the view of the Tribunal, paragraph 3 provides no basis for the Respondent's argument. The paragraph is separate from (and appears under a separate subheading from) the covenant to pay rent and service charges. Moreover, it is implicit in the language of the paragraph that it refers to charges imposed from outside the landlord and tenant relationship between the Applicant and the Respondent.

- 25 These conclusions are reinforced by the fact that it appears that the lease relating to one of the Block F apartments (which was drafted later than the Applicant's lease) includes an express covenant to contribute to the leisure centre costs.
- 26 The Tribunal therefore determines that under the terms of the Applicant's lease the Applicant has no obligation to contribute to the leisure centre costs; and that he is entitled to the reimbursement of any contributions already paid.
- 27 However, as noted, the Tribunal has seen at least one lease (and there may be others), which expressly provides for the leaseholder to contribute to the leisure centre costs. Where the lease of any of the additional applicant leaseholders includes such an express provision, the Tribunal determines that the Respondent is entitled to include in the service charge (and the leaseholder is liable to contribute to) the reasonable costs incurred in respect of the leisure centre.

Service charges: Castle Exchange

Preliminary matters

*The statutory provisions*

- 28 The jurisdiction of the Tribunal is set out in section 27A of the 1985 Act, which (so far as material) provides:

27A Liability to pay service charges: jurisdiction

(1) 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.

(2) Subsection (1) applies whether or not any payment has been made.

- 29 The principles to be applied in exercising that jurisdiction are set out in sections 18 and 19 of the 1985 Act:

18 Meaning of 'service charge' and 'relevant costs'

(1) In the following provisions of this Act 'service charge' means 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, 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.

(2) 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.

(3) For this purpose—

- (a) 'costs' includes overheads, and

(b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

19 Limitation of service charges: reasonableness

(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.

*The burden of proof*

30 It is appropriate to set out the burden of proof where the leaseholder makes an application under section 27A of the 1985, challenging the reasonableness of service charges and his liability to pay such charges.

31 The most detailed discussion is to be found in the decision of the Lands Tribunal in *Shilling v Canary Riverside Development PTD Limited* (LRX/26/2005). Having quoted from the decision of the Court of Appeal in *Yorkbrook Investments Ltd v Batten* [1985] 2 EGLR 100, HH Judge Michael Rich concluded:

'If the landlord is seeking a declaration that a service charge is payable, he must show not only that the cost was incurred but also that it was reasonably incurred to provide services or works of a reasonable standard; and, if the tenant seeks a declaration to the opposite effect, he must show that either the cost or the standard was unreasonable.' (Emphasis added)

32 In order to succeed, the Applicant must begin by establishing a prima facie case that it was unreasonable for the Respondent to incur the costs that it sought to include in the service charge. It is not sufficient merely to show that services could have been provided at a lower cost. If the Applicant fails to establish a prima facie case that it was unreasonable for the Respondent to provide the services that it provided and to incur the costs that it incurred, the Applicant will fail in his challenge. However, if the Applicant establishes such a prima facie case, then it is for the Respondent to respond to that case and for the Tribunal to make its determination on all the evidence.

33 Mr Crampton carried out a detailed analysis of the accounts and supporting invoices provided by the Respondent. He identified missing invoices, invoices allocated to the incorrect head of service charge expenditure and some accounting errors. He also demonstrated that in respect of a number of the heads of service charge expenditure listed above the RTM Company was currently incurring lower costs, sometimes significantly lower costs, than those incurred by the Respondent. However, in many instances, he failed to establish the further requirement that the higher costs incurred by the Respondent were unreasonably incurred: either he failed to establish that the lower costs were incurred in respect of comparable services or that, in incurring higher costs for a comparable service, the Respondent was acting unreasonably.



### *Limit on costs*

- 34 As a general principle, the Applicant is not permitted to reopen costs that he has not challenged and the Respondent is not permitted to reopen costs that it has included in the service charge accounts. Accordingly, where the Applicant has not challenged a sum under an individual item of service charge expenditure, the Tribunal has generally allowed that sum even though in the absence of such agreement it would have determined a lower sum as reasonable; similarly, where the Tribunal would have allowed a specific sum under an individual item of service charge expenditure but that sum exceeds the sum that the Respondent included in the audited accounts, the Tribunal has generally allowed the latter sum only. However, in fairness to both parties, that approach is qualified in a number of situations. First, where the Applicant has challenged costs under one head of expenditure but has conceded related costs under another head, the Tribunal has treated the challenge as directed at the more appropriate head (for example, audit fees and management fees). Second, where the Respondent has incorrectly allocated costs between heads of expenditure, the Tribunal has allowed those costs under the correct head (for example, cleaning and repairs). Third, where a head of expenditure has been the subject of general challenge in respect of most (but not all) service charge years, and the Tribunal has upheld the challenge, the Tribunal has examined the unchallenged figures where they would be anomalous as they stand (for example, management fees). Fourth, where a head of expenditure has been the subject of challenge in its entirety, the costs under that head are manifestly incorrect and the Tribunal has the underlying data available to it, the Tribunal has made a determination on the basis of its own analysis of the data (for example, insurance and electricity costs).

### *Issues remaining in dispute*

- 35 Following the concessions of the Respondent and the withdrawals of the Applicant, both before and during the hearing, the Tribunal identified those heads of expenditure that remained in dispute between the parties. For the avoidance of doubt, where the Applicant challenged costs solely on the basis of missing invoices and the Respondent subsequently provided the relevant invoices, the Tribunal treated the challenge as withdrawn.
- 36 The heads of expenditure that remained in dispute were:
- Caretaking, concierge services, cleaning, security and keyholding
  - Buildings insurance
  - Electricity
  - Light bulb replacement
  - Repairs and maintenance
  - Audit fees
  - Management fees
  - Contribution to common services
  - Contributions to/from reserves
- 37 Since many of those issues are common to more than one part of the Castle Exchange development and to more than one service charge year, it is appropriate to take an overall view on those issues.

#### Caretaking, concierge services, cleaning, security and keyholding

- 38 It is appropriate to consider these heads of expenditure together for two reasons. First, although the terminology in the Respondent's accounts has changed over the course of the period covered by the present application, the substance of these heads of expenditure has throughout the period included the day-to-day on site services provided to the Castle Exchange development. Second, the principal argument of the Applicant was that, under the management of the RTM Company, all those services are performed by two salaried employees assisted by other persons whose costs are not included in the service charge but borne by the RTM company.
- 39 The Applicant produced a schedule of payroll costs for the two salaried employees, which show that a cleaner is employed for three days per week at an annual cost of £4560 and that a caretaker is employed for five days per week at an annual cost of £8060. The total annual salary costs are therefore £12620. The annual costs under the listed heads of expenditure that the Respondent included in the service charge accounts for the four full service charge years covered by the present application were £10,500, £28,000, £25,500 and £20,500.
- 40 In the view of the Tribunal, it is far too simplistic to assume that a comparison of the respective annual costs involves a like for like comparison. Even assuming that the RTM Company restricts its level of remuneration to the minimum wage, the two RTM Company employees work for less than 40 hours per week in total. The Applicant stated that outside of those hours services under these heads of expenditure are provided by other persons. The RTM Company may elect to absorb those additional costs; but, in the view of the Tribunal, it cannot be argued that it was unreasonable for the Respondent to include those costs in the service charge.
- 41 The Applicant did not provide a copy of the specification of the duties of the RTM Company employees; but on the evidence available the Tribunal finds that the Respondent provided a significantly more comprehensive service than could realistically be provided by the RTM Company with the identified manpower and at the suggested cost. Moreover, the Applicant did not argue that it was unreasonable for the Respondent to provide that level of service.
- 42 In the circumstances, the Tribunal determines that the costs included in the service charge under these heads of expenditure have not been shown to have been unreasonably incurred.

#### Buildings insurance

- 43 The Applicant raised a number of questions in relation to the buildings insurance premiums.
- 44 First, he questioned the separate premiums that appear in the service charge accounts for different parts of the Castle Exchange development. However, since he did not argue that this allocation had in itself resulted in any increase in the overall cost of buildings insurance, the point has no relevance to the determination of the application.

- 45 Second, he questioned the level of the premiums. He pointed to the lower premium currently being paid by the RTM Company. He also suggested that it was unusual for property managers to obtain insurance cover from the same insurer for a period of six years.
- 46 On behalf of the respondent Ms Khan referred to the decision of the Court of Appeal in *Havenridge v Boston Dyers Limited* [1994] 2 EGLR 73 and to the decision of the Lands Tribunal in *Forcelux Limited v Sweetman* (LRX/14/2000). It is clear from those cases that a landlord (or management company) is not required to insure with the lowest cost provider in the market. Provided that the landlord has followed established procedures and the premium paid is not manifestly unreasonable, there is no ground for challenge. Mr Bettinson gave evidence that the Respondent had employed Oval Insurance Broking Limited as brokers. Oval is one of the largest independent brokers in the country and a specialist in property insurance. The insurance was reviewed annually and marketing exercises had been undertaken in 2005, 2007 and 2010. The outcome of those processes was that Zurich had repeatedly offered the best balance of appropriate scope and level of cover at the most favourable premium. Mr Bettinson noted that the Applicant had not provided complete documentation for the alternative insurance policy taken out by the RTM Company; but, on the basis of the documentation that had been provided, he identified a number of respects in which the alternative policy provided less extensive cover.
- 47 On the evidence the Tribunal determines that it could not be regarded as unreasonable for the Respondent to obtain buildings insurance cover from Zurich.
- 48 Third, the Applicant questioned the level of 'commission' included in the insurance premium, which was paid to the Respondent and to Oval Insurance Broking Limited. Figures produced by Mr Bettinson indicated that the Respondent received part of the premiums in each year, ranging from 7.35 per cent to 24.50 per cent. However, relying on *Williams v Southwark LBC* [2000] 33 HLR 22, the Respondent argued that these sums were not commission but payments for services provided to the insurer; and Mr Bettinson provided a list of the relevant services. In principle, the Tribunal accepts the Respondent's argument. However, not surprisingly, Mr Bettinson sought to maximise the list of services; and the Tribunal finds that the list was rather 'creative': some items were inappropriately included (for example, 'assisting the broker with debt recovery of the premium') and there was a good deal of overlap among the listed services.
- 49 Oval also received part of the premiums in each year, ranging from 3.8 per cent to 5.5 per cent. The basis of these payments is not entirely clear; nor is it clear that the Tribunal has jurisdiction to determine the reasonable brokerage fee payable to Oval.
- 50 The Tribunal therefore determines that the reasonable insurance costs to be included in the service charge should be based on the Zurich premiums but that those premiums should be discounted so that the combined percentage payable to the Respondent and Oval does not exceed 14 per cent of the total premium. (In the view of the Tribunal the percentages payable to the

Respondent and to Oval should not exceed 10 per cent and 4 per cent respectively; but it makes no formal determination to that effect since there is some question as to the jurisdiction of the Tribunal to do so.)

51 Fourth, the Respondent's breakdown of the insurance costs showed that in the service charge years 2007/2008, 2008/2009 and 2009/2010 additional direct debit charges (3.00 per cent rising to 3.25 per cent) were incurred, presumably for payment by instalments. It is not common practice for management companies to pay insurance premiums by instalments, especially where that incurs an additional charge. If the Respondent adopted this practice as a consequence of the non-payment of service charges by the leaseholders, in the view of the Tribunal it was not an appropriate response. The Respondent should have addressed the reasons for non-payment. The Tribunal therefore disallows the direct debit charges.

52 Fifth, there was an issue as to the date when the insurance cover obtained by the Respondent terminated. The Applicant stated that the RTM Company had notified the Respondent that it should terminate its insurance policy in respect of the Castle Exchange development with effect from 18 October 2011. He produced a copy of a letter to that effect dated 28 September 2011 from the RTM Company's managing agent to the Respondent's insurance agent. He also produced a copy of the replacement policy schedule effected by the RTM company, which indicated that the policy commenced on 18 October 2011. The Respondent stated that it had no record of having received the letter. On the evidence the Tribunal finds on a balance of probabilities that the Respondent was informed that it should cancel the existing policy. It follows that the premiums for that policy ceased to be payable by the Applicant after 17 October 2011.

53 In calculating the reasonable figures for buildings insurance, the Tribunal (i) deducted from the Zurich premium(s) the sums paid to the Respondent and to Oval, (ii) grossed up the resultant figure(s) to include the 14 per cent payable to the Respondent and to Oval, (iii) apportioned the premium(s) to the relevant service charge years and (iv) in the case of Block F, deducted the 66 per cent of the premium attributable to the commercial units. The resultant figures are as follows:

	Castle Exchange apartments (excluding Block F)	Block F apartments
2006/2007	19141.46	00.00
2007/2008	27706.54	255.87
2008/2009	28783.55	300.68
2009/2010	39816.41*	501.53**
2010/2011	35386.18	363.61
2011/2012	19638.21	185.01

\* Figure includes a property revaluation fee of £3800.87

\*\* Figure includes a property revaluation fee of £113.02

## Electricity

- 54 The Tribunal received only limited assistance from the parties on the issue of the reasonable electricity costs. Although the billing by E.ON was confusing (with numerous cancelled invoices and replacement invoices with dates that did not correspond), the Respondent appears to have made no serious attempt to check the invoices and maintain a schedule of usage, charges and payments. This failure on the part of the Respondent is manifested most clearly in the low figures included in the accounts for the service charge year 2008/2009: in the view of the Tribunal the failure to note the clear undercharge in that year suggests serious financial mismanagement. However, while the Applicant provided evidence of significantly lower electricity prices currently being paid by the RTM Company, and he challenged individual invoices on that ground, he failed to address the wider picture.
- 55 The Tribunal has adopted the principle that the leaseholders should be required to pay for the electricity actually consumed but they should be not required to pay unreasonable charges for that electricity.
- 56 The issue of the electricity consumed could only be determined by undertaking a careful analysis of the available data. Although the billing by E.ON was unquestionably confusing, the Tribunal was able to track the meter readings and to compile a schedule of usage for each service charge year. (The dates of meter readings did not coincide precisely with the service charge years but the dates fell within a three-week window around 31 March.) That annual usage is shown in the following table:

	Z04FD00632 (Block A)	104FA00790 (Block C)	Z05FP40337 (Block E)	104FA00915 (Essential services)
2006/07	123502	10916	2308	
2007/08	165279	42271	4450	14483
2008/09	165280	44573	3871	23054
2009/10	146852	42494	4476	20280
2010/11	127990	38958	4329	17757
2011/12	70400	21462	2592	10188

- 57 Turning to the charges, the Applicant provided evidence that the RTM Company was currently paying 9.23 pence per unit (compared to figures between 15.65 and 20.14 pence paid by the Respondent in the immediately preceding service charge year). The Tribunal finds that the Respondent failed to secure available competitive per unit prices and as a result was incurring unreasonably high costs and including those costs in the service charge. The Tribunal therefore determines that the reasonable per unit charge for electricity should not exceed 9.23 pence. The Tribunal had 'judicial notice' of the fact that, despite significant competition among electricity suppliers, per unit charges have increased over the last few years; and the Applicant provided some historic evidence to that effect. However, the Tribunal did not have sufficient information to apply different per unit charges to different service charge years; and it was satisfied that it was appropriate to apply the per unit charge of 9.23 pence (and the standing quarterly charge of £32.75 currently being paid by the RTM Company) throughout the period covered by the

present application. In addition, the climate change levy and VAT at the relevant rates were properly included in the service charge costs. The reasonable charges are shown in the following table:

	Z04FD00632 (Block A)	104FA00790 (Block C)	Z05FP40337 (Block E)	104FA00915 (Essential services)
2006/07	12106.75	1273.25	292.46	
2007/08	16155.56	4940.49	568.83	1755.27
2008/09	16155.66	5180.71	512.70	2754.48
2009/10	14369.71	4899.66	571.34	2417.50
2010/11	12541.70	4601.95	557.10	2181.77
2011/12	6903.06	2584.13	331.44	1275.42

58 The total electricity charges for each service charge year are as follows:

2006/07	£13672.46
2007/08	£23420.15
2008/09	£24603.55
2009/10	£22258.21
2010/11	£19882.52
2011/12	£11094.05

59 The methodology applied by the Respondent to the apportionment of the electricity costs is not entirely clear. However, the Tribunal determines that (for the service charge years 2007/2008 to 2011/2012) it would be reasonable (i) to adopt what appears in effect to have been the practice of the Respondent in allocating £2500 per year to the Parking Court, £1000 per year to the lifts and £1000 per year to the Estate; and (ii) to allocate the balance of the total costs to Blocks A-E and F. The allocation is shown in the following table:

	Parking Court	Lifts	Estate	Blocks A-E, F
2006/07				13672.46
2007/08	2500.00	1000.00	1000.00	18920.15
2008/08	2500.00	1000.00	1000.00	20103.55
2009/10	2500.00	1000.00	1000.00	17758.21
2010/11	2500.00	1000.00	1000.00	15382.52
2011/12	1250.00	500.00	500.00	8844.05

#### Light bulb replacement

60 The Applicant challenged the costs of light bulb replacement included in the service charge accounts. First, he identified a number of inaccurate invoices, which the Tribunal determines should be corrected.

61 Second, and more significant, the Applicant produced invoices for light bulbs purchased by the RTM Company which revealed a significantly lower per unit cost than that which the Respondent had included in the service charge. In response to questions from the Tribunal, it became apparent that, while the RTM Company purchased light bulbs in (modest) bulk, the Respondent paid a contract per unit rate to Spotlight Cleaning. By way of example, invoices indicated that the RTM Company had purchased 50 28 watt bulbs at a unit price of £1.99 while on many occasions the Respondent included in the service

charge the sum of £13.99 for the replacement of a single 28 watt bulb. The Tribunal finds that on any basis the light bulb replacement costs incurred by the Respondent were unreasonably incurred.

- 62 However, the Tribunal accepts that the cost differential is not as marked in the case of all types of light bulbs and electrical fittings. It also accepts that the contract with Spotlight Cleaning includes the fitting.
- 63 The Tribunal therefore determines that the element of unreasonableness can be appropriately removed by reducing the costs for light bulb replacement by 60 per cent across the board.

#### Repairs and maintenance

- 64 Under this head of expenditure, the Applicant questioned costs both in relation to specific expenditure and generally. Costs incurred for maintenance contracts have been included under different heads of expenditure. The following paragraphs follow the structure and terminology of the service charge accounts.

#### *Electrical maintenance*

- 65 The Applicant questioned the costs of electrical maintenance in 2006/2007, 2007/2008 and 2008/2009.
- 66 In respect of 2006/2007, the Applicant questioned the cost of the annual service contracts for the fire alarm system (£1404.13) and the door entry system (£352.50). He argued that the figures included in the service charge for 2006/2007 should be limited to the costs apportioned to that year but failed to make compensating additions in 2007/2008. The Tribunal determines that the invoices were paid (and thus the costs were incurred) in 2006/2007 and are properly included in the service charge for that year. The Applicant also argued that the corresponding costs incurred by the RTM Company were significantly lower. He produced an invoice dated 6 January 2012 from Newton Electrical, showing a charge of £714.60 for servicing the fire alarm system and the emergency lighting.
- 67 In respect of 2007/2008, the Applicant questioned the cost of the maintenance contract for emergency lighting and CCTV. The Respondent contracted with City Maintenance UK Ltd for annual maintenance of the emergency lighting and CCTV at £600.00 and £885.00 respectively (a total cost of £1485.00). The Applicant produced an invoice from Newton Electrical dated 31 October 2012 for fire and emergency lighting service at a cost of £420.00 and another invoice dated 30 April 2012 for the annual service of the CCTV system at a cost of £540.00.
- 68 In respect of 2008/2009, the Applicant questioned the cost of the servicing of the fire alarm system and CCTV. The Respondent included costs of £421.76 for the servicing and testing of the fire alarm system by Firesafe Services Ltd, £645.08 for other work carried out on the fire alarm system by Chubb Fire Limited and £881.25 for the CCTV maintenance contract with City Maintenance UK Ltd. The Applicant relied on the invoices from Newton Electrical referred to in the preceding paragraph.

- 69 The Tribunal makes the same determination in respect of each of the service charge years. In the absence of a copy of the specification of the Newton Electrical contracts, against which the respective costs incurred by the Respondent and the RTM Company could be compared, the Applicant failed to demonstrate that the costs incurred by the Respondent were unreasonably incurred.

#### *CCTV maintenance*

- 70 The Applicant questioned the cost of the CCTV maintenance contract in 2009/2010. The Respondent contracted with City Maintenance UK Ltd for annual maintenance of the CCTV and the emergency lighting in Blocks A-E and the Parking Court at £1017.75 and £690.00 (a total cost of £1707.75). The Applicant produced the invoice for CCTV maintenance from Newton Electrical at a cost of £540.00.
- 71 In the absence of a copy of the specification of the Newton Electrical contract, against which the respective costs incurred by the Respondent and the RTM Company could be compared, the Applicant failed to demonstrate that the costs incurred by the Respondent were unreasonably incurred.
- 72 The Applicant produced no evidence to question the remaining costs included under this head of expenditure.

#### *Fire equipment maintenance*

- 73 The Applicant questioned the costs of fire equipment maintenance in 2009/2010 and 2011/2012.
- 74 In respect of 2009/2010, the Applicant questioned the inclusion in the service charge of an invoice for work carried out in an earlier service charge year. However, it appears that the invoice had not already been included in a previous year; and the Tribunal therefore allows those costs. The Applicant also questioned the cost of the regular maintenance of the fire alarm system and he produced an invoice for the contract agreed between the RTM Company and Newton Electrical at lower cost. However, in the absence of a copy of the specification of the Newton Electrical contract, against which the respective costs incurred by the Respondent and the RTM Company could be compared, the Applicant failed to demonstrate that the costs incurred by the Respondent were unreasonably incurred.
- 75 In respect of 2011/2012, the Applicant questioned the full cost of the maintenance contract, which continued after the Respondent ceased to manage the Castle Exchange development. However, the RTM Company continued to have the benefit of the contract and the Applicant produced no evidence that the RTM Company had requested the cancellation of the contract.
- 76 The Applicant also questioned the cost of three routine inspections of the fire alarm system at a cost of £1346.72. Relying on its general experience, the Tribunal finds that those charges were excessive and allows the sum of £420 proposed by the Applicant.



### *Plant and machinery*

- 77 The Applicant questioned the cost of the contract for the maintenance of the cold water storage tanks and pumps in 2010/2011 and 2011/2012. The Respondent contracted with Pimms (Services) Ltd for annual maintenance at a cost of £1989.28 and £2031.60 respectively. The Applicant produced an invoice dated 26 April 2012 from PWP Maintenance for the maintenance of cold water storage tanks and pumps at a cost of £714.60.
- 78 However, in the absence of a copy of the specification of the PWP Maintenance contract, against which the respective costs incurred by the Respondent and the RTM Company could be compared, the Applicant failed to demonstrate that the costs incurred by the Respondent were unreasonably incurred.

### *Lift repairs and maintenance*

- 79 The Applicant questioned the costs of lift repairs and maintenance in 2010/2011 and 2011/2012 on a number of grounds.
- 80 In respect of 2010/2011, first, the Applicant questioned the cost of the annual service contract, noting that the same company (Able Lifts) charged the Respondent £268.00 (excluding VAT) more than it charged the RTM Company in 2011/2012. Since the Respondent conceded the difference in 2009/2010, in the view of the Tribunal, a corresponding reduction of £315.84 (£268.00 plus 17.5 per cent VAT) must be made in 2010/2011. Second, the Applicant questioned the inclusion in the service charge for 2010/2011 of invoices for work carried out in earlier service charge years. However, it appears that the invoices were only received in the year 2010/2011 and had not already been included in a previous year. The Tribunal therefore allows those costs. Third, the Applicant questioned the inclusion of the sum of £317.25 invoiced for an incorrect call out. The Tribunal determines that those costs are not payable.
- 81 In respect of 2011/2012, since the annual service contract for 2010/2011 ran until 31 October 2011 (after the Respondent ceased to manage the Castle Exchange development), no further costs are included in the service charge for 2011/2012 other than the prepayment. Careful examination of the invoices also reveals that there is no substance in the Applicant's allegations of duplicated or excessive invoices.

### *Repairs and maintenance: general*

- 82 The Applicant challenged the costs of replacement locks included in the service charge accounts. He produced invoices for locks purchased by the RTM Company which revealed a significantly lower (approximately 40 per cent) per unit cost than that which the Respondent had included in the service charge.
- 83 As with light bulb replacement, it appears that the Respondent paid a contract per unit rate to Spotlight Cleaning, although the charge included the fitting. Nonetheless, the Tribunal finds that there is an element of unreasonableness in the Respondent's costs.

- 84 The Tribunal determines that the element of unreasonableness can be appropriately removed by reducing the costs allowed for replacement locks by approximately 20 per cent.

#### Audit fees

- 85 The Applicant raised a number of questions in relation to the audit fees.
- 86 First, he questioned the separate fees that appear in the service charge accounts for different parts of the Castle Exchange development. However, since he did not argue that this allocation had in itself resulted in any increase in the overall audit costs, the point has no relevance to the determination of the application.
- 87 Second, he questioned the level of the fees. The total (full year) audit fees included in the service charge by the Respondent increased from approximately £3150 in 2007/2008 to £3350 in 2008/2009 and £3750 in 2009/2010; they then reduced to £1700 in 2010/2011. The Applicant pointed to the lower fees of £420 currently being paid by the RTM Company to Barker Maule & Co. However, it is evident from the documentation and the oral evidence of the parties that the Applicant was not comparing like with like. The Respondent pointed out that Barker Maule & Co's invoice for £420 refers to the 'preparation of accounts' and not to an audit of those accounts; and that the accounts were not prepared in accordance with the charging provisions of the lease.
- 88 The Tribunal notes the points made by the Respondent. Moreover, it is apparent that until the year 2010/2011 the auditors for the Respondent were required to complete all the preliminary work that would normally be carried out by the management company. That factor may be relevant in determining the Respondent's reasonable *management* fees; but the issue in the present context is whether the costs were reasonable incurred in the light of the work carried out by the auditors. On that basis, the Tribunal determines that the audit fees were reasonably incurred.

#### Management fees

- 89 First, the Applicant questioned the separate fees that appear in the service charge accounts for different parts of the Castle Exchange development. However, since he did not argue that this allocation had in itself resulted in any increase in the overall management fees, the point has no relevance to the determination of the application.
- 90 Second, the Applicant was very critical of the standard of management throughout the period covered by the present application; but in some years he appeared not to challenge the management fees included in the service charge or to propose a reasonable fee that involved no significant discount from the Respondent's figure. Instead, the Applicant seemed to argue that the poor management should be reflected in a reduction of the costs allowed under specific heads of service charge expenditure. In the view of the Tribunal, that approach was misconceived and the Tribunal's findings on the standard of management should properly be reflected in the management fees allowed.

- 91 Applying its general knowledge and experience as an expert Tribunal, the Tribunal therefore determined what would have been reasonable management fees in the service charge years under review and then considered whether any discount should be applied to reflect any established shortcomings in the level or standard of management.
- 92 The Tribunal accepts that the management of the Castle Exchange development is not without its difficulties (notably issues of security in a neighbourhood of anti-social behaviour and the high incidence of subletting of apartments). The Tribunal therefore determines that a reasonable management fee for the service charge year 2007/2008 (the first full service charge year covered by the present application) would be £150 per apartment exclusive of VAT. Using that figure as the baseline, it determined the reasonable management fee for each of the (part) service charge years under review.
- 93 Turning to the question of whether those figures should be discounted, the Applicant made three principal criticisms of the Respondent's management of the Castle Exchange development. First, he argued that the Respondent failed to spend the leaseholders' money responsibly; that it failed to obtain value for money from its contractors; and that it operated on an ad hoc basis rather than addressing the fundamental issues in a strategic manner. Second, he argued that the Respondent had failed to maintain the condition of the development (which was exacerbated by incidents of vagrancy and vandalism). Third, he was severely critical of the Respondent's accountancy systems and practices. The Respondent argued that it had not been shown to have acted unreasonably in its placing of contracts; that it had responded to the problems affecting the Castle Exchange development, for example by appointing a full-time on site caretaker and by increasing the frequency of cleaning; and that the relative complexity of the accounts reflected the charging provisions in the Applicant's lease.
- 94 The Tribunal determines that the notional reasonable management fee identified above should be discounted. It accepts that there were extrinsic difficulties affecting the development; but that factor is reflected in the notional management fee. In the view of the Tribunal there were shortcomings in the management of the development: there was clear evidence that the Respondent did not always ensure that it obtained value for (the leaseholders') money. Moreover, it is appropriate to discount the notional fee, first, to reflect the fact that the Respondent did not carry out the normal accountancy functions of a management company, which instead were completed by the auditors with consequent increased audit fees. The Tribunal does not accept the Respondent's argument that the preparation of accounts is a function additional to the normal management functions so that additional costs would be reasonable (whether those costs are payable to the management company or to the accountants). In any event, the argument relies on the terms of the property management agreement between Seasongreet Limited, Holding and Management (Solitaire) Limited and Solitaire, which, as the Tribunal has noted (see paragraph 4 above), cannot affect the position of the parties to the present application. Second, such accountancy functions as were carried out by the Respondent were of an unacceptable standard, as exemplified by (but not confined to) the processing of the electricity bills.

95 In the view of the Tribunal, the notional management fee should be discounted by 25 per cent; and that fee should be discounted by a further £5.00 per year (or an appropriate proportion for the part service charge years 2006/2007 and 2011/2012) for the 19 apartments that do not have the benefit of a car-parking space.

96 The Tribunal determines the overall reasonable management fees as follows:

	Notional fee	Discounted fee with car parking	Total including VAT	Discounted fee without car parking	Total including VAT
2006/07	110.00	82.50	96.94	79.00	92.83
2007/08	150.00	112.50	132.19	107.50	126.31
2008/09	160.00	120.00	139.99	115.00	134.16
2009/10	170.00	127.50	147.41	122.50	141.64
2010/11	180.00	135.00	159.49	130.00	153.56
2011/12	100.00	75.00	90.00	72.50	87.00

97 The total management fees for each service charge year, apportioned between the 119 apartments and the Parking Court are as follows:

	Total management fees apportioned to the apartments excluding VAT	VAT	Total management fees apportioned to the parking court excluding VAT	VAT
2006/07	9401.00	1645.18	350.00	61.25
2007/08	12792.50	2238.69	500.00	87.50
2008/09	13685.00	2280.83	500.00	83.33
2009/10	14577.50	2277.71	500.00	78.13
2010/11	15470.00	2803.94	500.00	90.63
2011/12	8627.50	1725.50	250.00	50.00

98 In order to reflect the determination in paragraph 96 above – that the management fee apportioned to the apartments should be apportioned equally among all 119 apartments in the development – that element of the management fee has been included in the Estate costs (and excluded from the Block costs) for all service charge years.

#### Contributions to common services

99 The Applicant seemed to have difficulty in understanding this item in the service charge accounts for 2007/2008 and 2008/2009.

100 Although the Respondent produced four separate accounts for each of those years (relating to the Estate, Blocks A-E, Block F and the Parking Court), the costs relating to the Estate were apportioned between the 119 apartments in Blocks A-E and Block F (116/119ths and 3/119ths respectively). The 116/119ths apportioned to Blocks A-E were then included in the accounts for Blocks A-E under the heading 'contribution to common services'. The total service charge costs payable by the leaseholders of apartments in Blocks A-E comprised (i) the Blocks A-E costs (which included the apportioned Estate costs (or 'contribution to common services') and (ii) where appropriate, the

Parking Court costs. The total service charge costs payable by the leaseholders of apartments in Block F was calculated on the same basis, although it was slightly more complicated because the 'contribution to common services' payable by those leaseholders included not only the 3/119ths of the Estate Costs but also 3/117ths and 3/110ths of some of the Blocks A-E costs: see paragraph 11 above.

- 101 The important point to note is that there was no double charging of the Estate costs.

#### Contributions to/from reserves

- 102 The Applicant seemed to question these items in the service charge accounts.
- 103 The establishment of a reserve fund is recommended by the RICS Management Code; and, in the view of the Tribunal, such a fund is even more important in the case of a development such as Castle Exchange. Substantial blocks of apartments will require on-going maintenance and will almost inevitably from time to time require major work or emergency work. Against that background, it is prudent management to build up a reserve fund that will provide some protection for the leaseholders from substantial demands to cover the cost of such work. In the view of the Tribunal, regular contributions to a reserve fund at the level included in the service charge accounts cannot be regarded as unreasonable.
- 104 Where 'reserve fund work' is carried out, the costs of that work will be included under the 'repairs and maintenance' head of expenditure for that year but the costs will be paid from the reserve fund and will appear as a credit in the service charge accounts (and a corresponding debit in the reserve fund accounts).

#### Reasonable service charge figures

- 105 The reasonable service charge figures for the parts of the development ((i) the Estate, (ii) Blocks A-E, (iii) Block F and (iv) the Parking Court) are summarised below and set out in detail in Annex A. (Although the Respondent provided no allocation of the costs included in the closing statement for the period 1 April 2011 to 17 October 2011, the Tribunal has made a provisional allocation on the basis of the documentation made available and the method of apportionment applied in 2009/2010 and 2010/2011 .)

	Estate charges	Blocks A-E charges	Block F charges	Parking Court charges
2006/07		62888.22		
2007/08	19570.31	113136.21	2247.18	20248.87
2008/09	19366.98	133683.40	2801.70	5822.25
2009/10	27637.28	115293.36	601.12	12544.18
2010/11	33537.80	112431.85	588.61	13704.26
2011/12	12321.70	67986.93	185.01	4488.42

- 106 As noted in paragraph 100 above, the costs incurred in respect of the Estate in the service charge years 2007/2008 and 2008/2009 are apportioned and reflected in the 'common services' head for the blocks.

107 Under the terms of the lease the costs other than the Parking Court costs are apportioned among four different groups of apartments: see paragraph 11 above. Those groups are:

Group 1: apartments in Blocks A-D

Group 2: apartments in Block E excluding apartments E103 and E104

Group 3: apartments E103 and E104

Group 4: apartments in Block F

The Parking Court costs are apportioned equally among the 100 apartments that include a parking space.

108 The following tables summarise the reasonable service charges payable by the different groups of apartments:

Apartments with car parking space

	Group 1 apartments	Group 2 apartments	Group 3 apartments	Group 4 apartments
2006/07	551.36	549.82	89.78	167.89
2007/08	1176.33	1133.15	703.88	994.73
2008/09	1208.17	1159.13	575.29	992.12
2009/10	1350.75	1284.99	791.50	1117.31
2010/11	1389.94	1286.08	874.63	1130.38
2011/12	732.91	703.84	343.34	599.66

Apartments without car parking space

	Group 1 apartments	Group 2 apartments	Group 3 apartments	Group 4 apartments
2006/07	551.36	549.82	89.78	167.89
2007/08	973.84	930.66	501.39	792.24
2008/09	1149.95	1100.91	517.07	933.90
2009/10	1225.31	1159.55	666.06	991.87
2010/11	1252.90	1149.04	737.59	993.34
2011/12	688.03	658.95	298.46	554.78

Professor Nigel P Gravells (Chairman)

Dated 8 May 2013

## ANNEX A

## CASTLE EXCHANGE

2006/2007

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Cleaning	5423.00	(2178.47)	7601.47	4559.58		7601.47	Groups 1,2,4
Electrical maintenance	3060.77	1304.14	1756.63	303.75		1756.63	Groups 1,2,4
Lift telephone	169.65		169.65			169.65	Groups 1,4
Security	799.16		799.16			799.16	Groups 1,2,4
Light bulbs replacement	265.27		265.27	64.82	163.86	101.41	Groups 1,2,3,4
Electricity	18969.23		18969.23	Unquantified	5296.77	13672.46	Groups 1,2,3,4
Keyholding	346.64		346.64			346.64	Groups 1,2,4
Repairs and maintenance	8963.61	3290.76	5672.85	5239.94	172.85	5500.00	Groups 1,2,3,4
Buildings insurance	19910.33		19910.33	17542.60	768.87	19141.46	Groups 1,2,3,4
Bank charges paid	6.11		6.11			6.11	Groups 1,2,3,4
Bank interest received	(1.28)		(1.28)			(1.28)	Groups 1,2,3,4
Audit fees	2337.08		2337.08	420.00		2337.08	Groups 1,2,3,4
Management fee	11745.32		11745.32		1994.32	9751.00	Groups 1,2,3,4
VAT on management fee	2055.43		2055.43		349.00	1706.43	Groups 1,2,3,4
TOTAL	74050.32		71633.89			62888.22	

## CASTLE EXCHANGE: ESTATE

2007/2008

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Sweeping	807.84		807.84	00.00		807.84	Groups 1,2,3,4
Electricity	70.00		70.00	Unquantified	(930.00)	1000.00	Groups 1,2,3,4
Bin hire	1917.01		1917.01			1917.01	Groups 1,2,3,4
Repairs and maintenance	741.52		741.52			741.52	Groups 1,2,3,4
Account handling charge	70.00	70.00	00.00			00.00	Groups 1,2,3,4
Bank interest received	(69.43)		(69.43)			(69.43)	Groups 1,2,3,4
Audit fees	142.18		142.18	00.00		142.18	Groups 1,2,3,4
Management fee	15697.84	15697.84	00.00		(12792.50)	12792.50	Groups 1,2,3,4
VAT on management fee	2747.12	2747.12	00.00		(2238.69)	2238.69	Groups 1,2,3,4
<b>TOTAL</b>	<b>22124.08</b>		<b>3609.12</b>			<b>19570.31</b>	



## CASTLE EXCHANGE: BLOCKS A-E

2007/2008

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Cleaning common area	6636.43		6636.43	2659.76		6636.43	Groups 1,2,4
Electrical maintenance	1485.00		1485.00	1305.00		1485.00	Groups 1,2,4
Security	1398.53	199.79	1198.74			1198.74	Groups 1,2,4
Light bulbs replacement	404.74		404.74	56.73	259.71	145.03	Groups 1,2,3
Electricity	29100.16		29100.16	Unquantified	10180.01	18920.15	Groups 1,2,4
Lift electricity					(1000.00)	1000.00	Groups 1,4
Keyholding	1049.28		1049.28			1049.28	Groups 1,2,4
Bin hire	235.00		235.00			235.00	Groups 1,2,3
Repairs and maintenance	21443.23	4344.10	17099.13	Unquantified	163.95	16935.18	Groups 1,2,4
Common services	21566.33		21566.33	00.00	2489.39	19076.94	Groups 1,2,3
Buildings insurance	38642.03		38642.03	26350.00	10935.49	27706.54	Groups 1,2,3
External reserve	8120.00		8120.00	00.00		8120.00	Groups 1,2,3
Risk assessment reserve	450.00		450.00	00.00		450.00	Groups 1,2,3
Internal reserve	4000.00		4000.00	00.00		4000.00	Groups 1,2,4
Lift reserve	3750.00		3750.00	00.00		3750.00	Groups 1,4
Account handling charges	70.00	70.00	00.00			00.00	Groups 1,2,3
Bank interest paid	22.11		22.11			22.11	Groups 1,2,3
Audit fees	2405.81		2405.81	420.00		2405.81	Groups 1,2,3
Management fee	15660.46		15660.46		15660.46	00.00	Groups 1,2,3
VAT on management fee	2740.58		2740.58		2740.58	00.00	Groups 1,2,3
<b>TOTAL</b>	<b>159179.69</b>		<b>154565.80</b>			<b>113136.21</b>	

CASTLE EXCHANGE: BLOCK F

2007/2008

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Common services (A-E)	1018.89		1018.89	00.00	398.47	1417.36	Group 4
Common services (estate)	557.75		557.75		64.38	493.37	Group 4
Buildings insurance	885.36	586.39	298.97	00.00	43.10	255.87	Group 4
Account handling charges	70.00	70.00	00.00			00.00	Group 4
Bank interest received	(1.67)		(1.67)			(1.67)	Group 4
Audit fees	82.25		82.25	00.00		82.25	Group 4
<b>TOTAL</b>	<b>2612.58</b>		<b>1956.19</b>			<b>2247.18</b>	

## CASTLE EXCHANGE: PARKING COURT

2007/2008

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Gate maintenance	528.75		528.75			528.75	
Electrical maintenance	166.67		166.67			166.67	
Electricity					(2500.00)	2500.00	
Light bulbs replacement	99.68		99.68	68.51	59.73	39.95	
Sweeping	538.18		538.18	00.00		538.18	
Repairs and maintenance	15361.21	231.33	15129.88	Unquantified		15129.88	
Bank interest paid	211.69		211.69			211.69	
Audit fees	546.25		546.25	00.00		546.25	
Management fee					(500.00)	500.00	
VAT on management fee					(87.50)	87.50	
<b>TOTAL</b>	<b>17452.43</b>		<b>17221.10</b>			<b>20248.87</b>	

## CASTLE EXCHANGE: ESTATE

2008/2009

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Landscape maintenance	901.16	523.01	378.15			378.15	Groups 1,2,3,4
Pump maintenance	155.25		155.25			155.25	Groups 1,2,3,4
Electricity	150.00		150.00		(850.00)	1000.00	Groups 1,2,3,4
Bin hire	3038.75	1474.05	1564.70			1564.70	Groups 1,2,3,4
Keyholding	258.97	105.42	153.55			153.55	Groups 1,2,3,4
Account handling charge	72.00	72.00	00.00			00.00	Groups 1,2,3,4
Bank interest paid	5.76		5.76			5.76	Groups 1,2,3,4
Bank interest received	(0.28)		(0.28)			(0.28)	Groups 1,2,3,4
Audit fees	144.02		144.02	00.00		144.02	Groups 1,2,3,4
Management fee	21369.40		21369.40		7684.40	13685.00	Groups 1,2,3,4
VAT on management fee	3561.56		3561.56		1280.73	2280.83	Groups 1,2,3,4
TOTAL	29656.59		27482.11			19366.98	

## CASTLE EXCHANGE: PARKING COURT

2007/2008

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Gate maintenance	528.75		528.75			528.75	
Electrical maintenance	166.67		166.67			166.67	
Electricity					(2500.00)	2500.00	
Light bulbs replacement	99.68		99.68	68.51	59.73	39.95	
Sweeping	538.18		538.18	00.00		538.18	
Repairs and maintenance	15361.21	231.33	15129.88	Unquantified		15129.88	
Bank interest paid	211.69		211.69			211.69	
Audit fees	546.25		546.25	00.00		546.25	
Management fee					(500.00)	500.00	
VAT on management fee					(87.50)	87.50	
TOTAL	17452.43		17221.10			20248.87	

## CASTLE EXCHANGE: ESTATE

2008/2009

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Landscape maintenance	901.16	523.01	378.15			378.15	Groups 1,2,3,4
Pump maintenance	155.25		155.25			155.25	Groups 1,2,3,4
Electricity	150.00		150.00		(850.00)	1000.00	Groups 1,2,3,4
Bin hire	3038.75	1474.05	1564.70			1564.70	Groups 1,2,3,4
Keyholding	258.97	105.42	153.55			153.55	Groups 1,2,3,4
Account handling charge	72.00	72.00	00.00			00.00	Groups 1,2,3,4
Bank interest paid	5.76		5.76			5.76	Groups 1,2,3,4
Bank interest received	(0.28)		(0.28)			(0.28)	Groups 1,2,3,4
Audit fees	144.02		144.02	00.00		144.02	Groups 1,2,3,4
Management fee	21369.40		21369.40		7684.40	13685.00	Groups 1,2,3,4
VAT on management fee	3561.56		3561.56		1280.73	2280.83	Groups 1,2,3,4
<b>TOTAL</b>	<b>29656.59</b>		<b>27482.11</b>			<b>19366.98</b>	

## CASTLE EXCHANGE: BLOCKS A-E

2008/2009

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Cleaning common area	10657.89	891.05	9766.84	4179.62		9766.84	Groups 1,2,4
Electrical maintenance	1948.09		1948.09	960.00		1948.09	Groups 1,2,4
Security	15274.94		15274.94	7388.97		15274.94	Groups 1,2,4
Lift repairs	643.89		643.89			643.89	Groups 1,4
Light bulbs replacement	1110.65		1110.65	303.98	666.39	444.26	Groups 1,2,4
Electricity	1565.74	1565.74	00.00		(20103.55)	20103.55	Groups 1,2,4
Lift electricity					(1000.00)	1000.00	Groups 1,4
Keyholding	1971.63		1971.63	00.00		1971.63	Groups 1,2,4
Repairs and maintenance	15798.69	881.25	14917.44	Unquantified	117.44	14800.00	Groups 1,2,4
Common services	28908.95		28908.95	00.00	10030.21	18878.74	Groups 1,2,3
Buildings insurance	32497.97		32497.97	26350.00	3714.42	28783.55	Groups 1,2,3
External reserve	8120.00		8120.00	00.00		8120.00	Groups 1,2,3
Risk assessment reserve	450.00		450.00	00.00		450.00	Groups 1,2,3
Internal reserve	4000.00		4000.00	00.00		4000.00	Groups 1,2,4
Lift reserve	3750.00		3750.00	00.00		3750.00	Groups 1,4
Account handling charges	72.00	72.00	00.00			00.00	Groups 1,2,3
Bank interest received	(11.80)		(11.80)			(11.80)	Groups 1,2,3
Bank interest paid	1317.63		1317.63			1317.63	Groups 1,2,3
Audit fees	2442.08		2442.08	420.00		2442.08	Groups 1,2,3
TOTAL	130518.35		127108.31			133683.40	

## CASTLE EXCHANGE: BLOCK F

2008/2009

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Common services (A-E)	2268.31		2268.31	00.00	369.68	1898.63	Group 4
Common services (estate)						488.24	Group 4
Buildings insurance	1113.54		1113.54	00.00	812.86	300.68	Group 4
Account handling charges	72.00	72.00	00.00			00.00	Group 4
Bank interest received	(0.09)		(0.09)			(0.09)	Group 4
Bank interest paid	30.75		30.75			30.75	Group 4
Audit fees	83.49		83.49	00.00		83.49	Group 4
Management fee	538.72		538.72	00.00	538.72	00.00	Group 4
VAT on management fee	89.76		89.76	00.00	89.76	00.00	Group 4
<b>TOTAL</b>	<b>4196.48</b>		<b>4124.48</b>			<b>2801.70</b>	



## CASTLE EXCHANGE: PARKING COURT

2008/2009

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Electricity	300.00	(1265.74)	1565.74	00.00	(934.26)	2500.00	
Repairs and maintenance	2058.01		2058.01			2058.01	
Account handling charges	72.00	72.00	00.00			00.00	
Audit fees	680.91		680.91	00.00		680.91	
Management fee					(500.00)	500.00	
VAT on management fee					(83.33)	83.33	
TOTAL	3110.92		4304.66			5822.25	

## CASTLE EXCHANGE: ESTATE

2009/2010

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Concierge	818.36		818.36	00.00		818.36	Groups 1,2,3,4
Electricity	1092.69	1092.69	00.00			1000.00	Groups 1,2,3,4
Refuse bin costs	4685.29	2140.29	2425.00			2425.00	Groups 1,2,3,4
Repairs	1559.52		1559.52			1559.52	Groups 1,2,3,4
Accountancy/audit fees	2553.19		2553.19	00.00		2553.19	Groups 1,2,3,4
Health and safety costs	2535.75	109.25	2426.50			2426.50	Groups 1,2,3,4
Management fee	25585.10		25585.10	24916.92	11008.01	14577.00	Groups 1,2,3,4
VAT on management fee					(2277.71)	2277.71	Groups 1,2,3,4
<b>TOTAL</b>	<b>38829.90</b>		<b>35487.67</b>			<b>27637.28</b>	

## CASTLE EXCHANGE: BLOCKS A-E

2009/2010

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Buildings insurance	39683.73		39683.73	30483.28	(132.68)	39816.41	Groups 1,2,3
Plant and machinery	658.00	658.00	00.00			00.00	Groups 1,2,3
General repairs	1735.00		1735.00			1735.00	Groups 1,2,3
Reserves	8770.00		8770.00	00.00		8770.00	Groups 1,2,3
						50321.41	
Concierge	12275.55		12275.55	6044.77		12275.55	Groups 1,2,4
Electricity	42256.50	889.42	41369.08	26260.89	23610.87	17758.21	Groups 1,2,4
Communal area cleaning	10682.96		10682.96	4559.58		10682.96	Groups 1,2,4
Security	275.98		275.98	00.00		275.98	Groups 1,2,4
CCTV maintenance	2240.20		2240.20	2101.70		2240.20	Groups 1,2,4
Aerial maintenance	724.50	86.25	638.25			638.25	Groups 1,2,4
General repairs	4968.30		4968.30	4238.30		4968.30	Groups 1,2,4
Fire equipment	9923.22		9923.22	8633.99		9923.22	Groups 1,2,4
Reserves	3966.10		3966.10	00.00		3966.10	Groups 1,2,4
Reserves contribution	(4990.56)		(4990.56)	00.00		(4990.56)	Groups 1,2,4
						57738.21	
Lift	2759.74	276.00	2483.74	Unquantified		2483.74	Groups 1,4
Electricity	1000.00		1000.00	00.00		1000.00	Groups 1,4
Lift reserve	3750.00		3750.00	00.00		3750.00	Groups 1,4
						7233.74	
<b>TOTAL</b>	<b>140679.22</b>		<b>138769.55</b>			<b>115293.36</b>	

## CASTLE EXCHANGE: BLOCK F

2009/2010

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Buildings insurance	1533.04		1533.04	00.00	1031.51	501.53	Group 4
General repairs	13.80		13.80	00.00		13.80	Group 4
Accountancy/audit fees	85.79		85.79	00.00		85.79	Group 4
<b>TOTAL</b>	<b>1632.63</b>		<b>1632.63</b>			<b>601.12</b>	

## CASTLE EXCHANGE: PARKING COURT

2009/2010

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Concierge	1636.74		1636.74	00.00		1636.74	
Electricity	7695.60	4977.67	2717.93	00.00	217.93	2500.00	
Fire equipment	1528.17	51.75	1476.42	00.00		1476.42	
CCTV maintenance	1120.10		1120.10	780.85		1120.10	
Gate maintenance	2890.95		2890.95			2890.95	
General repairs	1224.56		1224.56			1224.56	
Accountancy/audit fees	1117.28		1117.28	00.00		1117.28	
Management fee					(500.00)	500.00	
VAT on management fee					(78.13)	78.13	
<b>TOTAL</b>	<b>17213.40</b>		<b>12183.98</b>			<b>12544.18</b>	

## CASTLE EXCHANGE: ESTATE

2010/2011

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Concierge	719.59		719.59	00.00		719.59	Groups 1,2,3,4
Electricity	836.38		836.38	00.00	(163.62)	1000.00	Groups 1,2,3,4
Refuse bin costs	3395.42		3395.42			3395.42	Groups 1,2,3,4
Repairs	3849.15		3849.15	3725.77		3849.15	Groups 1,2,3,4
Plant and machinery	2204.25		2204.25	714.60		2204.25	Groups 1,2,3,4
Accountancy/audit fees	1701.45		1701.45	420.00		1701.45	Groups 1,2,3,4
Insurance excess	1250.00		1250.00			1250.00	Groups 1,2,3,4
Land Registry	144.00		144.00	00.00		144.00	Groups 1,2,3,4
Reserves	1000.00		1000.00	00.00		1000.00	Groups 1,2,3,4
Management fee	13982.97		13982.97		(1487.03)	15470.00	Groups 1,2,3,4
VAT on management fee					(2803.94)	2803.94	Groups 1,2,3,4
<b>TOTAL</b>	<b>29083.21</b>		<b>29083.21</b>			<b>33537.80</b>	

## CASTLE EXCHANGE: BLOCKS A-E

2010/2011

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Buildings insurance	37322.24		37322.24	26350.00	1936.06	35386.18	Groups 1,2,3
General repairs	8711.45		8711.45			8711.45	Groups 1,2,3
Reserves	8770.00		8770.00	00.00		8770.00	Groups 1,2,3
						52867.63	
Concierge	10793.86		10793.86	8059.69		10793.86	Groups 1,2,4
Electricity	27517.22		27517.22	22336.34		15382.52	Groups 1,2,4
Communal area cleaning	7583.39		7583.39	4559.58		7583.39	Groups 1,2,4
Door entry system	1187.27		1187.27	00.00		1187.27	Groups 1,2,4
Aerial maintenance	2317.92		2317.92			2317.92	Groups 1,2,4
General repairs	7140.68		7140.68	6079.51		7140.68	Groups 1,2,4
Health and safety	1389.69		1389.69			1389.69	Groups 1,2,4
Fire equipment	5720.60	29.38	5691.22	5691.22		5691.22	Groups 1,2,4
Insurance excess	500.00		500.00	00.00		500.00	Groups 1,2,4
Management fees	9706.00		9706.00		9706.00	00.00	Groups 1,2,4
Reserves	3966.10		3966.10			3966.10	Groups 1,2,4
Reserves contribution	(7812.58)		(7812.58)			(7812.58)	Groups 1,2,4
						48140.07	
Lift	7307.24		7307.24	5987.35	633.09	6674.15	Groups 1,4
Electricity	1000.00		1000.00	00.00		1000.00	Groups 1,4
Lift reserve	3750.00		3750.00	00.00		3750.00	Groups 1,4
						11424.15	
TOTAL	136871.08		136841.17			112431.85	

## CASTLE EXCHANGE: BLOCK F

2010/2011

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Buildings insurance	1095.78		1095.78	00.00	732.17	363.61	Group 4
Reserves	225.00		225.00	00.00		225.00	Group 4
TOTAL	1320.78		1320.78			588.61	



## CASTLE EXCHANGE: PARKING COURT

2010/2011

	Audited sum	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Concierge	1439.18		1439.18	00.00		1439.18	
Electricity	2647.64		2647.64	00.00	147.64	2500.00	
Fire equipment	1083.92		1083.92			1083.92	
Gate maintenance	3435.58		3435.58			3435.58	
General repairs	4654.95		4654.95			4654.95	
Reserves	950.00		950.00			950.00	
Reserves contribution	(950.00)		(950.00)			(950.00)	
Management fee	2350.00		2350.00	00.00	1850.00	500.00	
VAT on management fee						90.63	
<b>TOTAL</b>	<b>15611.27</b>		<b>15611.27</b>			<b>13704.26</b>	

## CASTLE EXCHANGE: CLOSING STATEMENT

2011/2012

	Sum claimed in statement of account	Sum conceded by Respondent	Net sum claimed by Respondent	Applicant's reasonable sum (where challenged)	Tribunal determination of deduction	Net sum payable	Apartments contributing
Concierge	9831.89		9831.89	4416.27		9831.89	Groups 1,2,4
Buildings insurance (A-E)	) 38600.77		38600.77	14438.36		19638.21	Groups 1,2,3
Buildings insurance (F)	)					185.01	Group 4
Electricity (Parking court)	) 25301.65		25301.65	15468.85		1250.00	Parking Court
Electricity (Lift)	)					500.00	Groups 1,4
Electricity (Estate)	)					500.00	Groups 1,2,3,4
Electricity (Blocks)	)					8844.05	Groups 1,2,4
Communal area cleaning	368.33		368.33			368.33	Groups 1,2,4
Refuse bin costs	1468.70		1468.70			1468.70	Groups 1,2,3,4
Lift	2158.49		2158.49	1731.29		2158.49	Groups 1,4
Fire equipment	3447.94		3447.94	2412.73	926.72	2521.22	Groups 1,2,4
Gate maintenance	1606.54		1606.54			1606.54	Parking Court
General repairs	) 22113.13	348.84	21764.29	20279.36		19892.41	Groups 1,2,4
Repairs (Lift)	)					540.00	Groups 1,4
Repairs (Parking court)	)					1331.88	Parking Court
Security	385.20		385.20			385.20	Groups 1,2,4
Insurance excess	500.00		500.00			500.00	Groups 1,2,3
Plant and machinery	2472.98		2472.98	1155.98		2472.98	Groups 1,2,3
Bank charges	334.15		334.15			334.15	Groups 1,2,4
Audit fees	756.00	756.00	00.00			00.00	
Management fee	14972.36		14972.36		14972.36	00.00	
Management fee (estate)					(8627.50)	8627.50	Groups 1,2,3,4
VAT on management fee					(1725.50)	1725.50	Groups 1,2,3,4
Management fee (car park)					(250.00)	250.00	Parking Court
VAT on management fee					(50.00)	50.00	Parking Court
TOTAL	124318.13		123213.29			84982.06	

**BIR/00FY/LIS/2012/0066**

**Castle Exchange**

**Annex B**

**Additional applicants**

M Ainsworth

A505

Mr/Mrs Akande

D508

R Chambers

A504

Cubic Properties  
Holdings

A202

A803

B302

B406

B409

B506

B507

B508

B606

B607

B706

B709

B805

B806

B807

B808

C507

D303

D304

D409

D410

D412

D511

E101

E102

E103

E104

E201

E401

F1

F2

Frank Desmond

A703

Kieran Dixon

A502

Highwire Ltd

A201

A501

A804

B904

C501

C506

D106

D406

D702

Mr/Mrs Jordan

A802

P Kelly

A801

S Kelly

A504

LMP Southside Ltd

D407

D408

L McGrath

A405

F K Malik

B408

S Mushtaq

B303

M A Nazar

E302

Mr/Mrs Page

D509

Portcullis Holdings

A401

B901

B902

C101

C502

C504

D105

D108

D404

D701

W T Rawlins

D104

R T Stafford

A404

N Twomey

A705

B Tyrell

A208