



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **MAN/30UM/LSC/2013/0121**  
**MAN/30UM/LUS/2013/0003**

**Property** : **31/45 Cedar House, Acre Park, Stacksteads,  
Bacup OL13 0HU**

**Applicants** : **Various (see annex)**

**Respondent** : **Acre Park Management Limited**

**Type of Application** : **Landlord & Tenant Act 1985 – Section 27A(1)**  
**Landlord & Tenant Act 1985 – Section 20C**  
**Commonhold and Leasehold Reform Act 2002 – Section 88(4)**  
**Commonhold and Leasehold Reform Act 2002 – Section 94**

**Tribunal Members** : **Mrs H Clayton. Mr J Faulkner. Mr M Simpson**

**Date of** : **18<sup>th</sup> August 2014**

## **Determination**

### **Determination.**

- 1. The Service Charge payable for the estate management for the year ending 30<sup>th</sup> June 2013 is £247.43 per flat.**
- 2. The Respondents' costs of these proceedings are not to be regarded as relevant costs for determining any service charge payable.**

This is the Determination of the adjourned issues in accordance with the Directions given at the hearing on 29<sup>th</sup> October 2013 (published on 13<sup>th</sup> November 2013).

The Parties have complied with those Directions, as modified.

The Respondent set out its claim with supporting invoices and audited out-turn accounts showing the overall expenditure; that attributable only to Block B and that attributable to the Estate to be divided between all flat owners in both Blocks A & B.

The claim re the Estate, to be divided between the 14 leaseholders is set out at page WR28 of the bundle.

The Applicants' response is at WR71-86 and is incorporated in 6 headed paragraphs. The paragraph headed 'Statement' raises an issue over which the Tribunal does not have jurisdiction in the context of this application. The paragraph headed 'Late Service Charge' is not a S27 issue (save to the extent it may evidence unsatisfactory management, which in turn may reflect in the reasonableness of the management charge). If the Lease permits it, a Management Company may incur expenses in anticipation of service charge payments. It is a cash flow issue, not a reasonableness issue. As to the paragraph headed 'Request for further information' it appears that this has now been addressed.

The Respondent's reply is set out in the statement of Mr Latta of 13<sup>th</sup> February 2014, at pages WR87 -101 of the bundle.

We deal with the issues in the order that they are addressed in the Applicants' Reply.

### **Audit and Accountancy**

The applicants aver that the cost of auditing the accounts for their RTM management of Block A is £240 (£30 per flat and that that is a reasonable sum), and that the £761.04 claimed by respondents is excessive. The Respondents aver that there is more work involved than merely for Block A, and that the costs are reasonably incurred.

*Determination.*

We determine that the overall cost is not unreasonably incurred. We note the cost of £30 per flat in respect of the RTM management of Block A. We note that there is no separate allocation of audit cost to Block B. There are transactions relating solely to Block B that are included in the accounts and require auditing. The Respondents aver that the £30 charged by the RTM company is modest. We determine that it is not reasonable for 'the Estate' to bear all the audit/accountancy cost and that a reasonable contribution from Block B, in respect of exclusively Block B items, would be £30 per flat (£180p.a.). This leaves £581 (not £761) to be attributed to the Estate

Company Secretary Fees and expenses.

The Applicants, aver that the £493 claimed is excessive and unreasonable when compared with the £193 incurred by the RTM company.

The Respondent indicates that the service for which it pays is more comprehensive. It supports that assertion with a letter of 30<sup>th</sup> January from Steven Lord FCA.

*Determination.*

The issue is not whether the cheapest price has been obtained but whether the costs have been reasonably incurred. On the evidence before us there is no basis for determining that the Company secretarial costs have been unreasonably incurred. The cost is not dependent, as are audit fees, on variable factors such as the extent of transactions relating exclusively to one Block or another. It is therefore appropriate for the whole charge to be an Estate charge.

Management Fees.

These do not appear to be specifically challenged. The Respondents have given a moderately detailed justification.

*Determination*

We dealt, in the Interim Determination, with the general principles to be considered. Even taking into account the failure to restrain debt collecting demands, there is no cogent evidence of mismanagement. The overall charge is not unreasonable except for the fact that we regard stationary and postages etc as being an overhead of the managing agent that should not be separately charged, having regard to the overall level of management charges. We therefore do not regard the £76 under that head as reasonably incurred. We also take into account the fact that the managing Agents 'buy in' some additional support services, such as H&S support, which might otherwise be a task undertaken by the managing agents, the cost of which would be reasonably included in the management charge.

*Determination.*

There is no cogent evidence to suggest that the charge has been unreasonably incurred.

**Conclusion.**

The service charges set out at WR28 are reasonably incurred except for £180 worth of audit/accountancy fees and £76 printing postage and stationary. The total is therefore reduced from £3720 to £3464. That is £247.43 per flat for the period 1st July 2012 – 30<sup>th</sup> June 2013.

The Respondents' costs of these proceedings are not to be regarded as relevant costs for determining any service charge payable. That was the decision we made at the principle hearing, for the reasons then given. The outcome of this adjourned consideration of outstanding matters does not require any change of view in that regard.

## **Annex**

### **Applicants**

Mr & Mrs Wells	Apartment 31	31/45 Cedar House	Acre Park	Bacup	OL13 0HU
Mr & Mrs Cooper	Apartment 33	31/45 Cedar House	Acre Park	Bacup	OL13 0HU
Mr & Mrs Ratcliffe	Apartment 37	31/45 Cedar House	Acre Park	Bacup	OL13 0HU
Mr & Mrs Forret	Apartment 39	31/45 Cedar House	Acre Park	Bacup	OL13 0HU
Mr & Mrs Strachan	Apartment 41	31/45 Cedar House	Acre Park	Bacup	OL13 0HU
Mr A McGibbon	Apartment 43	31/45 Cedar House	Acre Park	Bacup	OL13 0HU
Miss J. Bull	Apartment 45	31/45 Cedar House	Acre Park	Bacup	OL13 0HU

### **Respondent**

R.M.G.	RMG House, Essex Road, Hoddesdon, Hertfordshire EN11 0DR				
Mr D. Knowles	Apartment 35	31/45 Cedar House	Acre Park	Bacup	OL13 0HU