

9287



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

Case References : BIR/00FY/LIS/2013/0015
BIR/00FY/LIS/2013/0016
BIR/00FY/LIS/2013/0017

Property : (1) 10 and 20 Lister House,
(2) 33 Nightingale House,
City Heights, Ockbrook Drive,
Nottingham NG3 6AT

Applicants : City Heights RTM Company
Limited

Representation : MPM Limited

Respondent : (1) Gabriel Anderson
(2) Gabriel Anderson and Graeme
Cassidy

Type of Application : (1) To determine liability to pay and
reasonableness of service charges
under section 27A of the Landlord
and Tenant Act 1985 ('the Act') and
(2) for an Order under section 20C of
the Act

Tribunal Members : Judge W J Martin (Chairman)
Mr J E Ravenhill F.R.I.C.S

Date and venue of Hearing : None

Date of Decision : 29 AUG 2013

DECISION

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Decision

The following combined Estate and House estimated Service Charges are payable by the Respondents in respect of the year 1st April 2013 to 31st March 2014:

10 Lister House:	£1,136.93
20 Lister House:	£1,136.93
33 Nightingale House:	£997.67

Reasons For the Tribunal's Decision

Preliminary

- 1 The Decision recorded in this document was made by the First-tier Tribunal (Property Chamber) rather than the leasehold valuation tribunal, to whom the application had been made, because by virtue of The Transfer of Tribunals Function Order (2013 No 1036) ('the Transfer Order') the functions of leasehold valuation tribunals were, on 1st July 2013, transferred to the First-tier Tribunal (Property Chamber). By virtue of the transitional provisions, applications to leasehold valuation tribunals in respect of which a decision had not been issued before the 1st July 2013, automatically became proceedings before the First-tier Tribunal (Property Chamber). The Transfer Order also amended the relevant legislation under which leasehold valuation tribunals were referred to by substituting the words 'First-tier Tribunal' for 'leasehold valuation tribunal' within the relevant parts of the legislation. The extracts from the legislation applicable to the present applications that appear below incorporate the changes made by the Transfer Order. In this Decision the expression 'the Tribunal' means the First-tier Tribunal (Property Chamber) or, where the context admits, the leasehold valuation tribunal.

Background

- 1 On 25th June 2013 City Heights RTM Company Limited ('the Applicant') acting by its Management Agent MPM Limited ('MPM') made three applications ('the Applications') to the Tribunal for determinations under sections 27A and 19 of the Landlord and Tenant Act 1985 ('the Act') as to whether estimated service charges in respect of 10 and 20 Lister House, and 33 Nightingale House, both at City Heights, Ockbrook Drive, Nottingham NG3 6AT ('the Properties') are payable and as to their reasonableness. The service charge year in respect of which a determination is required is 1st April 2013 to 31st March 2014. The Respondent in respect of 10 and 20 Lister House is Gabriel Anderson. In respect of 33 Nightingale House the Respondents are Gabriel Anderson and Graeme Cassidy.
- 3 The Applications requested a paper determination and the Tribunal agreed that this was appropriate, subject to either party having the right to an oral hearing upon request. The Tribunal issued Directions in each case on 28th June 2013, providing a timetable for the written submissions of the parties.

Inspection

- 9 The Tribunal inspected the properties on 12th August 2013 . Mr Healey of MPM Limited accompanied the Tribunal. Neither Respondent was present. MPM Limited operates from within Nightingale House and accordingly Mr Healey was able to make available to the Tribunal all of the invoices and financial records relevant to the service charges.
- 10 The Tribunal viewed the internal and external common parts of both Nightingale House and Lister House, and the external areas of garden and walkways etc, which form the subject matter of the Estate Charge. The Tribunal found the Blocks in good decorative order and well maintained. The external areas of the Estate were also well maintained.

Determination

- 11 In the absence of any challenge by the Respondents in respect of the estimates, the Tribunal confined its investigation to a general overview of the items of the service charges shown in the Annual Maintenance Provision (i.e. the estimated charges) for the year 2013 – 2014 and, also compared the estimated service charges on an item by item basis with the actual costs incurred during the previous year. There is an increase in the Annual Maintenance Provision for the current year, but this is largely accounted for by provision in respect of the ten-yearly relining of the water tanks supplying cold water to the two Blocks.
- 12 The Tribunal was impressed with the overall standard of the maintenance at City Heights, and considered that, in general the service charge represented good value for money.
- 13 The Tribunal's conclusion, therefore is that the Statements of Anticipated Service Charge Expenditure are reasonable. The Tribunal determines that the amounts of the estimated service charges in respect of the service charge year 2012 – 2013 in respect of the three properties are as follows:

10 Lister House: £1,136.93

20 Lister House: £1,136.93

33 Nightingale House: £997.67

- 13 The Tribunal emphasises that the determination is respect of estimated expenditure, and as such does not preclude an application under section 27A by the either party in respect of the actual expenditure for the year when the final accounts have been prepared.
- 14 In reaching its decisions the Tribunal took account of its inspection, the submissions of the parties, the relevant law and its knowledge and experience as an expert Tribunal, but not any special or secret knowledge.
- 15 If any party is dissatisfied with this decision they may apply for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be

made within 28 days of this decision (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013.

Judge W.J. Martin – Chairman

29 AUG 2013