



LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN A TRANSFER FROM THE COUNTY COURT AND IN CONNECTION WITH SECTIONS 19 AND 27A LANDLORD & TENANT ACT 1985 AND SCHEDULE 11 COMMONHOLD AND LEASEHOLD REFORM ACT 2002

Case Reference:	LON/00AZ/LSC/2012/0392
Premises:	Flat 6 Weldon Court, Lucas Street, London, SE8 4QH
Applicant:	Residential Freeholds Limited (the "Landlord").
Representative:	N/A
Appearances for Applicant:	Mr. L. Freilich (Property Manager)
Respondent:	Mrs. Razvana Quyim (the Tenant)
Representative:	N/A
Appearances for Respondent:	(1) Mrs. Razvana Quyim (2) Mr. S. Quyim (her husband).
Leasehold Valuation Tribunal:	(1) Mr. A. M. Vance LLB (Hons) (Chair) (2) Mrs. S.F. Redmond, BSc(Econ) MRICS (3) Mr. J.E. Francis

Date of Hearing: 05.11.12

Date of Decision: 12.12.12

Decision of the Tribunal

1. The sum demanded from the Respondent in respect of a brought forward balance for 2008 is reasonable and payable by her in full save that the sum demanded in respect of management fees for the 2007/2008 service charge year should be reduced to £175 plus VAT.
2. The sum demanded from the Respondent by way of service charges for the 2010/2011 service charge year is reasonable and payable by the Respondent to the Applicant in full save that:
 - 2.1. The sum payable in respect of management fees should be reduced to £175 plus VAT.
 - 2.2. The sum payable by the Respondent in respect of redecoration works should be capped at £228.19 in accordance with the with provisions of s.20(1) of the Landlord and Tenant Act 1985 ("the 1985 Act").
3. The sum demanded from the Respondent by way of service charges for the 2011/12 service charge year is reasonable and payable by the Respondent to the Applicant in full save that:
 - 3.1. The sum payable in respect of management fees should be reduced to £175 plus VAT.
 - 3.2. The total sum payable by the tenants in respect of General Repairs & Maintenance should be reduced by £338.40 to £2,133.56. The Respondent's apportioned contribution being £169.61 (calculated at 7.95%).
 - 3.3. The sum demanded from the Respondent by way of service charge for the interim service charge for 2012/2013 is reasonable and payable by the Respondent to the Applicant in full save that the sum demanded in respect of management fees should be reduced to £175 plus VAT.
4. The sum payable by the Respondent in respect of an administration charge for the fees of a debt-collecting agency should be reduced to £100 including VAT.

Introduction

5. This matter comes before the Tribunal on transfer from Bromley County Court following an order dated 08.06.12 in proceedings 2QT13436 for a determination

under the provisions of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the reasonableness and payability of service charge and an administration charge demanded from the Respondent.

6. Within those proceedings the Applicant sought to recover sums alleged due from the Mrs. Quyim in respect of ground rent, service charge, interest and administration charges broken down as follows:

Ground Rent for the period 01.01.11 – 31.12.12	£100.00
Service Charges for the period 01.10.10 – 31.12.12	£2337.48
Deficit for the 2008 service charge year	£296.16
Interest	£27.11
Administration charge	£200.00

7. The Respondent is the leasehold owner of Flat 6 Weldon Court, Lucas Street, London, SE8 4QH ("the Property"). The flat is located on the top (3rd) floor of one of a pair of blocks purpose built circa 1980 ("the Building"). The blocks are built over 4 commercial units that front Lewisham Road. Each block houses 6 flats, two on each floor, which are accessed by an entry phone. Access to the estate is through a metal gate provided with a combination lock that can only be opened manually. An open staircase and walkway lead to the residential blocks. There is residential parking provided and access is via gates that are secured with an electronic locking device. Internally there is an entrance lobby with post boxes. There are two flats on each floor. The flooring is original 'hard surface' vinyl type.
8. The Applicant is her Landlord and has the benefit of the freehold reversion of the Property.
9. The relevant statutory provisions are set out in the appendix to this decision.

The Lease

10. The relevant lease is dated 09.06.87 originally granted by Weldonleigh Limited to Mary Martin for a term of 99 years from 01.09.86.
11. The relevant provisions of the lease can be summarised as follows:

- 11.1. The service charge year is the period 1st January to the 31st December each year and is calculated by reference to the formulas set out in Annexes A, B, C of the lease.
 - 11.2. The amount of the service charge is to be ascertained by the Landlord's managing agents and certified by the Landlord's accountants annually and as soon as reasonably practicable after the end of the each service charge year;
 - 11.3. The Tenant is also to pay such sum as the Landlord's managing agents reasonably estimate to be the Landlord's anticipated expenditure for the forthcoming year with credit being given for sums already paid;
 - 11.4. The Tenant covenants to pay the Landlord "*all costs charges and expenses (including legal costs and fees payable to a Surveyor) which may be incurred by the Lessor incidental to the preparation and service of a notice under Section 146 of the Law of Property Act 1925 or incurred in or in contemplation of proceedings under Sections 146 or 147 of that Act notwithstanding forfeiture may be avoided otherwise than by relief granted by the Court*";
 - 11.5. The items of expenditure that comprise the service charge are set out in the Fifth Schedule and include "*The fees of the Lessors Managing Agents for the collection of the rents of the flats in the said Block and for the general management thereof and the costsof employing any other professional services in connection with the proper management of the Block and the collection of rents and service charges*".
 - 11.6. The definition of "the Block" in the First Schedule to the lease comprises "*the block of twelve flats and four shops....known as Flats 1-12 Weldon Court 2 Lucas Street, Lewisham and Shops 1-4 203/209 Lewisham Way, Lewisham together with the courtyards and car parking spaces....*".
12. The copy of the Respondent's lease included in the hearing bundle did not include the schedule setting out the apportionment of service charges per each flat in the Block.. During the lunch interval Mr. Freilich obtained a full copy of a lease for Flat 2 that included the relevant schedule. That schedule indicates that the percentage apportionment for the Respondent's flat is, in fact, 7.95% and not 7.9568% as specified in the service charge demands sent to the Respondent nor 7.6% that was the figure quoted to us by Mr. Freilich at the hearing.

13. Mr. Freilich agreed to send a copy of the relevant schedule to the Respondent's lease to the Tribunal after the hearing. This have not been received and in reaching this determination we have proceeded on the basis that the relevant schedule to the Respondent's lease mirrors that of Flat 2 and that the Respondent's apportioned contribution in 7.95%. If that is incorrect then the Applicant should recalculate the service charges due for all of the years in dispute having regard to the reductions set out in this determination.

The Pre-Trial Review

14. A pre-trial review ("PTR") took place on 01.08.12 which both parties attended and at which both agreed to mediation. An order for directions was made by the Tribunal the same day. If settlement was not agreed at the mediation the remaining directions ordered at the PTR were to take effect.
15. We were informed that the mediation did not take place on 28.09.12 as planned due to Mr Freilich being delayed in traffic on his way to the Tribunal.

Inspection

16. Neither party requested that the Tribunal inspect the Property and we did not consider it necessary to do so.

The Hearing, Decision and Reasons

17. The parties were informed that the Tribunal had no jurisdiction to deal with the question as to whether or not the Respondent owed arrears of Ground Rent and this question would need to be decided by the County Court.
18. We also informed the parties that on the evidence before us we were not in a position to calculate whether or not the sum claimed by the Applicant in the County Court claim form in respect of interest was properly payable the Respondent. The Respondent agreed and we are satisfied that under Clause 6 of her lease interest on late payments of service charge is payable at the rate of 4% above the base rate of a clearing bank selected by the Landlord. However, because of the manner in which payments made by the Respondent had been applied to the service charge account we were therefore unable to carry out the required calculation. The parties are encouraged to seek to agree what sum is due (having regard to the reductions set out in this determination) before this matter is considered by the County Court.

19. The following issues were identified as remaining in issue between the parties and requiring determination by the Tribunal:
- 19.1. The reasonableness and payability of the service charges comprising the brought forward balance for 2008.
 - 19.2. The reasonableness and payability of the service charges for 2010/2011.
 - 19.3. The reasonableness and payability of the service charges for 2011/12.
 - 19.4. The reasonableness and payability interim service charge for 2012/2013
 - 19.5. The reasonableness and payability of an Administration charge of £200.00
20. Where below we decide that a sum is *payable* by the Respondent we have determined that it is expenditure properly recoverable under the provisions of the Respondent's lease (as summarised above) and payable by her.

2007/2008 Brought forward Balance

21. The audited service charge accounts included in the bundle indicate shortfalls of £1,372.97 for the 2006/2007 service charge year and £2,349.12 for the 2007/2008 service charge year. Added together these sums total £3,727.09.
22. The Respondent challenged the following sums that related to those service charge years:
- | | | |
|-------|--------------------------------------|-----------|
| 22.1. | 2007/8 General Repairs & Maintenance | £845.93 |
| 22.2. | 2007/8 Cleaning and Common Parts | £3,025.11 |
| 22.3. | 2007/8 Management Fees | £3,400.00 |
- (a) 2007/8 General Repairs & Maintenance £845.93**
23. Mr Freilich confirmed that this sum related to two invoices (a) £182.06 for the costs of a contractor attending to investigate why the digital lock on the entrance gate to the estate was not working and the subsequent fitting, on a return visit, of a new digital lock to the gate; and (b) £663.87 for the costs of that same contractor attending to investigate and carry out remedial works relating to water ingress into one of the flats.

24. The Respondent did not challenge the second invoice. As to the first, the Respondent's only substantive challenge was why two visits were required. She felt the work could have been carried out in one visit, incurring less cost.

Decision and Reasons

25. The sum demanded is reasonable and payable in full.
26. We consider the costs incurred in respect of the gate lock to be reasonable. In our view it may well have been necessary for the contractor to attend to identify the problem and the replacement part required and then to return to fit the part. There is no evidence to support the Respondent's conjecture that only one visit was required.
27. Mr Freilich's evidence was that the lock needed replacing due to vandalism. The Respondent did not offer any evidence to counter this. She seemed to be suggesting that the return visit may have been required because the quality of the contractor's workmanship was poor but there is no evidence to support such speculation.
28. We accept that there have been ongoing problems of vandalism to the lock to this gate. The layout of the estate may contribute to this problem as in order to gain access to the flats a visitor needs to enter a code into the digital lock to the gate. A visitor without a code may attempt to force entry.

(b) 2007/8 Cleaning and Common Parts £3,025.11

29. The sum demanded was evidenced by invoices in the monthly sum of £195 plus VAT for weekly cleaning services on the estate, rising to £203 per month plus VAT. Some of the invoices also included occasional additional charges for items such as replacing light fittings, removing bulky waste items.
30. The cleaning regime, as described by Mr. Freilich, included cleaning of the communal circulation areas including the car parking areas used by the tenants and the sweeping of external steps. He believed that two contractors attended on a weekly basis.
31. The Respondent had no specific challenge to this item. Their challenge in respect of cleaning charges appeared to relate primarily to the 2010/11 service charge year.

Decision and Reasons

32. The sum demanded is reasonable and payable by the Respondent in full.

33. The base sum demanded equates to approximately £25 per block per week and in our view is a low charge for the service provided

(c) Management Fees £3,400.00

34. Mr. Freilich confirmed that these charges are calculated on a unit charge of £241 plus VAT and then apportioned according to each Tenant's percentage contributions towards service charge as set out in the schedules to the lease.
35. He indicated that the service provided included regular site inspections, instructing and overseeing contractors, monitoring routine maintenance contracts such as cleaning and gardening, tendering for services, the provision of annual service charge estimates, issuing service charge demands, compiling the information required by the accountants in order to obtain the audited annual accounts dealing with insurance claims and providing a front-line response to queries from lessees including a 24-hour telephone line for repairs and general issues.
36. When asked by the Tribunal he confirmed that the company he works for manages several hundred properties of different sizes and that the rates charged varied depending on client requirements. He conceded that if they were tendering for this contract today they would be likely to seek the sum of £175 plus VAT per unit.
37. Mrs Quayim considered the charges in question to be excessive especially if the Applicant would be seeking £175 plus VAT per unit at today's rates.

Decision and Reasons

38. We agree that the sum demanded is unreasonable having regard to the services provided, the size and fairly modern age of the Building and in relation to the management portfolio as described by Mr. Freilich.
39. We consider the sum of £175 plus VAT to be a reasonable sum and determine this sum to be payable by the Respondent.

2010/2011 Service Charge

40. The Respondent was satisfied with Mr. Freilich's explanation provided at the hearing regarding the professional fees incurred demanded in the sum of £1,257.64. This

related to the costs of obtaining a valuation of the Building for insurance purposes. She challenged the following items:

(a) Cleaning and Common Parts £3,319.61

41. The basic fees charged by the cleaning contractor increased slightly from the previous year to £205.60 plus VAT per month.
42. The Respondent's concern was that the cleaning was not up to the standard required. She asserted that cleaners did not mop or brush the stairs and that they used a leaf-blower that scattered leaves around the estate as opposed to disposing of them. She also asserted that windows are not cleaned properly. Internally, she considered that the floors were not always swept or mopped properly. There were, she said, gaps in the cleaning attendance record that the cleaners are required to sign when they visit and that this indicated that on some weeks no cleaning took place.
43. Mr. Freilich agreed that there were gaps in the cleaning attendance record for the two weeks between 07.10.10 – 22.10.10 and between 03.12.10 and 17.12.10. He had queried this with the contractors and had been informed that their GPS records for the cleaners vehicle indicated that they were present on the estate and that it was likely that they had just forgotten to sign the attendance record.
44. He also agreed that there was an issue in 2010 concerning the standard of cleaning in the adjacent block (Flats 7 to 12). Residents had complained that cleaners were emptying buckets onto the external communal corridors. He had met with the residents and the following day had sent them an email dated 22.09.10 in which he stated that he had spoken to the contractors and informed them that he was unhappy with the standard of cleaning in certain parts of the property. However, before us, he refuted that there was a problem with the internal cleaning. It was, he said, the external cleaning that was not being carried to a high enough standard.

Decision and Reasons

45. We consider the sum demanded to be reasonable and payable by the Respondent in full.
46. We were not persuaded by the Respondent's speculative assertion that the fact that there were omissions in the cleaning attendance record was evidence that on some weeks no cleaning took place at all. These omissions could, as Mr. Freilich suggested, be due to the cleaners forgetting to sign the record.

47. Both parties agreed that there was a problem with external cleaning for a period in 2010 but disagreed as to whether or not the standard of internal cleaning was acceptable.
48. We were not entirely satisfied with Mr. Freilich's evidence to the Tribunal on the subject of internal cleaning. In our view the contents of his email of 22.09.10 suggest that there may have been problems with both the internal cleaning in parts of the estate and the external areas. He refers to having informed the contractors that "floors need to be mopped, scrubbed and then swept on a weekly basis, both inside the blocks and the arras (sic) directly outside the blocks". However, his email also indicates that he was attempting to deal with the problem for the benefit of the residents.
49. We were also of the view that Mrs. Quayim's evidence on this point had to be considered in light of the fact that she did not reside in the Property but, instead, sublets it. She informed us that she visits the Property at least once a week but even if this is the case, we do not consider she is in a position to verify, one way or the other, whether or not weekly cleaning takes place or not given that the cleaning record indicates that this does not always take place on the same day each week. Nor have we had the benefit of direct evidence from her tenants.
50. We are satisfied, overall, that the charges demanded are reasonable. They are, in our view, low for this type of basic service and remain reasonable despite the evident problems in 2010.

(b) Management Fees £3,360.00

51. These were in the same amount, calculated on the same basis and challenged by the Respondent for the same reasons as for the 2007/8 service charge year.

Decision and Reasons

52. For the same reasons for the 2007/8 service charge year, we determine that the sum demanded is unreasonable and that the sum payable by the Respondent should be limited to £175 plus VAT.

(c) Redecoration Works £6494.52

53. Invoices supplied by the Applicant indicated that this sum comprised one invoice for, Moreland Estates in the sum of £5742.50 in respect of major works to the Building and three invoices from UK Platforms Ltd. totalling £752.02. Mr. Freilich confirmed that the UK Platforms Ltd. Invoices related to the hire of a platform needed to carry out the external works referred to in the Moreland Estates invoice.
54. He also conceded that the Applicant had omitted to send the Respondent the consultation notices required under s.20 of the 1985 Act. He also conceded that as a result of the Applicant's failure to engage in the required consultation process the Respondents contribution to the cost of the major works should be capped at no more than £250 in accordance with the with provisions of s.20(1) of that Act. However, in his submission, the costs of UK Platforms Ltd should be excluded from that recalculation as they should not be considered to be part of the costs of the major works programme.
55. The Respondent agreed that the works carried out may have been necessary but argued that the quality of the work was unsatisfactory. She relied upon an email dated 05.08.10 from one of the other tenants in the Building, Mr. Fisher, in which he complained about the quality of works carried out to his window.
56. It was her case that the Applicant had failed to maintain the windows properly and had adopted the position that the repair and replacement of windows were the Tenants' responsibility under the provisions of their individual leases. The frame to her kitchen window had, she said, become decayed and subsequently fell out in 2009.

Decision and Reasons

57. In our view all of the costs referred to in the invoices from Moreland Estates and UK Platforms Ltd should have been subject to a s.20 consultation process. We see no reason why the costs of UK Platforms Ltd should be excluded given that the only reason these costs were incurred was in order to carry out the major works programme.
58. We consider that the total sum of £6494.52 should be capped in accordance with the with provisions of s.20(1). Having regard to the apparent apportionment of service charges between the Tenants in the Building (where those with the largest flats pay 8.71%) we determine that amount payable by the Respondent should be capped at

£228.19 (91.2% of £250 where 91.2% is the proportionate difference between 8.71% and 7.95%).

59. For the avoidance of doubt, that sum includes the Respondent's contribution towards the sum of £752.02 for the UK Platforms Ltd invoices.

2011/2012 Service Charge

60. The respondent challenged the following sums:

(a) Cleaning and Common Parts £3,278.03

61. The basic fees charged by the cleaning contractor remained the same as in the previous year namely £205.60 plus VAT per month.
62. The Respondent agreed that she had not made any specific complaints to the Applicant concerning the standard of cleaning in 2011/12. Her position was that the standard of cleaning had not changed since the previous year

Decision and Reasons

63. We consider the sum demanded to be reasonable and payable by the Respondent in full. The charges demanded are in our view, low for this type of basic service and remain reasonable

(b) General Repairs & Maintenance £2471.96

64. Mr. Freilich produced the following invoices in support of these costs:

Leo Weir Building Services

Repairing rear fence to car park	£360.00
Re-fix main entrance doors	£98.70
Fit padlock	£48.00
Refit bricks & removal of for sale signs	£132.00
Defective window fitted closed	£52.80
Door key code adjusted	£66.00

H & M Locksmiths

Removal of super glued padlock	£96.00
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Moreland Estates

Repair and replace glued padlock	£125.00
Supply and fit 12 new secure post-boxes	£750.00
Supply of padlock and DPS security keys	£360.06
Key Services	£45.00

65. He was unable to provide copy invoices dated 04.03.11 (£132.00); 14.03.11 (£110.40) and 24.10.11 (£96.00) that, he said formed part of the total sum being demanded. Nor was he able to explain what these invoices related to.
66. He explained that these invoices reflected two principal problems affecting the Building that year. Firstly, the main pedestrian entrance door to the estate had a combination lock that had been vandalised. Secondly, the vehicular access gate had been vandalised on several occasions including the lock to the padlock being glued and rendered inoperable.
67. The other major cost involved the replacement of the communal letterboxes in the hallway that the Respondent indicated were damaged by vandalism in May 2009 but which were not replaced, despite Tenant requests, until April 2011.
68. The Respondent did not challenge the any of the costs reflected in the invoices set out in paragraph 62 above save for the sum of £750.00 incurred in respect of the replacement letterboxes. She contended that the letterboxes only needed replacing because the defective pedestrian access gate allowed vandals to gain entry to the Building. She also considered that the replacement letterboxes were not sturdy enough although she acknowledged that she had not obtained any alternative quotes.
69. Mr. Freilich disputed this and pointed out that whoever vandalised the letterboxes would have had to gain entry both into the estate and then force entry through the entrance door to the Building. He accepted that there had been a long delay in replacing the letterboxes. This was because the Applicant initially took the view that they were included in the demise to the Tenants.

Decision and Reasons

70. The costs evidenced by the invoices referred to in paragraph 62 above are, in our view, reasonable having regard to the amounts involved and the nature of the work carried out. This includes the costs incurred in respect of the replacement letterboxes.
71. We are not satisfied by Mr Freilich's assertion that these were the Tenant's responsibility to repair and replace and we acknowledge that the long delay in repairing or replacing them would have resulted in considerable inconvenience to the tenants of the Building. However, there was no evidence of actual loss incurred by the respondent as a result of this delay. The letterboxes clearly needed replacement and in the absence of any evidence to substantiate the Respondent's assertion that the replacements were sub-standard we find the costs incurred to be reasonable.
72. On the evidence before us we are not satisfied that it is reasonable for the Respondent to pay towards the costs set out in the invoices referred to in paragraph 63 above totalling £338.40. The directions issued after the PTR required the Applicant to include all such invoices within the bundle. This direction, along with several others concerning the contents and numbering of the bundle, was not complied with. Given that Mr. Freilich was unable to provide copy invoices or otherwise substantiate these invoices dated we do not consider it reasonable for the Respondent to pay towards these costs.

The interim service charge for 2012/2013

73. The only item the Respondent disputed in respect of this interim charge was sum charged in respect of management fees (£3,360).
74. These were in the same amount, calculated on the same basis and challenged by the Respondent for the same reasons as for the 2007/8 service charge year.

Decision and Reasons

75. For the same reasons for the 2007/8 service charge year, we determine that the sum demanded is unreasonable and that the sum payable by the Respondent should be limited to £175 plus VAT.

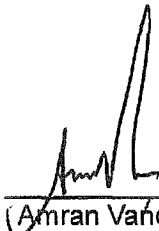
The Administration Charge of £200

76. This charge concerned costs incurred by a debt collecting agency instructed by the Applicant to recover outstanding service charge from the respondent.
77. Mr. Freilich informed us that the work undertaken involved writing two letters to the Respondent, writing to her mortgage lender and then advice concerning referral of the matter to the LVT. He was unable to provide us with a copy of the invoice or the letters written.
78. The Respondent agreed that she had received one letter from the company concerned and that her mortgage lender had also been contacted. Mr. Freilich was unable to produce a copy of the demand for this administration charge but stated that it would have been sent by Royal Mail within two days of the service charge demand dated 14.11.11. The Respondent agreed that she had received such a demand and did not challenge its validity . She did, however, consider the sum sought to be excessive.

Decision and Reasons

79. We are satisfied that the charge amounts to a variable administration charge and that we therefore have jurisdiction to determine its payability.
80. Given the Respondent's concession that she had received the demand in question and her lack of challenge as to its validity we are satisfied that the charge is recoverable from her.
81. However, a variable administration charge is only payable to the extent that the charge is reasonable. On the evidence before us and given that we did not have the benefit of seeing the invoice in question nor the letters sent we consider the charges sought to be excessive for the work apparently undertaken. In our determination the sum of £100 including VAT is a reasonable sum for the Respondent to pay.

Chairman:


Amran Vahce

Date: 12.12.12

Appendix of relevant legislation

Landlord and Tenant Act 1985

Section 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.

Section 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 provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.

- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 20 Limitation of service charges: consultation requirements

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Section 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.
- (3) An application may also be made to a Leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
- (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and
 - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
- (a) has been agreed or admitted by the Tenant,
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the Tenant is a party,
 - (c) has been the subject of determination by a court, or
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the Tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Commonhold and Leasehold Reform Act 2002

Schedule 11 - Administration Charges

Part 1 Reasonableness of Administration Charges

Meaning of "administration charge"

1 (1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—

- (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
- (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
- (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
- (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(1) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(2) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—

- (a) specified in his lease, nor
- (b) calculated in accordance with a formula specified in his lease.

(3) [.....]

Reasonableness of administration charges

2. A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

3. (1) Any party to a lease of a dwelling may apply to a leasehold valuation tribunal for an order varying the lease in such manner as is specified in the application on the grounds that—

- (a) any administration charge specified in the lease is unreasonable, or
 - (b) any formula specified in the lease in accordance with which any administration charge is calculated is unreasonable.
- (2) If the grounds on which the application was made are established to the satisfaction of the tribunal, it may make an order varying the lease in such manner as is specified in the order.
- (3) The variation specified in the order may be—
- (a) the variation specified in the application, or
 - (b) such other variation as the tribunal thinks fit.
- (4) The tribunal may, instead of making an order varying the lease in such manner as is specified in the order, make an order directing the parties to the lease to vary it in such manner as is so specified.
- (5) The tribunal may by order direct that a memorandum of any variation of a lease effected by virtue of this paragraph be endorsed on such documents as are specified in the order.
- (6) Any such variation of a lease shall be binding not only on the parties to the lease for the time being but also on other persons (including any predecessors in title), whether or not they were parties to the proceedings in which the order was made.

Notice in connection with demands for administration charges

4. (1) A demand for the payment of an administration charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to administration charges.
- (2) The appropriate national authority may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.
- (3) A tenant may withhold payment of an administration charge which has been demanded from him if sub-paragraph (1) is not complied with in relation to the demand.
- (4) Where a tenant withholds an administration charge under this paragraph, any provisions of the lease relating to non-payment or late payment of administration charges do not have effect in relation to the period for which he so withholds it.

Liability to pay administration charges

5. (1) An application may be made to a leasehold valuation tribunal for a determination whether an administration 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) Sub-paragraph (1) applies whether or not any payment has been made.
- (3) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.
- (4) No application under sub-paragraph (1) may be made in respect of a matter which—
- (a) has been agreed or admitted by the tenant,
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
 - (c) has been the subject of determination by a court, or
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.
- (6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
- (a) in a particular manner, or
 - (b) on particular evidence,
- of any question which may be the subject matter of an application under sub-paragraph (1).

6. [...]

Service Charges (Consultation Requirements) (England) Regulations 2003.

Regulation 6 - Application of section 20 to qualifying works

6. For the purposes of subsection (3) of section 20 the appropriate amount is an amount which results in the relevant contribution of any tenant being more than £250.

Part 2 - consultation requirements for qualifying works for which public notice is not required

Notice of intention

1. (1) The landlord shall give notice in writing of his intention to carry out qualifying works—
 - (a) to each tenant; and
 - (b) where a recognised tenants' association represents some or all of the tenants, to the association.
- (2) The notice shall—
 - (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;
 - (b) state the landlord's reasons for considering it necessary to carry out the proposed works;
 - (c) invite the making, in writing, of observations in relation to the proposed works; and
 - (d) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.
- (3) The notice shall also invite each tenant and the association (if any) to propose, within the relevant period, the name of a person from whom the landlord should try to obtain an estimate for the carrying out of the proposed works.

Inspection of description of proposed works

2. (1) Where a notice under paragraph 1 specifies a place and hours for inspection—
 - (a) the place and hours so specified must be reasonable; and
 - (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.
- (2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

Duty to have regard to observations in relation to proposed works

3. Where, within the relevant period, observations are made, in relation to the proposed works by any tenant or recognised tenants' association, the landlord shall have regard to those observations.

Estimates and response to observations

4. (1) Where, within the relevant period, a nomination is made by a recognised tenants' association (whether or not a nomination is made by any tenant), the landlord shall try to obtain an estimate from the nominated person.
- (2) Where, within the relevant period, a nomination is made by only one of the tenants (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate from the nominated person.
- (3) Where, within the relevant period, a single nomination is made by more than one tenant (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate—
 - (a) from the person who received the most nominations; or
 - (b) if there is no such person, but two (or more) persons received the same number of nominations, being a number in excess of the nominations received by any other person, from one of those two (or more) persons; or
 - (c) in any other case, from any nominated person.
- (4) Where, within the relevant period, more than one nomination is made by any tenant and more than one nomination is made by a recognised tenants' association, the landlord shall try to obtain an estimate—
 - (a) from at least one person nominated by a tenant; and
 - (b) from at least one person nominated by the association, other than a person from whom an estimate is sought as mentioned in paragraph (a).
- (5) The landlord shall, in accordance with this sub-paragraph and sub-paragraphs (6) to (9)—
 - (a) obtain estimates for the carrying out of the proposed works;
 - (b) supply, free of charge, a statement ("the paragraph (b) statement") setting out—
 - (i) as regards at least two of the estimates, the amount specified in the estimate as the estimated cost of the proposed works; and

- (ii) where the landlord has received observations to which (in accordance with paragraph 3) he is required to have regard, a summary of the observations and his response to them; and
 - (c) make all of the estimates available for inspection.
- (6) At least one of the estimates must be that of a person wholly unconnected with the landlord.
- (7) For the purpose of paragraph (6), it shall be assumed that there is a connection between a person and the landlord—
 - (a) where the landlord is a company, if the person is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
 - (b) where the landlord is a company, and the person is a partner in a partnership, if any partner in that partnership is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
 - (c) where both the landlord and the person are companies, if any director or manager of one company is, or is to be, a director or manager of the other company;
 - (d) where the person is a company, if the landlord is a director or manager of the company or is a close relative of any such director or manager; or
 - (e) where the person is a company and the landlord is a partner in a partnership, if any partner in that partnership is a director or manager of the company or is a close relative of any such director or manager.
- (8) Where the landlord has obtained an estimate from a nominated person, that estimate must be one of those to which the paragraph (b) statement relates.
- (9) The paragraph (b) statement shall be supplied to, and the estimates made available for inspection by—
 - (a) each tenant; and
 - (b) the secretary of the recognised tenants' association (if any).
- (10) The landlord shall, by notice in writing to each tenant and the association (if any)—
 - (a) specify the place and hours at which the estimates may be inspected;
 - (b) invite the making, in writing, of observations in relation to those estimates;
 - (c) specify—
 - (i) the address to which such observations may be sent;

- (ii) that they must be delivered within the relevant period; and
- (iii) the date on which the relevant period ends.

- (11) Paragraph 2 shall apply to estimates made available for inspection under this paragraph as it applies to a description of proposed works made available for inspection under that paragraph.

Duty to have regard to observations in relation to estimates

5. Where, within the relevant period, observations are made in relation to the estimates by a recognised tenants' association or, as the case may be, any tenant, the landlord shall have regard to those observations.

Duty on entering into contract

6. (1) Subject to sub-paragraph (2), where the landlord enters into a contract for the carrying out of qualifying works, he shall, within 21 days of entering into the contract, by notice in writing to each tenant and the recognised tenants' association (if any)—
- (a) state his reasons for awarding the contract or specify the place and hours at which a statement of those reasons may be inspected; and
 - (b) where he received observations to which (in accordance with paragraph 5) he was required to have regard, summarise the observations and set out his response to them.
- (2) The requirements of sub-paragraph (1) do not apply where the person with whom the contract is made is a nominated person or submitted the lowest estimate.
- (3) Paragraph 2 shall apply to a statement made available for inspection under this paragraph as it applies to a description of proposed works made available for inspection under that paragraph.