10289

FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**MAN/00CK/LDC/2014/0009 & MAN/00CK/LSC/2014/0063**
Property	:	**1-40 (excluding 13) Etal Court, Spring Terrace, North Shields, Tyne & Wear NE29 0HH**
Applicant	:	**Etal Court Maintenance Limited**
Representative	:	**Brannen & Partners LLP (Managing Agents)**
Respondent	:	**Mrs P. Fairbairn and others (listed in the Schedule)**
Representative	:	**Mr Ridley as lay representative to Mrs Fairbairn**
Type of Application	:	**Landlord and Tenant Act 1985 - sections 20ZA and 27A**
Tribunal Members	:	**Mr S. Moorhouse LLB** **Mr I.D. Jefferson MRICS**
Date and venue of Hearing	:	**Paper Determination (28 August 2014 & 30 September 2014)**
Date of Decision	:	**30 September 2014**

DECISION

DECISION

(i) Dispensation is granted pursuant to section 20ZA of the Landlord and Tenant Act 1985 in relation to the remedial works carried out to Flat 29, allocated as a one-off cost in the service charge year commencing 1 May 2012.

(ii) The service charges for the Property in relation to the service charge years commencing 1 May 2011, 2012 and 2013 and the estimated service charges in relation to the year commencing 1 May 2014, in the amounts (inclusive of contributions to reserves) set out below, are reasonable and payable:

2011/12	£22,048
2012/13	£51,812
2013/14	£42,279
2014/15	£ 30,888 (estimated)

(iii) No order shall be made under section 20C of the Landlord and Tenant Act 1985.

REASONS

The Applications

1. The Applicant management company is the immediate landlord to the Respondents. The Applicant holds a leasehold interest in the Property under a lease granted on 21 July 1969 for a term of 999 years from 1 May 1969 out of which long leases of individual flats were granted. An example of a long lease of an individual flat has been supplied to the Tribunal, this being for the term of 999 years less 3 days, calculated from 1 May 1969. The Applicant is represented in these proceedings by its managing agent, Brannen & Partners LLP.

2. The Applicant submitted the Applications following the grant of an Order of the North Shields County Court dated 19 February setting aside judgment against Mrs Fairbairn (and the previous leaseholder of 34 Etal Court) and staying a claim under section 146 of the Law of Property Act 1925 pending referral to tribunal.

3. The Application under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') seeks retrospective dispensation of the consultation requirements relating to certain qualifying works carried out to Flat 29 Etal Court, included as a one-off cost in the service charge statement of expenditure for the year commencing 1 May 2012.

4. The Application under section 27A of the Act seeks an Order that the service charges for the Property relating to the service charge years commencing on 1 May 2011, 2012, and 2013 and the estimated charges for the service charge year commencing on 1 May 2014 are reasonable and payable. The amounts are specified in the Applicant's statement of case and summarised by the Applicant in

its statement of expenditure for the years in question. Total expenditure, including a contribution each year to reserves, is as follows:

2011/12	£22,048
2012/13	£51,812
2013/14	£42,279 *
2014/15	£ 30,888 (estimated)

** The 2013/14 figure has been adjusted by the Tribunal in response to a note by the Applicant that anticipated tribunal fees of £700 were reduced to £440 and a refund made.*

5. A case management conference was held on 3 July 2014 pursuant to which directions were issued. It was established in the course of the case management conference that Mrs Fairbairn is the only Respondent opposing the Applications. In addition to receiving statements of case from the Applicant and Mrs Fairburn and, a reply by the Applicant to Mrs Fairbairn's statement of case, the Tribunal received a number of letters from other Respondents expressing their support for the Applicant.

6. On 28 August 2014 the Tribunal inspected the Property, accompanied by the managing agents Brannen & Partners LLP, Mrs Fairbairn and her representative and a number of the other leaseholders. The Property was constructed around 1970 and comprises a single building divided vertically into three separate blocks, containing a total of 39 flats on three separate floors, together with external landscaped grounds and a number of garages. The Tribunal viewed the external areas and the internal stairwells and landings together comprising the common parts to the Property.

7. Following its inspection, as neither party had requested a hearing, the Tribunal proceeded with its deliberations by way of paper determination. It adjourned to allow for further directions to be issued seeking certain additional information from the Applicant and any related comments from Mrs Fairbairn, and reconvened on 30 September 2014.

Preliminary Matters

8. There are two preliminary matters to address.

9. First, in a letter received by the Tribunal on 12 August 2014 Mrs Fairbairn asks the Tribunal not to accept a submission made on the Applicant's behalf pursuant to the directions issued by the Tribunal following the case management conference on 3 July 2014. Mrs Fairbairn states that this was received late, outside the prescribed timescale and, being unsigned is not applicable in a court of law. Mrs Fairbairn then goes on to respond to the content of the submission.

10. The direction in question (direction 7) allows the Applicant, within 7 days (beginning with the date in which any Respondent's statement of case is received) to send to the Respondent (copied to all Respondents) a short supplementary statement in reply. Three additional copies are required to be sent to the Tribunal at the same time.

11. On 30 July 2014 letters were sent on the Tribunal's behalf to Mrs Fairbairn and to the Applicant. Mrs Fairbairn was advised that 3 copies of her statement of case had been received on 29 July 2014 but that it was not clear whether she had sent a copy to the Applicant, and that the Tribunal had therefore done so. The Applicant was provided with a copy and asked to ensure that any submission in reply was received by 7 August 2014. The Applicant's submission in reply was received by the Tribunal on 7 August 2014.

12. In these circumstances, whether or not there has been a failure to comply with the timescale within the Tribunal's original direction, the Tribunal exercises its power under Rule 8 of the Tribunal Procedure (First tier Tribunal) (Property Chamber) Rules 2013 to waive the original time limit.

13. Mrs Fairbairn also raises the point that the Applicant's reply is unsigned. The Tribunal is satisfied that the document it has received was submitted on the Applicant's behalf. There is no formal requirement within the 2013 procedure rules or within the directions themselves for the reply to be signed.

14. The Tribunal is therefore prepared to admit the statements of case submitted by the Applicant and the Respondent and the Applicant's reply. The Tribunal does not admit Mrs Fairbairn's comments on the Applicant's reply or any of the related correspondence because the Tribunal's directions made no provision for these.

15. The second preliminary matter concerns the extent of the Tribunal's jurisdiction in the present case. Mrs Fairbairn raises within her statement of case a wide range of issues. The Tribunal's remit is limited to a determination of whether it should grant retrospective dispensation of consultation requirements and whether service charges are reasonable and payable. Many of the issues identified within Mrs Fairbairn's statement of case go beyond this remit and the Tribunal is therefore unable to address these.

The Law

16. The statutory provisions to be applied in the present case are set out at sections 19, 20ZA and 27A of the Act. Relevant extracts are set out below.

17. Section 19 subsections (1) and (2) of the Act state:

> *(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.*
>
> *(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 adjustments shall be made by repayment, reduction or subsequent charges or otherwise.*

18. Section 20ZA subsection (1) of the Act states:

> *(1) Where an application is made to a tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.*

19. Section 27A subsections (1) and (2) of the Act state:

> *(1) An application may be made to a 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.*

Submissions

Dispensation

20. The Applicant applies for dispensation under section 20ZA of the Act on the basis that it undertook a consultation exercise pursuant to section 20 of the Act in relation to certain qualifying works but cannot be certain whether it complied fully with the statutory requirements. The works in question related to Flat 29 and, in brief, involved the replacement of the concrete floor and subfloor as a consequence of floor heave and related works of reinstatement. The overall costs are stated by the Applicant to total £27,279.94. These were recharged to 38 of the 39 leaseholders via service charge.

21. The Applicant's managing agents state that they did not conduct the consultation exercise (not being appointed until 1 May 2013) and that the Applicant's own records on the issue are sparse. Nevertheless they have submitted to the Tribunal:

- a copy letter that (the Applicant states) went to all leaseholders referring to an earlier letter dated 11 November 2011 initiating a 30 day statutory consultation process, summarising the works to Flat 29, reminding leaseholders that the consultation will end on 10 December 2011 and stating that having considered any input received the Applicant would then seek quotes to have the work completed;

- copy minutes of various Management Council meetings including, within the minutes of the January 2012 meeting, a record of the Applicant's intention to send a letter to all residents setting out the quotes for Flat 29 and to hold a special meeting to pass out the information;

- a copy letter dated 4 April 2012 from the solicitors to the leaseholder of Flat 29 complaining that the remedial works are being delayed as a consequence of the Applicant's lengthy consultation process;

- a copy invitation to leaseholders in respect of the Annual General Meeting of the Applicant company to be held on 2 May 2012 which includes a reminder to choose a contractor from the submitted quotes stating that there are only two weeks left to decide;

- copy minutes of the Management Council meeting held on 6 March 2012 recording the four quotes which, the Applicant states, were issued to all Respondents along with notification of an 'EGM';

- copy minutes of a meeting described as an 'Emergency Meeting' held on 21 March 2012, attended by most of the leaseholders or their representatives, within which the steps taken to address the structural problems at Flat 29 are outlined followed by these words:

  'Following this the quotes were read out and each including those not present were provided with a copy (some obviously by post) and the method of making them preferred done.'

22. Mrs Fairbairn raises numerous criticisms of the Applicant's actions concerning the remedial works to Flat 29 and opposes the granting of dispensation. However no evidence has been put forward to demonstrate that the consultation process was undertaken incorrectly.

Service Charges

23. Within its Application, the Applicant identifies legal fees and a settlement figure relating to a case brought against the Applicant by Mrs Stevenson, the leaseholder of Flat 29, as being in issue.

24. Within Mrs Fairbairn's statement of case there are three further issues that the Tribunal considers to be of potential relevance to its determination of whether the service charges for the years in question are reasonable and payable:

    - whilst Mrs Fairbairn does not contend that the cost of remedial works to Flat 29 is excessive, she raises several issues relating to the remedial works and the related issue of buildings insurance;

    - Mrs Fairbairn challenges the validity of the Applicant's past actions and the managing agent's appointment, alleging that the Applicant company has not operated in accordance with its constitutional documents; and

    - Mrs Fairbairn submits that demands for payment issued on the Applicant's behalf are incorrectly drafted and therefore invalid.

25. These four issues (one raised by the Applicant and three by Mrs Fairbairn) are taken in turn.

Legal fees and settlement

26. Within its Application the Applicant identifies the following items as being in issue:

2011/12	£4,476 (legal fees in case against Applicant by Flat 29 owner)
2012/13	£5,500 (legal fees in the same case)
2013/14	£17,004 (legal fees and settlement in the same case)

27. The Applicant additionally states within its Application that whilst service charges are normally split equally as a 1/39th share, these particular amounts are allocated as a 1/38th share to exclude Flat 29 and that all leaseholders other than Mrs Fairbairn have agreed and paid their contribution.

28. In its further directions the Tribunal required the provision by the Applicant of a synopsis and breakdown year by year of these amounts including the provision of certain additional information and related documents. The direction was not fully complied with however the Tribunal did receive a breakdown of the amounts together with copies of related invoices and some of the related correspondence.

29. The Applicant's analysis shows that the figures of £4,476 and £5,500 quoted above and £2,200 of the figure of £17,004 quoted above relate to fees charged by the Applicant's solicitors Hadaway and Hadaway and their costs specialists Ian Black & Associates (Ian Black Associates' fees come to a total of £546). Copy invoices are supplied in respect of this expenditure. The narrative within Hadaway and Hadaway's invoices is very limited. The invoices relate to legal work undertaken for the Applicant in relation to a disrepair claim by Mrs Stevenson of Flat 29.

30. The remainder of the figure of £17,004 quoted above is broken down, within the Applicant's analysis, into the following:

£195	Court Fees re. arrears
£264	Firepoint - Fire Risk Assessment
£287	Vega Environmental
£700	Tribunal Fees (with a note that this is later adjusted to £440)
£13,358	Final Settlement Figure

31. Documents submitted by the Applicant indicate that the Fire Risk Assessment conducted by Firepoint and an asbestos survey by Vega Environmental relate to the Property as a whole and are not related specifically to the claim by Mrs Stevenson.

32. The 'Final Settlement Figure' referred to in the Applicant's analysis is the subject of e-mail correspondence, copies of which have been supplied to the Tribunal. The figure of £13,358 can be broken down into the following component parts: £10,529 represents Mrs Stevenson's solicitor's costs after assessment; £704 represents interest on the bill; and £2,125 represents the costs of assessment incurred by Mrs Stevenson's solicitors, plus VAT, plus the court fee for the assessment.

33. Mrs Fairbairn raises several challenges on the issue of legal costs. Mrs Fairbairn contentions can be summarised as follows:

- the directors have been negligent in their handling of Mrs Stevenson's claim - had they not been, the costs would not have been incurred;

- the Applicant additionally appointed Kidd & Spoors solicitors and then ignored their advice; and

- the legal costs represent 'wasted' costs because the Applicant failed in the legal action concerning Mrs Stevenson and as such they should not be passed on to leaseholders.

Remedial works

34. Mrs Fairbairn contends that the ground heave to Flat 29 occurred as a consequence of the Applicant felling certain trees, leading to an increase in ground water levels and pressure on the underside of the building structure. Mrs Fairbairn contends that sulphates trapped below ground would have contributed to this and that developments on water logged sites (such as the Property) are normally constructed with sulphate resisting cement.

35. Mrs Fairbairn criticises the Applicant for a failure to maintain adequate insurance to cover the risk of ground heave, particularly in view of the risk of damage from ground water and the likely presence of sulphates below ground. It is contended that the Applicant replaced 'the original developments insurance policy which covered ground heave for one that did not because of contact with sulphates'.

36. Mrs Fairbairn criticises the Applicant's choice of contractor to undertake the remedial works to Flat 29. The Tribunal understands Mrs Fairbairn believes that the price was too cheap and that there would be no guarantee as to the standard of workmanship. Mrs Fairbairn's contentions are in support of a position overall that no service charges whatsoever are payable.

37. The Applicant states that in May 2011 a letter from the solicitors for the leaseholder of Flat 29 was received, enclosing a report dated April 2011 prepared by Chartered Building Surveyors CSN Consulting LLP. The report identified structural problems with Flat 29 and attributed these to the use of sulphate materials in construction. The Applicant states that the following steps were taken:

- Brannen & Partners LLP (who did not act as the Applicant's agents at that time) provided free advice;

- two specialist reports were provided by Environmental Scientifics Group, including chemical analysis, the second of which confirmed the presence of sulphates in the flooring of Flat 29 which was deemed to be the reason for the floor heave;

- loss adjustors Cunningham Lindsey were appointed by the insurer and turned down any potential claim by the Applicant under the current insurance policy; and

- the Applicant later accepted liability for the works and commenced its consultation process.

38. On the issue of buildings insurance, the Applicant refers to a letter dated 22 May 2012 from Jelf Lampier, the Applicant's insurance broker, to the Applicant, in which the broker comments on the claim dispute in respect of Flat 29. The broker confirmed that the Royal & Sun Alliance policy in question was a fully comprehensive policy tailored for residential property owners and replaced the previous policy on a like for like basis with no reduction in cover. Both the Royal & Sun Alliance policy and the previous Zurich policy excluded maintenance related issues and damage to solid internal floor slabs. The managing agents Brannen & Partners LLP state that it is common for ground/floor heave to be excluded.

39. The Applicant refers to the lease requirement that the landlord is to insure against 'loss or damage by fire, storm, explosion and aircraft.....and all other risks covered under the terms of the usual Property Owners Comprehensive Policy in an insurance office of repute', and maintains that this requirement was adhered to. The Applicant additionally states that there does not appear to be any challenge by any Respondent to the necessity for the works to Flat 29 or to the cost level at which they were carried out.

Validity of the Applicant's actions

40. Mrs Fairbairn alleges that a number of individuals associated with Brannen & Partners LLP have held the position of director in contravention of the Company's Memorandum and Articles of Association and that since (in Mrs Fairbairn's view) the Company has not been run in accordance with the Memorandum and Articles, it cannot validly appoint a managing agent. Mrs Fairbairn contends that no service charges are payable to the Applicant as a consequence and that its managing agent has no legal mandate.

41. Mrs Fairbairn relies on provisions within the Memorandum and Articles restricting the membership of the Applicant company and the composition of its committee of management. In addition Mrs Fairbairn points out that various company names have been used in the context of the Applicant.

42. The Applicant distinguishes between the responsibilities of the 'Directors' and the 'Committee', stating that these are separate entities as set out by the Company's Memorandum and Articles. The Applicant states that a committee member is not an appointed director of the Applicant company, as authority to act is provided through the Memorandum and Articles. The Applicant rejects various criticisms raised by Mrs Fairbairn and submits that the management committee was entitled to appoint Brannen & Partners LLP as its managing agent without putting this to a vote of all of the leaseholders in their capacity as members of the Company.

Validity of demand

43. Mrs Fairbairn quotes the provisions of section 47 of the Landlord and Tenant Act 1987. This requires that the name and address of the landlord must be included in any written demand, otherwise any element of the demand relating to service or administration charges shall be treated as not being due before such information is furnished by the landlord by notice given to the tenant. Mrs Fairbairn does not specify which demand or demands are alleged to be non-compliant. The Applicant's statement of case to which Mrs Fairbairn is responding includes a

copy of a demand headed 'final reminder'. This includes the following information:

'Client Name: Etal Court Maintenance Limited
Client Address: 220 Park View Whitley Bay Tyne and Wear NE26 3QR'.

44. The Applicant's managing agents state that demands issued by them since their appointment do carry the name and registered office address of the landlord however they refer to the landlord as the 'client'. These demands have therefore been reissued using the term 'landlord' instead of 'client'.

Findings & Determination

Dispensation

45. From the evidence before it, the Tribunal finds that a consultation exercise did take place in relation to the remedial works to Flat 29. There is no evidence to conclude that it was not conducted in accordance with statutory requirements. The remedial work was required and has been undertaken at a total cost in the order of £27,000. No prejudice has been caused to any party in the consultation process. The Tribunal determines that it is reasonable to grant dispensation in these circumstances and does so.

Service Charges

46. The Tribunal has considered the service charges for the service charge years commencing 1 May 2011, 2012 and 2013 and the estimated charges for the year commencing 1 May 2014. Subject to the four issues that are raised by the parties and are considered below, these charges appear to be reasonable having regard to the size and nature of the Property. The four issues raised by the parties are considered in turn:

Legal fees and settlement

47. The Tribunal notes that the figures of £4,476, £5,500 and £17,004 identified by the Applicant within its Application correspond with the amounts attributed to 'legal and professional fees' within the Applicant's statement of expenditure for the service charge years commencing 1 May 2011, 2012 and 2013 respectively.

48. Mrs Fairbairn challenges the legal fees comprised in these amounts on the basis that the directors of the Applicant company were negligent in their conduct of Mrs Stevenson's claim and that the costs were wasted since the Applicant failed to win the case.

49. The Tribunal does not have the necessary documentation before it to enable it to assess whether the settlement that was reached between the Applicant and Mrs Stevenson represented a 'success' or a 'failure' from the Applicant's perspective. This would depend, amongst other things, on the size of the original claim relative to the final settlement. However, the question for the Tribunal to consider is not whether the litigation concerning Flat 29 was won or lost, or whether it could have been handled better, but whether the costs were reasonably incurred. In this respect it appears that the claim was initiated by Mrs Stevenson and that it was therefore appropriate for the Applicant to instruct its own solicitor to represent it in the interests of the leaseholders as a whole. The Applicant cannot be faulted for

that. It is clear from the papers before the Tribunal that the fees charged by Hadaway and Hadaway were similar in amount to the fees charged by Mrs Stevenson's solicitor, these latter fees having been assessed.

50. Turning to Mrs Fairbairn's reference to the law firm Kidd & Spoor, there is no evidence before the Tribunal that any fees charged by this firm have been recharged to leaseholders via service charge in any of the service charge years in question. Therefore any fees that have been charged are beyond the scope of this determination.

51. The Tribunal notes that the form of lease granted by the Applicant describes the Applicant's responsibilities very broadly. At paragraph 10 of the Fifth Schedule the Applicant is required 'to do all other acts and things for the proper management administration and maintenance of the blocks of flats as the [Applicant] in its sole discretion shall think fit'. Paragraphs 12 and 13 of the same schedule provide for the certification of expenditure incurred in carrying out the Applicant's obligations within the schedule and, under paragraph 3(1) of the Fourth Schedule, leaseholders covenant to contribute their share (1/39) of the total certified expenditure.

52. The Tribunal finds that each element of the legal and professional fees identified by the Applicant within its Application is recoverable under the terms of the lease. In the absence of any compelling evidence to the contrary, the Tribunal determines that these are reasonable and payable.

53. On the issue of the apportionment of the service charges, the Tribunal notes that these particular charges have been apportioned in 1/38th shares (excluding Flat 29) notwithstanding the provisions of the lease. The Tribunal does not have sufficient details of the settlement agreed between the Applicant and Mrs Stevenson to enable it to determine whether the apportionment is correct in the circumstances.

Remedial works

54. The Tribunal finds that the provisional findings of CSN Consulting LLP in its report dated April 2011 were confirmed by later sample analysis, undertaken on the Applicant's behalf by Environmental Scientifics Group. The building was insured by Royal & Sun Alliance. Having identified the problem the Applicant liaised with the loss adjustor Cunningham Lindsay.

55. The Tribunal does not have the full insurance documentation but is informed by Brannen & Partners LLP, who are specialist block management agents, that it is common for ground/floor heave to be excluded. The Applicant did liaise with the insurance broker and it was confirmed by the broker that both the Royal & Sun Alliance policy and the previous policy were 'like for like', both excluding maintenance related issues and damage to solid internal floor slabs. The Tribunal finds that the Applicant did seek to recover costs through its insurance cover, but was unsuccessful.

56. On the issue of payability, the Tribunal finds that the remedial costs were recoverable as service charge under the terms of the lease. Under the definitions of retained premises' and 'demised premises' within the form of lease (in the second and third schedules respectively), floor slabs are retained by the landlord.

Within paragraph 2 of the Fifth Schedule the landlord covenants to maintain the retained premises in good and substantial repair and condition, including the renewal and replacement of damaged parts. As has been mentioned in the context of legal and professional fees, the service charge provisions of the lease require the leaseholders to contribute to the (certified) expenditure incurred by the Applicant in carrying out the obligations identified in the Fifth Schedule.

57. Turning to the issue of reasonableness, the Applicant went out to tender for the remedial works and made a considered decision in selecting its contractor. The Tribunal finds no evidence to suggest that the cost was unreasonable.

Validity of the Applicant's actions

58. The question for the Tribunal to consider is whether the service charges in question are reasonable and payable, not whether or not the Applicant company has conducted its affairs wholly in accordance with its own constitutional documents.

59. The Tribunal has been supplied with copies of a Management Contract and accompanying Management Services Agreement entered into with Brannen & Partners LLP. The first document is expressed to be effective from 1 May 2013 (amended from 1 April 2013) and the second from 1 April 2013 (unamended). Within both documents the 'client' is named as 'Etal Court, North Shields'. The documents are signed on the client's behalf by 'S Smith', who is stated within Mrs Fairbairn's statement of case to be a current director of the Applicant company.

60. No cogent argument has been put forward by Mrs Fairburn to persuade the Tribunal that any of the concerns she raises concerning the running of the Applicant company should lead to a determination that the Applicant's managing agent has not in fact been appointed, or that any service charges are not payable.

61. Whilst the name of the 'client' within the Management Contract and the Management Services Agreement is stated to be 'Etal Court, North Shields', the Tribunal finds that the Applicant and Brannen & Partners LLP intended to be the parties to the documents: they were signed by one of the Applicant's directors and since the Applicant is solely responsible for the management of the Property, no other party was in a position to appoint a managing agent. Having found that it was the intention of the Applicant and of Brannen & Partners LLP to enter into the agreements, it follows that they are binding and effective between them.

62. As an observation, it does appear under the terms of the Articles of Association that the members of the Council of Management (using the terminology of the Articles) are intended to be the directors (using the terminology of the Companies Act 1948 and subsequent Acts). This is made explicit at Article 63.

Validity of demand

63. The Tribunal finds that there is no evidence of a failure to comply with section 47 of the Landlord and Tenant Act 1987. In relation to the form of demand issued by Brannen and Partners LLP it appears to the Tribunal that the landlord's name and address do appear and that any confusion that might arise through the use of the word 'client' rather than 'landlord' has been resolved through the re-issuing of the demands.

Overall determination

64. Having considered each of the four issues raised by the parties, the Tribunal determines that the service charges demanded by the Applicant for the service charge years commencing 1 May 2011, 2012 and 2013 and the estimated service charges demanded for the service charge year commencing 1 May 2014, set out at paragraph 4 of this determination, are reasonable and payable.

Costs

65. Within her statement of case, Mrs Fairbairn has indicated that she wishes to make an application under section 20C of the Act. Under section 20C a tribunal may make an order that some or all of the costs incurred by a landlord are not to be treated as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person specified in the application.

66. In the light of the Tribunal's determinations on each of the Applications and Mrs Fairbairn being the only leaseholder to oppose the Applications or to have service charges outstanding, the Tribunal considers that it would be inappropriate to grant an order under section 20C. Accordingly no such order is made.

Schedule

List of Respondents

Name	Interest
Mrs B Taylor	1 Etal Court
Mrs E Stephenson	2 Etal Court
Mr H Mercer	3 Etal Court
Mr Clancy & Mrs Clancy-Olsen	4 Etal Court
Mrs C F Drury	5 Etal Court
Mr E Mason	6 Etal Court
Mrs L Houlsby	7 Etal Court
Mrs LJ Murrey	8 Etal Court
Mrs C Stephenson	9 Etal Court
Mr & Mrs Smith	10 Etal Court
Mr A Moffit	11 Etal Court
Miss J Rutland	12 Etal Court
Mrs C Young	14 Etal Court
Mrs E Boxshall	15 Etal Court
Mrs H Roberts	16 Etal Court
Mrs G Thain	17 Etal Court
Miss R Brogan	18 Etal Court
Mr & Mrs Storrow	19 Etal Court
Mrs J Bedigan	20Etal Court
Mr & Mrs Grey	21 Etal Court
Mr P Grant	22 Etal Court
Mr N Hornby	23 Etal Court
Mr J Todd	24 Etal Court
Mr Lopez & Ms Soraghan	25 Etal Court
Mr & Mrs Fairley	26 Etal Court
Miss N Burn	27 Etal Court
Ms J Ormston	28 Etal Court
Mrs M Stevenson	29 Etal Court
Mr & Mrs Read	30 Etal Court
Ms V Conway	31 Etal Court
Mr & Mrs Quinn	32 Etal Court
Mr M Brown	33 Etal Court
Ms P Fairburn	34 Etal Court
Mr A McCheyne	35 Etal Court
Mr K Timmons	36 Etal Court
Mr W Wilson	37 Etal Court
Miss C Fenwick	38 Etal Court
Ms M de Havailland	39 Etal Court
Mrs KA McLean	40 Etal Court