



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

Case reference : **LON/00AN/LCP/2017/0002**

Property : **20 Woodstock Grove, London W12
8LE**

Applicant : **20 Woodstock Grove RTM Limited**

Representative : **Urban Owners Limited**

Respondent : **Arora Estates Limited**

Representative : **Mr Ajay Arora (In-House Solicitor)**

Type of application : **Application to determine costs to
be paid by RTM Company under
section 88(4) of the Commonhold
and Leasehold Reform Act 2002**

Tribunal member(s) : **Mr Jeremy Donegan (Tribunal
Judge)**

**Date and venue of
paper hearing** : **08 May 2017
10 Alfred Place, London WC1E 7LR**

**Date of corrected
decision** : **03 July 2017**

CORRECTED DECISION

The Tribunal exercises its powers under Rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 to correct the clerical mistakes, accidental slips or omissions in its decision dated 09 May 2017. The corrected decision is set out below with the amendments underlined.

Decisions of the tribunal

The Tribunal determines that the costs payable under section 88(4) of the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act') are £1,667 (including VAT on the managing agents' administration costs), as detailed in the attached schedule. The costs are payable by the Applicant to the Respondent.

The application

1. On 14 March 2017 the Tribunal received an application to determine the costs payable under section 88(4) of the 2002 Act. Directions were issued on 16 March 2017 (incorrectly dated 23 June 2016).
2. The directions provided that the case be allocated to the paper track, to be determined upon the basis of written representations. Neither party has objected to this allocation or requested an oral hearing. The paper determination took place on 08 May 2017.
3. The Applicant filed a bundle of documents in accordance with the directions. This included copies of the application and accompanying documents, a costs schedule with the Applicant's points of disputes and the Respondent's replies together with the Respondent's statement of case. In making its decision the Tribunal had regard to all of the documents in the bundle, including various authorities appended to the Respondent's statement of case.
4. The relevant legal provisions are set out in the Appendix to this decision.

The background

5. The Applicant is a right to manage company and served a claim notice on the Respondent on 23 August 2016, under section 79 of the 2002 Act. The Applicant sought to exercise the right to manage 20 Woodstock Grove, London W12 8LE ('the Property'). The Respondent is the freeholder of the Property.
6. On 21 September 2016 the Respondent served a counter-notice on the Applicant together with two contract notices and one subcontract notice. They also served contractor notices and a subcontractor notice on the contractors/subcontractor.
7. On 25 January 2017 the Respondent sent an invoice to the Applicant in respect of the costs payable under section 88(4) of the 2002 Act. These costs are disputed and are the subject to this determination.

8. The costs claimed by the Respondent are:

Managing Agent's administration costs	£1,824 (<u>including VAT</u>)
Legal costs	£1,450 (no VAT)
Total	£3,274

The Tribunal's decision

9. The Tribunal's determinations, with reasons, are shown in red in the final column of the updated costs schedule attached to this decision.

10. The costs payable by the Applicant are:

Managing Agent's administration costs	£792 (<u>including VAT</u>)
Legal costs	£875 (no VAT)
Total	<u>£1,667</u>

Rule 13 application

11. In its statement of case, the Respondent applied for a costs order under Rule 13 of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 ('the 2013 Rules'). It alleged that the Applicant had acted unreasonably and/or there had been an abuse of process.

12. The Rule 13 application was premature, as it was made prior to the Tribunal's determination. If either party now wishes to make such an application then it should do so within 28-day time limit prescribed by Rule 13(5).

Name: Tribunal Judge
Donegan

Date: 03 July 2017

RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix of relevant legislation

Commonhold and Leasehold Reform Act 2002

Section 88

- (1) A RTM company is liable for reasonable costs incurred by a person who is –
 - (a) landlord under a lease of the whole or any part of any premises,
 - (b) party to such a lease otherwise than as a landlord or tenant, or
 - (c) a manager appointed under Part 2 of the [Landlord and Tenant Act 1987] to act in relation to the premises, or any premises containing or contained in the premises,in consequence of a claim notice given by the company in relation to the premises.
- (2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.
- (3) A RTM company is liable for any costs which such a person incurs as a party to any proceedings under this Chapter before the appropriate tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.
- (4) Any question arising in relation to any amount of any costs payable by a RTM company shall, in default of agreement, be determined by the appropriate tribunal.

**IN THE FIRST TIER TRIBUNAL PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

BETWEEN:

20 WOODSTOCK GROVE RT1 COMPANY LIMITED

Applicant

-and-

ARORA ESTATES LIMITED

Respondent

SCOTT SCHEDULE

<p>Reviewing email from UO in response to our letter of 06/09/2016 with attached documentation including Articles of Association for the RTM and verifying whether the RTM had been set up and run in accordance with statutory requirements.</p>	<p>42 minutes</p>	<p>Our understanding is that the solicitor has experience dealing with RTM claims. As such we cannot see why it would be necessary to spend 42 minutes reviewing the standard Articles of Association and confirming that the company is limited by guarantee. We would suggest 12 minutes as a more appropriate figure.</p>	<p>Legal Costs are Reasonable</p>	<p>The time claimed is excessive. The articles are 12 pages long but are in standard form. 18 minutes allowed for perusing articles. 6 minutes allowed for perusing certificate of incorporation. Total time allowed 24 minutes (£100).</p>
<p>Investigating the validity of the claim including verifying whether the premise and tenants qualify under the Commonhold and Leasehold Reform Act 2002, reviewing the leases and official copies. Letter to the RTM in connection with the claim notice and drafting and serving counter notice pursuant to section 84 of the Commonhold and Leasehold Reform Act 2002.</p>	<p>1 hour and 30 minutes</p>	<p>This is an excessive amount of time considering this was a straight forward right to manage claim involving a block of four flats. We would suggest this work would take 45 minutes at most.</p>	<p>Legal Costs are Reasonable.</p>	<p>The time claimed is reasonable for the work undertaken. 1 hour 30 minutes allowed (£375).</p>
<p>Taking instructions on the service of notices. Drafting contracts and subcontract notices and serving on the RTM. Drafting contractors and subcontractors notices and serving on the relevant parties.</p>	<p>2 hours and 24 minutes</p>	<p>This contractors notices can be found at page 11-13. These appear to be straight forward template notices that should not take more than 30 minutes to produce and send.</p>	<p>Legal Costs are Reasonable</p>	<p>The time claimed is excessive. The notices are standard documents and are each one page long. 30 minutes allowed for preparing notices. 24 minutes allowed for 4 covering letters. Total time allowed 54 minutes (£225).</p>

<p><u>Managing agent's admin costs in connection with the handover of the management on acquisition by RTM- £1,824.00 (inclusive of VAT)</u></p>	<p>15 hours and 12 minutes at £100+VAT per hour.</p>	<p>The Applicant disputes the reasonableness of this hourly rate. This work is largely simple admin work and we would suggest a more reasonable figure would be £40+VAT.</p>	<p>Denied. See management agreement dated 23/03/2016 [D1-D4]. This is SHM's contractual rate for any works outside the usual management duties. See also SHM's emails dated 2 March 2017 in response to UO's concerns about SHM's hourly rate</p>	<p>£100 per hour allowed. This is the rate specified in the management contract and is reasonable for a professional managing agent based in London E7.</p>
<p>Reviewing email from UO dated 25/10/2016 re Handover of Management – taking instructions from client Arora Estates Ltd</p>	<p>6 minutes</p>	<p>We do not dispute this figure.</p>	<p>Admission noted but payment not received</p>	<p>6 minutes allowed (£10)</p>
<p>Reviewing letter from UO dated 26/10/2016 offering to collect outstanding service charges from leaseholders. Reviewing file and taking instructions from our client.</p>	<p>6 minutes</p>	<p>We do not dispute this figure.</p>	<p>Admission noted but payment not received</p>	<p>6 minutes allowed (£10)</p>
<p>Reviewing email from Lessees dated 30/10/2016 re termination of electricity contract/sent details of customer & MPAN number</p>	<p>6 minutes</p>	<p>We do not dispute this figure.</p>	<p>Admission noted but payment not received</p>	<p>6 minutes allowed (£10)</p>
<p>Email to UO providing management records and attached Handover Information Questionnaire Form duly completed; scanning and sending supporting documents.</p>	<p>10 hours</p>	<p>The Applicant would suggest that 10 hours is an extremely excessive amount of time to spend on this email. A copy of the Questionnaire Form can be found at page 14. As you will see it contains requests for basic property management</p>	<p>Denied. See attached copy of email dated 22/11/2016 @14.10 [E18] to UO providing answers to the questions raised by UO in their email dated</p>	<p>The time claimed is excessive, 12 minutes allowed for email out, which is one page long. 1 hour allowed for completion questionnaire, which is two pages long,</p>

<p>Reviewing mail from UO enclosing a section 93 of the Commonhold and Leasehold Reform Act 2002 information notice/email to UO requesting clarification</p>	<p>18 minutes</p>	<p>information that a managing agent should have easy access to. We would also note that a number of the documents requested were not even provided. We would suggest 30 minutes would be a more reasonable reflection of the work done.</p> <p>The Applicant would submit that 6 minutes would be a more accurate reflection of the work done.</p>	<p>25/10/2016 [E20-E21]. All the requested documents were attached to that email (40 documents in total, including the Questionnaire Form [E22-E23]). This email also mentioned about the time incurred (10 hours at 100+VAT). This email was acknowledged by UO only on 20/12/2016 [E15] after several chaser emails [E15-E16]. No concerns about the costs was raised by UO at the time of acknowledging receipt of SHM's email). See also exchange of email between UO & SHM's emails on 26 & 27 January 2017 [E10].</p> <p>Denied. 18 minutes were required to deal with this enquiry from UO in order to avoid duplication of works and to check if there were any new information/documents</p>	<p>to include time spent checking management file/s. 1 hour allowed for collating documents. 30 minutes allowed for emails out. No time allowed for scanning documents, which is a routine administrative task. Total time allowed 2 hours 48 minutes (£280).</p> <p>Time claimed is excessive. 6 minutes allowed for perusing s93 notice. 6 minutes allowed for email out. No time allowed for perusing short email in. This is not recoverable inter partes.</p>
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<p>Email to UO chasing for a response to our letter dated 6/12/2016 & attaching a copy of letter dated 30/11/2016 received from SSE regarding electricity rate change.</p>	<p>18 minutes</p>	<p>The Applicant would again suggest that 6 minutes would be a more accurate reflection of the work incurred in sending a brief email.</p>	<p>Denied. Prior to sending email [E16], SHM had to get and check the paper files and review the file and to find out the reason why SSE is again sending to them a letter regarding electricity rate change. This cost could have been avoided if UO had been more organised and had taken the initiative to make contact with SSE after receiving the contractor notice.</p>	<p>Time claimed is excessive. Email is only two lines long. 6 minutes allowed (£10).</p>
<p>Reviewing email from UO confirming they have received sufficient information to set up the management</p>	<p>6 minutes</p>	<p>We do not dispute this figure.</p>	<p>Admission noted but payment not received</p>	<p>6 minutes allowed (£10).</p>

<p>of 20 Woodstock Grove from 1st January 2017. Email sent in reply confirming we will calculate and transfer any balance in the service charge/reserve fund after 2-3 weeks of acquisition.</p>				
<p>Email to UO asking if they have cancelled building insurance</p>	<p>6 minutes</p>	<p>We do not dispute this figure.</p>	<p>Admission noted but payment not received</p>	<p>6 minutes allowed (£10).</p>
<p>Email, sent 09/01/2017, to UO chasing for a response to our email of 06/01/2017 and requesting confirmation whether they wish to let the building insurance to continue.</p>	<p>18 minutes</p>	<p>We dispute this figure. This chaser email was sent the next working day and was as such unnecessary.</p>	<p>Denied. The purpose of that email [E14] was mainly to inform that there will be no refund of premium on cancellation and to advise to let the current buildings insurance continue until 31 March 2017.</p>	<p>It was reasonable to send this email but the time claimed is excessive. 6 minutes allowed (£10).</p>
<p>Telephone call, on 09/01/2017, to SSE to inform about the RTM and request final bill.</p>	<p>24 minutes</p>	<p>The RTM company acquired the right to manage on 1st January 2017 as such the managing agent no longer has authority to act in relation to the management of 20 Woodstock Grove as at the date of this call.</p>	<p>Denied. There were on going matters that required attention and SHM were instructed to deal with.</p>	<p>It was reasonable to call SSE but the time claimed is excessive. 6 minutes allowed (£10).</p>
<p>Preparation of final accounts/statements of A/C and sending to UO</p>	<p>1 hour and 30 minutes</p>	<p>The statement the Applicant received is enclosed at page 16. This is very simple statement of expenditure and we would submit 45 minutes is a more reasonable reflection of the time spent on it.</p>	<p>Denied. 1 hour and 30 minutes was required to go through all records for the 4 lessees since the acquisition of the freehold by our client and to prepare final</p>	<p>The time claimed is reasonable, as preparing the final account involved a review of the records. 1 hour 30 minutes allowed (£150).</p>

<p>Reviewing email from UO proving an update regarding our insurance query of 09/01/2017</p>	<p>6 minutes</p>	<p>We are unable to find a record of this email and would ask whether the Respondent could provide this?</p>	<p>account. The Applicant did not submit any alternative comparative costs</p> <p>See attached UO's email dated 12/01/2017 @ 11.51 [E12].</p>	<p>No time allowed for perusing short email in. This is not recoverable inter partes.</p>
<p>Reviewing email from UO Insurance Admin Team confirming they wish to continue with the current building insurance & requesting us to update policy details with the RTM Company's name</p>	<p>6 minutes</p>	<p>The managing agent is claiming 6 minutes work each in dealing with sending/receiving 5 emails on 12th January 2017. This amounts to 30 minutes work for which in total more reasonably amounts to 12 minutes.</p>	<p>Denied. See email dated 12/01/2017 @ 12.15 [E11-5].</p>	<p>No time allowed for perusing short email in. This is not recoverable inter partes.</p>
<p>Email to Coppergate, insurance broker requesting transfer of the insurance policy in the name of the RTM.</p>	<p>6 minutes</p>	<p>The managing agent is claiming 6 minutes work each in dealing with sending/receiving 5 emails on 12th January 2017. This amounts to 30 minutes work for which in total more reasonably amounts to 12 minutes.</p>	<p>Denied. SHM had to review the file before sending email of instruction to insurance broker on 12/01/2017 @ 12.47. [E11-1]</p>	<p>The time claimed is reasonable. 6 minutes allowed (£10).</p>
<p>Reviewing email from Insurance broker attaching insurance policy with the RTM's details</p>	<p>6 minutes</p>	<p>The managing agent is claiming 6 minutes work each in dealing with sending/receiving 5 emails on 12th January 2017. This amounts to 30 minutes work for which in total more reasonably amounts to 12 minutes.</p>	<p>Denied. SHM had to review email received @ 15.22 on 12/01/2017 from insurance broker attaching amended insurance certificate [E11-1; E11-3]</p>	<p>No time allowed for perusing short email in. This is not recoverable inter partes. 6 minutes allowed for checking revised insurance certificate (£10).</p>

<p>Email to UO attaching insurance certificate in the name of the RTM and giving details of the insurance broker to contact if they wish to renew the policy from 01/04/2017</p>	<p>6 minutes</p>	<p>The managing agent is claiming 6 minutes work each in dealing with sending/receiving 5 emails on 12th January 2017. This amounts to 30 minutes work for which in total more reasonably amounts to 12 minutes.</p>	<p>Denied. See email dated 12/01/2017 @ 15.42 attaching insurance certificate and giving insurance broker's details for renewal of the policy.</p>	<p>The time claimed is reasonable. 6 minutes allowed (£10).</p>
<p>Reviewing bill received from SSE/Telephone call to the electric supplier to check whether it is the final bill/ SSE asked for contacts details of the RTM and they said they will issue final bill up 31/12/2016 after making contact with the RTM.</p>	<p>24 minutes</p>	<p>It is unclear why the RTM company is being charged for this when the managing agent has already charged for the time spent in closing their account with SSE.</p>	<p>This costs were incurred because UO failed to make contact with SSE despite contract notice dated on 21/09/2016</p>	<p>It was reasonable to check bill and call SSE but the time claimed is excessive. 12 minutes allowed (£20).</p>
<p>Chaser email to UO on our email of 09/01/2017 regarding the accounts and attaching a bill from electric supplier.</p>	<p>12 minutes</p>	<p>The Applicant would submit that 6 minutes would be a more appropriate charge for a simple chaser email.</p>	<p>Denied. 12 minutes required to deal with the electric bill and chasing UO. Those costs could have been avoided and were incurred only because of UO's failure to interact with Respondent's managing agent since 9/01/2017. See email sent on 16/01/2017 @16.33 [E5-3]</p>	<p>The time claimed is excessive. Email is only five lines long. 6 minutes allowed (£10).</p>
<p>Reviewing email from UO confirming they approve the accounts and asking to settle the electricity bill out of the service charge/reserve fund.</p>	<p>6 minutes</p>	<p>We do not dispute this figure.</p>	<p>Admission noted but payment not received</p>	<p>6 minutes allowed (£10).</p>

Email to UO providing an update on the final electricity bill before transferring funds.	6 minutes	We do not dispute this figure.	Admission noted but payment not received	6 minutes allowed (£10).
Reviewing email from UO asking for an estimate of the handover funds/reply email to UO confirming the estimates handover fund	12 minutes	We do not dispute this figure.	Admission noted but payment not received	12 minutes allowed (£20).
Reviewing final bill received from SSE Southern Electric up to 31/12/2016 scanning the bill.	6 minutes	Scanning a bill would surely be part of the managing agents normal duties and not directly related to the RTM action.	Denied. This action is outside the usual management duties. The final bill was part of the RTM action as the amount on the bill was needed to calculate the final handover funds.	It was reasonable to review the final bill. 6 minutes allowed (£10).
Email to UO regarding transfer of handover funds/instructing account department for the transfer to UO of the handover funds.	6 minutes	We do not dispute this figure.	Admission noted but payment not received	6 minutes allowed (£10).
SSE Direct Debit cancellation.	12 minutes	We would submit that 6 minutes is more reasonable.	Denied. SHM had to get and check the paper file before making the direct debit cancellation.	The time claimed is excessive for a routine task. 6 minutes allowed (£10).