1246

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	CHI/43UC/LSC/2016/0071 CHI/43UC/LIS/2016/0051 CHI/43UC/LSC/2016/0072 CHI/43UC/LSC/2016/0073
Property	:	39 Ridgeway, 81 and 83 Manor Green Road, Epsom, Surrey KT19 8LW
Applicant	:	Messrs. Everett (81 Manor Green Road) Mr. M. Saunders (83 Manor Green Road) Mr and Mrs Earlby (39 Ridgeway)
Representative	:	Mr Saunders (Mr Hamish Everett and Mr & Mrs Earlby were in attendance)
Respondent	:	M & J Partners Limited
Representative	:	Ben Doyle, counsel Ms Tanisha Elliston, director of the Respondent
Type of Application	:	Determination under Section 27A of the Landlord and Tenant Act 1985
Tribunal Member(s)	:	Judge D. R. Whitney Mr. B. Simms FRICS
Date and venue of hearing	:	Redhill Magistrates Court, 2nd February 2017

DECISION

BACKGROUND

1. The Applicants each own a leasehold interest in a block of four flats there flats being 81 and 83 Manor Green Road and 39 Ridgeway (collectively "the Property"). 41 Ridgeway is the fourth flat in the block. The Respondent currently owns the freehold interest and is responsible for the maintenance of the Property.

2. Each of the Applicants made application for a determination of the service charges payable to the Respondent for various years and for an order under Section 20C of the Landlord and Tenant Act 1985. Also a claim against Messrs. Everett was transferred by the County Court to this tribunal. All of the cases are being heard and dealt with together.

3. Following a telephone case management hearing on 18th November various directions have been given. As a result the matter has now come to a hearing. Bundles have been supplied by the Applicant although a further bundle was supplied by the Respondent as the Applicants bundle did not include all the documents supplied by the Respondent.

4. The directions identified that the matters to be addressed were the actual service charges for the years 2014-2015 and 2015-2016 and the estimated charges for the year 2016-2017.

INSPECTION

5. The tribunal inspected the Property immediately prior to the hearing accompanied by the parties and the Respondents counsel.

6. The Property is on a corner plot at the junction of Manor Green Road and Ridgeway, Epsom. It is a purpose built block of four maisonettes. The Property is rendered to its elevations and has a pitched roof. The block itself is surrounded by communal grounds with to the rear of the plot an area of land used communally with other adjacent blocks of maisonettes and which we were told did not form part of the freehold title to the subject property.

7. It was apparent from the roads and pathways that the hedges surrounding the Property were unkempt and overhung the foot paths. The grounds themselves were very unkempt with little evidence of any gardening. In particular there was an area to the right of the Property (looking from Manor Green Road) which was severely overgrown with brambles, weeds etc.

8. It was apparent from an external view that much of the render was no longer keyed to the main structure and visible cracking was apparent on all elevations.

9. The guttering to the Property had evidence of grasses and weeds growing in it visible from the ground, a sign of poor maintenance. There was evidence that some works may have been undertaken to the ridge tiles to the left of the Property and daylight could be seen passing beneath certain of these tiles.

10. On each side of the Property there were secondary doorways to each of the maisonettes. We were shown the doorway to 39 Ridgeway which whilst it had been painted recently externally this has clearly been undertaken without the door having been opened and the painting was to a poor standard.

11. At the front entranceway the tribunal was shown mailboxes which had been attached adjacent to the doorway. There was also a door entryphone system.

12. On entering the hallway there was a locked cupboard which housed the electricity supply for the communal arears. This door had a Yale style lock which appeared to have been recently fitted. There was communal lighting and on the first floor landing there was one battery operated smoke alarm. The communal areas whilst relatively clean could best be described as tired in appearance.

13. Overall the Property appeared to be in a state of some disrepair and to have been poorly maintained.

THE LAW

14. The law involved in the applications relates to Sections 19 and 27A of the Landlord and Tenant Act 1985 in respect of service charges and Section 20 of the Landlord and Tenant Act 1985. Copies of the sections are set out in Annex A to this decision.

HEARING

15. At the start of the hearing various applications were made.

16. Whilst bundles had been supplied by the Applicant it was the Respondents case these did not include all the documents they had previously supplied. It was agreed an additional bundle prepared by the Respondents would be accepted.

17. Counsel for the Respondent looked to introduce certain other papers. The Applicants objected to the inclusion of these documents which they said had been only sent to them the day before. The tribunal refused the Respondents application to introduce these documents.

18. The Respondents also indicated that Mr Ellis of PIMS and Co ("the Managing Agent") who had provided a witness statement was not attending. No reason was advanced for his non-attendance but the

Respondent requested that another employee of the Managing Agent could give evidence on their behalf. The tribunal indicated it would only hear oral evidence from those who had provided witness evidence in accordance with the directions.

19. The tribunal indicated to all parties that they had read the bundles produced by the Applicant and that parties could assume the tribunal was familiar with the documents within that. Given the issues over the Respondents bundle the tribunal indicated it would allow Mr Doyle some latitude to take his witness through the bundle and documents to ensure the tribunal was familiar with anything relevant.

20. Mr Saunders presented the case on behalf of the Applicants.

21. Mr Saunders accepted that the electric charges were as claimed now they had seen the bills.

22. Mr Saunders explained that previously the Property had been managed by a company called Crabtree with whom the leaseholders had no issues. All monies were paid to them including an estimated service charge in May 2014 which included costs of management etc.

23. On the 2nd June 2014 the leaseholders were told that the Respondent had purchased the freehold and would be appointing PIMS and Co to manage in place off Crabtree. It appeared from Land Registry office copy entries that the purchase in fact completed on 1st July 2014.

24. In respect of the intercom Mr Saunders explained previously there had been no intercom. One was fitted without any consultation. The Applicants contend if they had been consulted they would have considered the necessity for the same and looked at cheaper costings. They say no cost is payable.

25. In respect of gardening the Applicants say this was undertaken by PIMS and Co and appears to have been charged at £60 per hour. They say the cost is unreasonably high and that they have obtained cheaper quotes from gardening companies in and around Epsom who would charge £15-25 per hour.

26. Turning then to cleaning Mr Saunders submits that under the lease it is for the Tenants to clean the communal areas and he relies upon the Second Schedule paragraph 5 of the lease. Mr Doyle for the Respondent referred to Third Schedule paragraph 1(1)(c) which he says entitles the Landlord to clean and recover the cost.

27. If the tribunal was not with him on this point Mr Saunders again suggested the costs claimed were excessive and cleaning could be obtained locally for a price of £15 per hour.

28. In respect of the door lock it was accepted a new lock had been fitted. The lock was not however a proprietary brand and in the Applicants

submission the cost was excessive. A new cylinder lock could be obtained he suggested for about £12.

29. The fitting of the mailbox was only required after the intercom was fitted as the postman could not get in to place post through the individual flat doors. The Applicants said no receipts had been supplied and the cost was excessive.

30. The Applicants looked to challenge the insurance. They relied upon an insurance valuation they had obtained at their own expense and which was included within the bundle. This suggested that the respondent was insuring the Property for three times the re-build cost.

31. It was explained that the Applicants had only recently received a copy of the policy Schedule and had had to take their own prosecution of the Respondent who had pleaded guilty and had been fined. A certificate of conviction was within the bundle.

32. The Applicants had obtained alternative quotes from a broker details of which were included within the bundle. The broker recommended a policy costing just under £600.

33. The Applicants looked to challenge the management fees charged. It was their case that the agents should charge a basic management fee or specific fees for individual works but not both. Further they believe they should have been consulted on PIMS and Co's appointment as they believe this is a qualifying long term agreement although no written contract has been produced. Previously Crabtree had charged £191 per unit which they felt was fair.

34. The Applicants objected to PIMS and Co's practice of adding a fee of 35% to any third party invoices. In their opinion none of these costs were recoverable.

35. The Applicants objected to the Respondents charging to the service charge account a surveying fee and legal fees. In their submission these are charges which were solely for the use and benefit of the Respondent and are not recoverable from the leaseholders.

36. In respect of Administration fees and late payment fees these are denied as being payable at all and if amounts are payable the amounts claimed are unreasonable. The original demands were not in accordance with statute and the lease and were not payable. Once valid demands were issued then these were paid. All the original demands were in the Applicants eyes invalid.

37. Further the Applicants object to the 35% arrangement fee added to the insurance cost. In their opinion this should be part of the management's fee and in any event given the insurance is excessive this fee is excessive and may be why the Respondent wishes to over insure the Property to claim an excessive fee.

38. Looking at the claim for general repairs the Applicants deny that any works have been undertaken and therefore no costs are payable. The same is true of the claim for bulk waste removal. The Applicants say none has taken place and in any event each leaseholder will have an account with the local authority for waste collections and there would be no charge.

39. The cost of changing lightbulbs and associated electrical works was accepted but not any arrangement fees added.

40. The Applicants accepted there could be reserve funds but only £170 per unit per annum.

41. As for accountancy fees the Applicants took the view the sum claimed was excessive. There was no invoices for the same and it was highlighted that the accounts for the service charge year ending in March 2016 were signed off on 29th February 2017 being before the year had ended.

42. Mr Doyle indicated he was happy only to briefly cross examine Mr Saunders and all other witness statements included in the bundle on behalf of the Applicants were accepted as their evidence.

43. Mr Saunders accepted no one else had been suggested to PIMS and Co who could manage or undertake any tasks because the Applicants felt the whole arrangement was "a done deal". If he had been consulted he would have responded. He confirmed that the leaseholders were pursuing an application for collective enfranchisement of the freehold.

44. Mr Doyle then called Ms Elliston. She confirmed she had made the statement included within the bundle and it was true.

45. She took the tribunal to the invoice for the intercom at page 193 of the Respondents bundle. She accepted that there was no section 20 notice but looked to suggest that the cost should be divided by 5 bringing the amount below the amount necessary for consultation. She explained other quotes were obtained but these were not in the bundle.

46. Mr Doyle directed the tribunal to clause 5 (3) of the lease and the Third Schedule paragraph 1(1)(d) which he said allowed the Respondent to undertake these works.

47. Turning to gardening she believes the gardening undertaken was reasonable. Currently no gardening due to the dispute and the last works were in the Autumn of 2016. The last set of gardening was undertaken by Greenthumb. She said there was no contract, it was all agreed verbally. There was no set arrangement they would just call them as and when required.

48. In respect of the cleaning again simply a verbal arrangement to come fortnightly at a charge of £50 per visit. The cleaners are to sweep and mop the communal areas, wipe down bannisters. There was however no written list of their tasks. Ms Elliston said the cleaning is high due their being pets in the flats which there should not be and items being left in the communal areas. She does not accept the leaseholders quotes are like for like. She said the Respondent and its agent obtained alternative quotes but these are not in the bundle.

49. In respect of PIMS and Co Ms Elliston said there was no written contract. PIMS and Co draw up a budget each year which the Respondent then approves thereby agreeing to them undertaking the works.

50. In respect of the door locks PIMS and Co buy these in bulk hence no individual invoice and then it takes about a couple of hours to fit. They will buy about a 100 at a time as they manage many properties. When pressed Ms Elliston explained that the company owned about 10 buildings consisting of about 60 units. PIMS and CO manage about 7 of the blocks for the Respondent.

51. The lock was replaced after it was broken. All the fitting was undertaken by PIMS which was cheaper than getting a locksmith who typically have minimum call out fees.

52. Ms Elliston accepted no mailbox originally but required as the door was to to be kept shut after the intercom was fitted. Whilst there was in the Respondents bundle an invoice from PIMS and Co there was no invoices for the mailbox purchase.

53. Ms Elliston stated that the buildings insurance was arranged via a broker. She stated the broker came up with the valuation. She thought it was based on the costs of the flats. She said the level of cover included rent as the properties were all rented out. She did not know why there was contents cover of £33,000. The building was insured for £1,620,000.

54. Ms Elliston said Lansdown Insurance Brokers arrange insurance for 2 blocks owned by the Respondent. She stated that that neither the Respondent nor PIMS and Co are paid any commission for the insurance.

55. She did not know how the buildings sum was arrived at. She had never had the Property valued for insurance purposes.

56. Turning to the management fees Ms Elliston said the shareholders of both the Respondent and PIMS and Co were similar. PIMS and Co manage 7 of the Respondents blocks and one other block. She does not believe that Mr Ellis has any professional qualifications for management. PIMS and Co are a member of a redress scheme.

Effectively the management charge is a subscription fee to keep the office running.

57. The tribunal drew Ms Ellistons attention to the RICS Service Charge Code 2nd edition (being the edition relevant for the majority of the period being looked at). Ms Elliston read the section relating to what would typically be included with a management charge. She expressed surprise as to what was included. She did not believe it was possible to undertake all of these tasks within PIMS and Co's management fee.

58. When asked about the company's conviction she said she did not know why the company pleaded guilty. She thought it was some sort of plea bargain.

59. In respect of the surveying charge she said this was to produce plans as there were none attached to the lease. A copy of the invoice was within the bundle. It referred to measured building survey, floor plans, elevations and site survey. A copy of the actual report prepared was not within any of the bundles. Ms Elliston accepted she had subsequently made a planning applications and had used some of the plans prepared. Again she said these were to the Applicants benefit so they could object to her application. She was adamant they were not prepared solely for the planning permission just happened to have been subsequently used for that purpose.

60. Copies of invoices for the legal fees were included within the bundle. This was to do with legal advice as to Crabtree's involvement and the Headlease. Her view was it affected the building and was recoverable. The narratives to the solicitors invoices are very brief and general in nature. None of the advice received was within the bundle.

61. Various works were undertaken to the electrics and invoices were within the bundle. The two invoices totalled £963.60. Ms Elliston accepted again there had been no consultation.

62. Whilst bulk waste removal had been budgeted this had not been charged.

63. Ms Elliston says the administration charges are required given the excessive demands the leaseholders placed on PIMS and Co. She said the late payment fee was a penalty. She would concede the Data Processing fee.

64. As for the 35% arrangement fee this is to cover PIMS and Co's costs in making all the necessary arrangements for appointing external contractors and or arranging the insurance, reading small print and any other tasks.

65. She accepted none of the accountant's invoices were within the bundle but the accountant had certified the accounts so must be satisfied as to their own fee. She could not answer why the accounts for 2016

appeared to have been signed off before the end of the service charge year.

66. Mr Doyle explained it was accepted that demands had not been properly sent. As a result fresh demands were sent out in or about December 2016. Mr Doyle submitted that the earlier demands whilst invalid still satisfied section 20B of the Landlord and Tenant Act 1985 requiring notice to be given within 18 months. He relied upon the case of Johnson v. County Bideford Limited [2012] UKUT 457 (LC).

67. Mr Doyle said the late fees were conceded given demands re-issued in December.

68. Mr Doyle had filed a skeleton argument and he relied upon the points included therein which the tribunal accepted.

69. Mr Doyle made clear he was not seeking to argue that the apportionment under the leases should be anything different than an equal amount from each leaseholder i.e. 25% notwithstanding what had been said in evidence by Ms Elliston.

70. For the Applicants Mr Saunders argued that Section 20B would apply and the certain of the costs were not recoverable having been incurred more than 18 months previously. In respect of the Applicants application under section 20C he suggested an order should be made as the Applicants felt they had no choice but to make the applications given the failure by the Respondent to respond properly or at all to requests for information as evidenced by the prosecution.

DECISION

71. This was an unfortunate case. The tribunal notes that Mr Ellis who had given a witness statement did not attend and no explanation was offered for his non-attendance. Ms Elliston did attend and give evidence as a director of the Respondent. The tribunal records that they found her evidence unsatisfactory. Ms Elliston tried to avoid answering questions asked of her and would try and simply provide the case she wanted to put forward. She appeared to be deliberately evasive and vague over matters or denied knowledge when it appeared to suit her.

72. This was amply demonstrated by her answers to questions about the company's prosecution for failing to provide the insurance certificate to the leaseholders.

73. Turning therefore to the items generally the tribunal finds as follows:

- Gardening and cleaning: the sums claimed are reasonable. Whilst the tribunal does not doubt it would be possible to find people to undertake the gardening at a lesser cost this of itself

does not make the charge unreasonable. Applying its own experience and judgement the tribunal is satisfied that the sums claimed whilst perhaps at the upper end are reasonable. The tribunal accepts that the lease allows the landlord to clean and recover the cost under Third Schedule 1 (1)(c). We accept the Respondents submission that the clause relied upon by the Applicants giving them the obligation to clean relates to their use of the premises in such a way as to keep the communal areas clean but does not require them to actually perform any services. The tribunal allows the costs of cleaning where invoices have been supplied.

- New locks: the tribunal is satisfied that the charges made by PIMS and Co are reasonable. Whilst perhaps not large jobs there is a cost and the tribunal accepts the rates charged are reasonable.
- Electric works/light bulbs: the tribunal accepts that these sums have been reasonably incurred and are payable by the Applicants. The actual costs themselves of these works does not exceed the consultation threshold (£1000) and so there was no need to consult. The tribunal is satisfied that the costs charged are reasonable and it appears works have been undertaken.
- Intercom and mailbox: the tribunal does not allow these sums. These works were not repairs or maintenance. They are an improvement and nowhere within the lease allows the Respondent to undertake improvements. Mr Doyle tried to rely upon the Third Schedule 1(1)(d) as allowing the Respondent to undertake such works. The tribunal does not agree and can find no provision within the lease allowing the Respondent to undertake such improvements. Further we record that the Respondent did not undertake any statutory consultation and these works (the intercom and mailbox installation) should have been considered one set of works and should have been consulted upon and so even if we had found the works were recoverable under the lease the Applicants liability would have been capped to £250 per leaseholder.
- Administration and arrangement fees: whilst the Respondent can charge management costs in this tribunal's determination none of these costs are reasonable. All of the work undertaken by these fees are the type of work one would normally expect to be covered under the standard management fee including postage charges. Certainly this is what the RICS Code of Practice envisages. It was clear that Ms Elliston had no knowledge what so ever of the code. Whether Mr Ellis did we have no idea. We had no evidence as to how the quantum of the charges had been calculated and a percentage charge on top of every external contractors invoice is not a practice this tribunal believes would ever be reasonable and certainly not at 35%.
- Management fee: the actual basic management fee did appear to the tribunal to be reasonable. However what was clear from the evidence of the parties was that the Property was not properly

managed. PIMS and Co had clearly not responded to reasonable requests for information and certain works had not been undertaken such as gardening. This is amply evidenced by the fact that the Respondent found itself prosecuted due to a failure by PIMS and Co to supply insurance details as the Applicants are entitled as a matter of right. Taking all of these matters into account the tribunal determines that the management fee should be reduced by 50% to take account of such failures.

- Insurance: Ms Elliston could give no good reason as to how the figure given for the amount of cover had been arrived at. It appeared to the tribunal that the level of cover was inflated and we accept the Applicants argument this was to benefit the Respondent and their managing agent who looked to charge a 35% arrangement fee. The Applicants had undertaken a professional valuation and had then obtained quotes via a broker. We accept that the Respondent is not required to accept the cheapest quote however it was Ms Elliston's evidence that she accepts the advice of the broker and following this we determine the premium payable should be £592.79 being the premium recommended by the Applicants broker.
- Surveying and legal fees: whilst invoices were produced no copies of any of the reports or advice given was disclosed. The tribunal found Ms Ellistons evidence over these less than satisfactory and believes she was deliberately failing to properly explain what such advice was for. As a result we do not find any of these charges are recoverable as a service charge expense. We find that the surveying services were for the Respondents own benefit probably to assist them with making planning applications. As to the legal advice this appears to be to advise them on what they had purchased and so is a cost for the company to bear.
- Accountancy fees: the tribunal does not accept that a fee of £1000 is reasonable for accountancy fees on a very modest service charge account. We note no invoices were provided and there are clearly significant errors in the account and the accountants certificate over the date of the same. That being said clearly an accountant has been appointed and doing the best we can we allow a cost of £420.
- Bulk waste: we allow nothing for this within the budget for the year 2016 to 2017. The evidence was nothing had been required.
- Companies House: Ms Elliston confirmed no charges had been levied under this sum. For the avoidance of doubt we make clear that such charges are not a recoverable service charge expense.

74. The tribunal therefore determines that only the following amounts are payable as follows (using the headings included in the accounts and budgets):

2014 to 2015

Lighting	£30.41
Cleaning, gardening etc	£2265 (see pages 40 and 41 of Respondents bundle for invoices)
Insurance	£592.79
General repairs	£274.19
Managing agents fees	£426
Total	£3,588.39

2015 to 2016

Lighting	£209
Cleaning, gardening etc	£250 (see pages 34-36 and 48 of Respondents bundle)
General repairs	£1083.60
Insurance	£592.79
Managing agents fees	£426
Total	£2,561.39

Each leaseholder is liable to pay 25% of the sum determined by the Tribunal. In spite of Ms Elliston's suggestion that the total should be divided by 5 Counsel for the Respondent conceded that 25% was correct.

75. Turning now to 2016 to 2017 this is in respect of estimated service charges only. These sums are from the budget found at page 75 of the Respondents bundle. The parties are reminded that in reaching its determination the tribunal is determining what it was reasonable for the Respondent to budget for in this year. It will be for the respondent to produce accounts in accordance with the lease and then to justify that any and all expenditure is reasonable. The tribunal reminds itself that the test is to determine what it was reasonable for the Respondent to budget to spend at the time the budget was prepared, not what it actually spent. We have reduced amounts to reflect the fact we do not accept "arrangement fees". We have also not allowed anything separate for light bulbs as this should fall within general repairs. Likewise we have simply allowed a management commission at the rates claimed in the previous year as opposed to the £350 per unit claimed which we do not accept is a reasonable figure to have budgeted. We have disallowed the amount for bulk waste removal. There is a budget for cleaning and repairs and we saw no evidence of bulk waste removal being required and on the evidence from Ms Elliston had not been required in earlier years. Finally we have allowed the modest amount of reserves. Under the Third Schedule reserves are payable by the leaseholder. The amount claimed is very low and it is considered good practice to build up reserves. Taking account of that and the evidence we have received we have assessed the sums due as follows:

Estimated charges for 2016 to 2017

Accountancy fee	£500
General repairs	£1000
Cleaning and gardening	£1500
Electricity	£100
Management fees	£852
Reserve	£300
Total	£4252

Again this sum is payable 25% by each leaseholder.

76. For the avoidance of doubt the total amount we have determined is payable up until 31st March 2017 is £10,401.78. Each leaseholder is required to contribute 25% to this cost being £2,600.45.

77. The tribunal makes clear it has simply determined the amount payable for the years in question. It is for the Respondent to give whatever credits are necessary for payments made by any parties.

78. Finally the tribunal also makes an Order pursuant to Section 20C that none of the costs of this application should be added to the service charge account. The tribunal makes such an order as having considered all of the evidence it is apparent that it was necessary for the Applicants to come to the tribunal to resolve this issues and significant deductions have been made to the sums claimed particularly in respect of the poor management of the building by the Respondents agent and its unreasonable method of charging.

Judge D. R. Whitney

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-

day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

ANNEX A

Section 19 Landlord and Tenant Act 1985

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 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 adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A Landlord and Tenant Act 1985

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.

(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 of an application under subsection (1) or (3).

(7)

The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.