

9206



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

Case Reference : CHI/24UH/LIS/2013/0041

Property : Flats 3 & 5 Bembridge House, Bembridge Drive,  
Hayling Island, PO11 9LU

Applicant : Mrs Julia Jordan (Flat 3) and Miss Kate Fitzgerald  
(Flat 5) (Tenants)

Representative : ---

Respondent : L C Webb & Son (Builders) Limited  
(the Landlord)

Representative : Mr J Burns of Counsel

Type of Application: Application for determination as to reasonableness  
of service charges pursuant to Sections 19 and 27A  
Landlord and Tenant Act 1985

Tribunal Members : Judge P.J. Barber Chairman  
Mr P.D. Turner-Powell FRICS Valuer Member

Date and venue of Hearing : 29<sup>th</sup> July 2013 Tribunal Offices, 1<sup>st</sup> Floor,  
Midland House, 1 Market Avenue, Chichester. West  
Sussex PO19 1JU

Date of Decision: 5<sup>th</sup> August 2013

---

**DECISION**

---

© CROWN COPYRIGHT 2013

### Decision

(1) The Tribunal determines in accordance with the provisions of Sections 19 and 27A Landlord and Tenant Act 1985 (“the 1985 Act”) that the amounts shown in respect of service charges in the Respondent’s annual accounts are all reasonable and payable, save that in 2008, the liability of the Applicants to contribute towards the item of £4323.00 for Repairs & Maintenance shall be limited, in the case of Flat 3 to £180.12 and Flat 5 to £102.93.

(2) In regard to the application in respect of costs made by the Applicants pursuant to Section 20C of the 1985 Act, the Tribunal determines that none of the costs of the Respondent shall be taken into account in determining the amount of any service charges payable by the Applicants.

### Reasons

#### INTRODUCTION

1. This is an application dated 20<sup>th</sup> March 2013 made pursuant to Sections 27A and 19 of the Landlord and Tenant Act 1985 (“the 1985 Act”) for determination of the reasonable service charges payable by the Applicants to the Respondent for each of the service years from 2004 to 2013. The Applicants seek determination in respect both of service charges and insurance charges for each of the years in question; the Respondent landlord’s annual accounts for each of the service charge years in question indicate the following amounts :-

	Service Charges
2004	£ 14,659.00
2005	£ 14,383.00
2006	£ 12,296.00
2007	£ 19,313.00
2008	£ 19,571.00
2009	£ 17,784.00
2010	£ 14,149.00
2011	£ 14,730.00
2012	Not provided

2. The claim relates to service charges in respect of Flat 3 Bembridge House, Bembridge Drive, Hayling Island PO11 9LU (“ Flat 3”) and Flat 5 Bembridge House aforesaid (“Flat 5”). Directions were issued by the Tribunal on 22<sup>nd</sup> March 2013; further directions were issued on 26<sup>th</sup> April 2013 following a Pre-Trial review hearing, inter alia requiring the Applicants to serve a statement of case setting out the detail of the alleged breaches, together with an indexed and paginated bundle of all the documents upon which the Applicants seek to rely in support of their case and further requiring the Respondent to serve a statement in response together with a bundle similarly indexed. Bembridge House is a purpose built block; Flat 3 is a 2 bedroom ground floor flat and Flat 5 is a first

floor studio flat. Flat 3 was demised by a Lease dated 22<sup>nd</sup> November 1968 (“the Flat 3 Lease”) and Flat 5 was demised by a lease dated 12<sup>th</sup> January 1978 (“the Flat 5 Lease”). Subsequently, the Flat 3 Lease and the Flat 5 Lease were varied by deeds of variation, in each case dated 20<sup>th</sup> September 2011. Copies of both leases and the deeds of variation were produced to the Tribunal. The proportions of service charge liabilities are different as between the Flat 3 Lease and the Flat 5 Lease; however from September 2011, as a result of the deeds of variation, they became the same; the effect being as follows :-

Flat 3

March 2004-September 2011 – one-ninth

September 2011 onwards - a proportionate part

Flat 5

March 2004 onwards - a proportionate part

3. The concerns of the Applicants were various but included allegations relating to insurance premiums being incorrectly attributed (2004-2010 only); incorrect proportions of service charges being attributed; charges not properly incurred; lack of Section 20 consultation in regard to major works; excessive amounts being charged for annual cleaning and gardening; and issues with the managing agents.
4. The Flat 3 Lease includes the following provision in regard to “Maintenance Payments” in the Sixth Schedule :-

*“In addition to the yearly rent above mentioned the Lessee as a separate covenant hereby covenants to pay to the Lessor on the twenty fifth day of March in each year of the said term by way of maintenance payments one ninth part of the expenses properly and reasonably incurred by the Lessor during the twelve months period ending on the preceding twenty fifth day of December (and so in proportion for the first year of the said term) in respect of the matters mentioned contained or referred to in sub-clauses (i) to (v) of the Schedule of expenses hereunder set out the amount of such expenses and of the Lessee`s liability hereunder to be vouched and certified by the surveyor for the time being of the Lessor whose certificate shall be final and binding upon all parties...”*

5. The managing agent for the blocks was Millers of Hayling Limited, but only until 2004 when the Respondent company elected to take on direct responsibility for managing the property. Minster Property were appointed as managing agent from March 2012 onwards.

**INSPECTION**

6. The Tribunal’s inspection took place in the presence of the Applicants Mrs Jordan and Miss Fitzgerald; Mr Jordan and Mr Pine were also present; Mr J Burns of Counsel attended the inspection for the Respondent, together with Mr Stephen Webb, a director of the Respondent company.
7. The blocks respectively known as Bembridge House (“BH”) and Rails Lane (“RL”), are structurally linked; RL comprises 5 flats & 5 maisonettes and BH comprises 14 flats / maisonettes & 1 shop. RL was constructed in or about 1961; BH was constructed in or about 1966. There are 15 garages in a separate area to the rear of the blocks. BH and RL are located at rights angles to each other but

form one continuous corner building. BH comprises two linked blocks of different design; one block comprises 9 flats over three floors under a pitched tiled roof with open verandas at the rear; the other BH block comprises 1 shop at ground floor level, known as the "Terracotta Pot Shop" and 5 flats / maisonettes above, under a flat roof.

8. There is a tarmac surfaced car park to the rear of BH and RL which is approached via an archway underneath part of BH; the car park leads to one block of 11 garages and a further block of 4 garages. There are various flights of steps at the rear of BH & RL leading to walkways and verandas, from which most of the residential units may be accessed.

## THE LAW

9. Section 19(1) of the 1985 Act provides that :

*"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."*

Section 20 of the 1985 Act provides that :

*(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.*

.....

*(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.*

The "appropriate amount" prescribed by Regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations No. 1987 of 2003, is £250.00.

Sub-Sections 27A (1), (2) and (3) of the 1985 Act provide that :

*“(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 cost, 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.*

“Service Charges” are defined in Section 18 of the 1985 Act as follows

*(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, 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*

*18(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.*

## **HEARING & REPRESENTATIONS**

10. The hearing was attended by the Applicants Mrs Jordan and Miss Fitzgerald, and also Mr Jordan. Mr Burns appeared for the Respondent company accompanied by Mr Stephen Webb.

11. The Tribunal sought initial clarification on a number of points including as to whether any matters had been agreed between the parties following the pre-trial review hearing. Protracted explanations were given by both sides from which it transpired that in reality, little had actually been definitively agreed. The Tribunal asked if coloured copy lease plans were now available; it appeared however, that no colouring had been inserted in either of the original lease plans to identify "the Building" as defined by reference to such plans, in each of the Flat 3 Lease and the Flat 5 Lease.
12. The Tribunal sought further initial clarification regarding the matters actually in dispute for each of the relevant years from 2004 to 2012. Miss Fitzgerald confirmed that the primary concerns for each year were the insurance apportionment & amounts; service charge apportionments and various elements of service charges - managing agents fees, gardening, cleaning & repairs. Mr Burns raised the question as to whether it was appropriate or not to review service charges dating back beyond the more usual six year limitation period generally applicable to contracts. Miss Fitzgerald submitted that as a result of tragic family illness affecting her two children, who had subsequently died, it had not been possible to bring the application previously; she added that the Applicants had been repeatedly seeking information over the years but that the Respondent had failed to provide it. Mr Burns submitted that he did not oppose the making of an order under Section 20C of the 1985 Act; he expressed sympathy with Miss Fitzgerald in regard to her loss, but pointed out that a county court would not be able to order any refunds of service charges in any event for periods beyond six years ago, and that accordingly it made no sense to review earlier periods, adding that Mrs Jordan had in any event only acquired her lease in late 2006. Following a short adjournment, the Tribunal advised the parties that it would not consider the application in relation to any service charge periods prior to March 2007 on the basis that whilst Miss Fitzgerald's tragic family circumstances were duly taken into account, it would nevertheless be unreasonable in all the circumstances for the Respondent to be required to deal with challenges to service charges extending beyond the usual limitation period for contracts.
13. Initial submissions were then made by the parties, at the Tribunal's invitation, in regard to the following preliminary matters - (a) the meaning of the term "proportionate part" as used in the leases and deeds of variation; and (b) the appropriateness of the 60:40 split or apportionment of service charges as between BH & RL :-

"Proportionate Part"

Miss Fitzgerald submitted that this term meant not equal, but pro rated; she added that it might relate to individual flat bedroom sizes or floor areas and that there were many different possibilities. Mr Burns submitted that it was necessary to construe a lease as a whole document taking into account the intention of the parties; he added that if there had been an intention to relate the term "proportionate" to bedroom numbers or otherwise then the leases would have said so. Mr Burns further submitted that the term in context could only mean proportionate in regard to the number of units in the block.

"60:40"

Miss Fitzgerald submitted that the 60:40 split used by the Respondent to apportion costs relating to the service charges for both BH and RL, was not

referred to in the leases and was not sufficiently precise in relation, for example, to “chunky” major works costs. Mr Burns submitted that it was reasonable for a landlord to contract for works in relation to a number of blocks in its` ownership in order to optimise opportunity for economies of scale and he handed to the Applicants and the Tribunal a case report in that regard in relation to *South Tyneside Council –v- Ciarlo [2012] UKUT 247 (LC)*. Mr Burns added that all costs for BH and RL had been aggregated, but only until 2011; prior to that, he submitted that a 60:40 division represented a reasonable attempt at division given that BH comprises 15 units and RL comprises 10 units; he added that roofing works carried out in 2007 but only physically affecting BH, had been shared also with RL using this method; he said that the same argument applied to painting costs in 2009. Mr Burns said that whilst the arrangement was not perfect, it achieved a reasonable result overall and to an extent there were “swings and roundabouts”. Since 2011 a more precise division of costs had been introduced.

14. The Tribunal advised the parties that it would make a decision on the issues of “proportionate part” and “60:40” split during the course of its` deliberations following the hearing; the Tribunal invited the parties to make their submissions in regard to the disputed elements of service charges, year by year, for each of the years 2007 to 2012.

#### 2007

Miss Fitzgerald submitted that unfairness had resulted as a result of BH lessees being charged amounts in respect of insurance premiums for BH & RL, when RL included 5 commercial shop units, whilst BH included only 1 shop unit; she added that the insurance costs could easily have been allocated more precisely. Mr Burns agreed in principle, adding that from 2007 to 2011 the method used for apportioning insurance premiums had resulted in slight unfairness to BH lessees. In regard to the fee of £2,000.00 included in the service charge for management, Miss Fitzgerald said there was no invoice and the Respondent had managed BH & RL without external assistance. Mr Burns submitted that £2,000.00 equated to £80.00 per unit and that such sum was reasonable in any event. In regard to gardening, Miss Fitzgerald submitted that the figure of £870.00 included work to the garage forecourt; she pointed out that the 15 garages are separately let by the Respondent and are not let with any of the BH flats. Miss Fitzgerald added that there were very few shrubs and no hedging. Mr Burns said that gardening was invoiced at £10.00 per hour and that such rate and the time charged for, were not excessive. In relation to cleaning costs, Miss Fitzgerald submitted that the charges went beyond what is reasonable; Mr Burns pointed to Mr Spong`s invoices for cleaning; he submitted that all the work was fully invoiced and although the garage owners received a small benefit and should perhaps have contributed, the actual effect was minimal.

#### 2008

For insurance, management, gardening and cleaning, the comments submitted were the same as for 2007. However, the Applicants submitted that the items for Painting & Decoration in 2008 (£3,633.00) 2009 (£6,084.00) and 2010 (£1,811.00) were in reality a continuing or revolving contract such as to require the sums involved to be aggregated. Aggregation, she said, would then trigger the requirement for the landlord to consult with lessees under Section 20 of the 1985 Act; no such consultation had occurred. Mr Burns submitted that the work had

been undertaken on a year by year basis depending on need and weather conditions; it was not possible to continue such work through the winter season particularly in a sea front location. Mr Burns submitted that even the highest of the three sums involved, being £6,084.00 in 2009 equated to less than £250.00 per leaseholder on the basis that works affected BH and RL were pooled at that time. Tarmac work carried out to the garage forecourt area had cost £4,320.00 but the garage owners had evidently not contributed at all.

#### 2009

For insurance, management, gardening and cleaning, the comments submitted were the same as for 2007. The position for painting & decoration was the same as for 2008.

#### 2010

For insurance, management, gardening and cleaning, the comments submitted were the same as for 2007. The position for painting & decoration was the same as for 2008.

#### 2011

Mr Burns submitted that a more refined division of service charges affecting BH and RL was introduced during this year, following the appointment by the Respondent of external managing agents, Minster Property. Also the deeds of variation were respectively completed for each of Flat 3 and Flat 5 in September 2011; the material change resulting from the deeds of variation was that the Flat 3 liability to contribute to service charges was altered from "one-ninth" to a "proportionate part" to bring it in line with Flat 5. Miss Fitzgerald submitted that the new service charge division resulted in unfairness to BH, since BH lessees paid in advance towards same, whereas the RL insurance costs were debited in arrears. Miss Fitzgerald also questioned the item of £1,082.00 for Legal & Professional; Mr Burns submitted that the invoices for legal costs were recoverable under the provisions of Clause (iv) to the Schedule of Expenses in the Sixth Schedule of the leases; however if such costs were eventually recovered from the individual leaseholders concerned, then a credit would be allowed in the service charges in any event. An electronic version of the management contract with Minster Property was produced; the details were not entirely clear but the document did refer to a charge of £150.00 & VAT per unit on a fixed fee basis with effect from 25<sup>th</sup> March 2012. Miss Fitzgerald submitted that the £1,375.00 charges for asphalt work related only to a communal fire escape area, very little used by BH lessees; Mr Burns responded by saying that the leases included rights of way over such areas and that consequently it was reasonable for repair costs of same to fall within the service charges. Miss Fitzgerald further referred to an arrangement whereby the Terracotta Pot Shop had been invoiced for £320.00 for the half year, rather than the £420.00 invoiced to each of Flat 3 and Flat 5. Mr Burns said that the Respondent had nevertheless shown full service contributions of £12,600 collected (being £840.00 x 15) in his account at Page 1202 and that consequently any allowance to the Terracotta Pot Shop had been off-set at the cost of the Respondent.

#### 2012

No formal finalised accounts were available; only the interim invoices at Pages 103-104 of the Applicants` bundle in File A. Miss Fitzgerald submitted that the



managing agents were charging for an excessive number of site visits; Mr Burns submitted that Minster Property are entitled to charge for call-out visits and that the Applicants cannot argue the matter both ways; he said the Applicants were unhappy when the Respondent managed the building direct, but still unhappy when it appointed external professional managing agents.

14. In his closing statement, Mr Burns submitted that the claims about Minster Property being too expensive were bare allegations only and not well founded; as regards gardening, he said that the garden was not huge, but it was used in common and was well maintained. As regards the swings and roundabouts argument in relation to division of costs between BH and RL, he said that BH lessees had in some ways benefitted although not in others, but overall the differences were minimal. In regard to insurance, Mr Burns accepted that the Applicants had been marginally disadvantaged between 2007 and 2011 as a result of pooling premiums for BH & RL in circumstances where RL included a higher number of commercial units for which the cost of insuring would be proportionately higher; he submitted that this could if need be, be addressed by directing that the liability of Flat 3 and Flat 5 to contribute towards insurance in each relevant should not exceed £175.00, although the difference was minimal. In regard to the works carried out in 2008, 2009 & 2010 Mr Burns submitted that the arrangements were piecemeal and seasonal and not a single contract, but in the alternative he would seek dispensation on the basis that there had been no prejudice to the Applicants and in that regard, he produced a copy of the decision in *Daejan Investments Ltd –v- Benson [2013] 1 WLR 854*.

15. In their closing statement, the Applicants stated that they had never intended to be recalcitrant in regard to payment of service charges and that they wanted proper jobs to be done well, not cheaply. The Applicants submitted that the Respondent`s evidence as to credits being allowed to the Terracotta Pot Shop was not sufficient to convince them. The Applicants stated that they had been forced to make the application as a result of a lack of information being provided by the Respondent and an absence of clarity on many issues, adding that much of the documentation was unclear. The Applicants submitted that the Respondent had agreed certain areas for change but that this had only come about as a result of their persistent challenges. The Applicants said they could not follow how anyone might conclude that a 60:40 split was reasonable as between BH & RL; although they accepted the argument regarding economies of scale.

### **CONSIDERATION**

16. The Tribunal have taken into account all the oral evidence and those case papers to which we have been specifically referred and the submissions of the parties.
17. The Tribunal firstly considered the position in regard to the issues of what was meant by a “proportionate part” and the appropriateness of applying a 60:40 split as regards costs incurred on a pooled basis in respect of works to both BH and RL

“Proportionate part”

The Tribunal considers on the evidence presented to it that it is necessary to construe the leases as a whole and in the absence of any further qualifying

words, considers that the term “proportionate part” may only be interpreted as meaning equal in relation to the number of units. As regards the intention of the parties, the Tribunal notes that the Flat 3 Lease originally provided for a one-ninth contribution towards service charges, suggesting at least some history in relation to the development, of equal division of service charges based simply on the number of units. The Applicants had not put forward a specific alternative interpretation of “proportionate part”; they had merely indicated that there were various alternative possible meanings in their view. Accordingly the Tribunal is of the view that the term “proportionate part” in both leases and/or deeds of variation, means one-fifteenth or 6.66%.

“60:40”

The Tribunal notes that the Respondent had from 2007 to 2011 aggregated costs for both BH and RL, then simply allocated 60% of those to BH and 40% to RL. The Tribunal noted that the extent of the estate to which service charge contributions should apply, was unclear in both the Flat 3 Lease and the Flat 5 Lease, since it appeared that no appropriate colour edging to define the extent of “the Building” had been inserted in the plans for either lease. The Tribunal noted that the effect of the 60:40 split, had been in at least the case of two of the larger repair elements within the service charges, in favour of BH. The Tribunal noted at the inspection that the structures at BH and RL, in practice form a single continuous building; accordingly the Tribunal is persuaded by the “economy of scale” and takes the view that in all the circumstances, including defective plans and definitions in the leases, the 60:40 split represents a pragmatic division. Accordingly the Tribunal is of the view that the 60:40 split is reasonable, if not necessarily forensically exact.

18. The Tribunal then considered the position for each of the relevant service charge years as follows :-

#### 2007

Having accepted the division of costs on a 60:40 basis, the Tribunal further concludes that the amounts both charged and as apportioned, for insurance are within reasonable bounds. Similarly the Tribunal is of the view that the unit cost arising from the Respondent`s management fee is reasonable. The Tribunal takes the view that neither the gardening, nor the cleaning costs is excessive; whilst it was accepted that the garages had benefitted slightly from not being charged for sweeping, the overall effect is de minimis. The Tribunal accepts the submission made on behalf of the Respondent to the effect that there had been a “swings and roundabouts” effect generally, in which, on occasion the Applicants had benefitted but on other occasion, had not so.

#### 2008

The Tribunal is of the same opinion in regard to insurance, management, gardening and cleaning, as for 2007. In regard to the submission by the Applicants that painting and other works in 2008, should be aggregated with such work in 2009 and 2010, the Tribunal is of the view that those works were in reality separate contracts in each year, separated by time and the seasons. The Tribunal

noted no suggestion had been made by the Applicants that such work had been badly done and accordingly there was no obvious or apparent evidence of prejudice. Consequently Section 20 consultation would not have been required. However in regard to the tarmac work in 2008 carried out at a cost of £4323.00, the Tribunal considers that the 15 garages should have contributed. Accordingly the garage contribution should have been  $15/40 \times £4323.00 = £1621.12$ , leaving a balance of £2701.88 to be split on a 60:40 basis as to £1621.13 to BH and £1080.75 to RL. The one-ninth part of £1621.13 attributable to Flat 3 is £180.12, leaving a balance of £1441.01 to be divided proportionately between the remaining 14 units at BH, resulting in a liability of £102.93 being attributable to Flat 5.

#### 2009 & 2010

The Tribunal is of the same opinion in regard to insurance, management, gardening and cleaning, as for 2007.

#### 2011

The Tribunal is of the same opinion in regard to insurance, management, gardening and cleaning, as for 2007. However, during the course of this year, the Respondent had separated the accounts for BH and RL, resulting in a rather more sophisticated division of costs. The liability of Flat 3 to contribute to service charges also changed in September 2011, as a result of the deed of variation, from one-ninth to a proportionate part – the latter of which the Tribunal deems to be a one-fifteenth share. The Tribunal is of the view that the amount for Legal & Professional costs may be included in the service charge, albeit being later adjusted by a credit entry, if it transpired that such costs were recovered from the individual lessee concerned. The Tribunal is of the view that the amount of £1375.00 for asphalt work is reasonable, although in any event, only £825.00 is attributable to BH. The accounts presented for BH on Page 1202 of the Respondent's File D, rather unhelpfully still show the aggregated total of costs, including those for RL. Accordingly the Tribunal is of the view that the figures shown on Page 1202 for BH are correct subject to the deduction and adjustments of items attributable to RL. In regard to the credit entry for the Terracotta Pot Shop, the Tribunal accepts the evidence presented by the Respondent on the face of it, that it had adjusted the accounts to off-set such credit arrangement. The private arrangements between the Respondent and the lessees in this regard are not otherwise a matter for the Tribunal.

#### 2012

The Tribunal noted that no paper copy of the Minster Property managing agents contract had been produced, although brief examination had been made possible via Mr Webb's mobile phone; it was however clear that the fee arrangement in such contract was a fixed fee of £150.00 & VAT per unit. Accordingly, the Tribunal is of the view that no charges may be made by Minster Property for additional visits. However, no accounts had actually been produced for 2012; the evidence placed before the Tribunal had been at Pages 103-104 in the Applicants' File A which referred only to interim charges in any event, not apparently including charges for extra visits by the managing agents. Since no demands have yet been made it respect of such extra visits the Tribunal is not in a position to make any decision thereon.

19. In regard to the application in respect of the landlord's costs of these proceedings made by the Applicants pursuant to Section 20C, the Tribunal notes the concession made by Mr Burns at the outset of the hearing and accordingly orders that none of the costs of the Respondent in these proceedings are to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicants.

20. We made our decisions accordingly.

Judge P J Barber (Chairman)

A member of the Tribunal  
appointed by the Lord Chancellor

#### 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.