



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

Case Reference : LON/00CQ/LSC/2013/0728

Property : Properties at Mandara Point,
Drapers Fields Coventry West
Midlands CB1 4AF

Applicant : Mr S Johal

Representatives : In Person

Respondent : Freehold Managers Plc

Representative : Marston Management

Type of Application : For the determination of the
liability to pay a service charge

Tribunal Members : Judge P Leighton LLB
Mr L Jarero FRICS
Mr A Ring

**Date and venue of
Hearing** : 12th December 2013 at 10 Alfred
Place, London WC1E 7LR

Date of Decision : 28th January 2014

DECISION

Introduction

1. The Applicant seeks a determination from the tribunal in connection with his liability to pay service charges in relation to Flats 8 and 11 Mandara Point, Drapers Field, Coventry, West Midlands for which he holds long leases for 125 years from January 2006
2. By his application dated 18th October 2013 he challenges the service charge years from 2007 to the present time and makes a number of complaints regarding the management of the estate and further complains that the lease does not permit the landlord to charge for ground maintenance and/or that the amount charged for ground maintenance is too high. He also alleges that the ground maintenance charges should form part of the service charges and not charged in addition. In the directions dated 4th November and amended on 30th December 2013 the tribunal directed that the matter be dealt with by way of a paper determination and that there was no need for an oral hearing. Both parties have made written submissions to the tribunal.
3. It was determined that a number of the claims including the right to manage could not be dealt with under the terms of the application. The only issue which the tribunal is able to deal with on the application is the question of grounds maintenance including the maintenance of the access gates but other matters concerning the management of the premises relate to questions of internal management which is not the concern of the tribunal.
4. There is no claim for a reduction of the management fee which in the view of the tribunal is in any event reasonable, equating to only £100 per unit in block B and £120 in Block A. Both the Applicant's flats are in Block B.
5. Following the response from the landlord's surveyor Carlene Williams the Applicant has expanded a number of the complaints. The tribunal observes that if the Applicant wished to raise numerous complaints extending over many years and challenging the figures put forward by the landlord he should have requested an oral hearing so that all the matters could be fully investigated.

The Lease

6. The lease provides for the payment of service charges under Schedule 5 and the Applicant's contribution to the maintenance expenses is 1/24 of the expenses relating to the common accesses, the bin store the management area the parking spaces and the service installations except those within the buildings.
7. He is also required to contribute 4.777% of the expenses relating to the building in which the property is situated (in one of the two separate blocks 1-6 and 7-24) the common parts of the each building and the insurance of the maintained property

8. Under schedule 5 clause 5 the landlord is responsible for “keeping the Management Area in good condition and tending and renewing any lawns , flower beds hedges, shrubs and trees and maintaining repairing and (where necessary) replacing any walls fences paths benches seats or garden ornaments.”
9. By clause 6 the landlord is responsible for “inspecting repairing maintaining and resurfacing or replacing (where necessary) the parking spaces and the common accesses and all service installations forming part of the Maintained Property”.
10. By clause [7 he is also responsible for “providing operating maintaining and (if necessary) renewing and adding to the fixtures fittings and any furnishings provided in the common parts and the storage areas; any electronic security system in the common parts; the lighting apparatus of the maintained property .
11. There are a number of other clauses in the lease setting out the landlord’s responsibility for providing services to which the lessee is required to contribute under his lease.

The Submissions

12. The Applicant in addition to contending that the lease does not cover the provision of ground maintenance seeks guidance on the proper and reasonable use of the service charge in line with the lease. He also requires an AGM and other matters over which the tribunal has no jurisdiction. He also complains that there is no sinking fund kept by the landlord and about the state of the gates which he says are often not working and that no action is taken by the managing agents..
13. The landlord submits that ground maintenance is provided for under the lease and refers to the clause in importing 1/24th contribution being wide enough to cover this and other expenditure which is not specific to the blocks.
14. The landlord also says the Applicant is the only lessee in the building to make representation and other representations in support of the Application have been made by tenants (who do not contribute to the service charge) rather than by the leaseholders, and points out that the Applicant is almost £2000 in arrears with service charges.
15. The landlord gives an explanation of each of the complaints raised by the Applicant which the Applicant then seeks to challenge in reply often by simply raising a series of rhetorical questions.

The Tribunal’s Decision

16. It should be noted that the Applicant wishes to challenge numerous items of expenditure over a number of years but has paid the minimum application fee of £65 appropriate for a dispute of less than £500. According to Ms Carlene Williams the Applicant, who does not occupy either of the flats but presumably receives rent from them, owes £1982.60 in arrears . If he is challenging less than £500 it is somewhat surprising that he has not paid the balance. He does not in his application state how much is being challenged. In his final submissions he asks that the errors be corrected and the service charges “re evaluated”

17. The tribunal is satisfied that the clauses in the lease are wide enough to recover expenditure on grounds maintenance and on the access gates to the premises through the service charge
18. The tribunal is also satisfied that the landlord is entitled to charge such items separately rather than combine them with service charge expenditure which is specific to the blocks. Otherwise there would be no purpose in setting out separate proportions in the lease.
19. As to the costs of grounds maintenance the tribunal is not persuaded that the amount of £1014 per annum in 2011 for gardening is excessive. This results in payment by the Applicant of £22.50 per annum for gardening. The Applicant obtained a quote for £679 for the gardening costs but the tribunal has insufficient evidence that this was on a like for like basis.
20. With regard to the complaints about the gate this appears to be due to damage caused by persons unknown. The managing agents had written to leaseholders pointing out that unless new tenants were supplied with a fob by their landlords they were likely to damage the gates when trying to obtain access..It appears therefore that the managing agents may have reasonably decided to leave the gates open in order that everyone can gain access to their car.
21. If the Applicant has complaints about the management of the block he is entitled to take steps by seeking the appointment of a manager under Section 24 of the Landlord and Tenant Act 1987 or by way of an RTM company under the 2002 Act, but this is not part of this application. The amount charged for management fees is in the view of the tribunal reasonable having regard to the services provided and the tribunal does not see any basis for it to be reduced.

Chairman:.....Peter Leighton

Date 28th January 2014