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

Case Reference : **LON/00AH/LSC/2015/0515**

Property : **Various flats at Woburn & Bedford Court, Wellesley Road, CR0 2AF**

Applicant : **Mr John Hay –Arthur**

Representative : **Arko Property Management Ltd**

Respondents : **68 leaseholders in Bedford Court and Woburn Court as named in the application**

Representative : **N/A**

Type of Application : **For the determination of the reasonableness of and the liability to pay service charge**

Tribunal Members : **(1) Judge Amran Vance
(2) Mr J Barlow FRICS**

Date of Decision : **21 March 2016**

DECISION

Decisions of the tribunal

1. The tribunal determines that the amount payable by the Respondents, by way of estimated service charge, for the 2015/16 service charge year is their apportioned contribution under the terms of their respective leases towards the sum of £98,915.56.

Background

2. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (the "1985 Act") as to the amount of service charge payable by the Respondents in respect of various flats at Woburn & Bedford Court, Wellesley Road, Croydon, CR0 2AF ("the Estate") for the estimated costs for the year ending 24 December 2016. The estimated costs are in the sum of £98,915.56.
3. This application has been determined alongside a separate Application (LON/00AH/LSC/2015/0453) brought by the Applicant seeking a determination as to the amount of service charge payable by nine lessees of flats on the Estate (in respect of: (a) actual costs incurred for the year ending 24 December 2014; and (b) the estimated costs for the year ending 24 December 2015).
4. It appears from consideration of the hearing bundle supplied in the first Application that the Respondents flats are located in a purpose built development comprising a mixture of freehold town houses, leasehold maisonettes and leasehold town houses comprising 80 units in total ("the Estate"). The Applicant states in his statement of case in the First Application that the freehold and leasehold town houses do not pay towards the costs incurred in respect of the maisonettes but they do contribute towards the insurance of the Estate and the upkeep of its grounds, roadways and forecourts.
5. The Applicant has also stated that a previous agreement had been entered into by the freeholder and the lessees to refrain from any non-essential works to the Estate given that it was the freeholder's intention to sell the Estate to a developer following which the properties on the Estate would be demolished and the Estate redeveloped.
6. However, the intended redevelopment is, we are told, now unlikely to go ahead in the foreseeable future and in the interim the Estate has fallen into a state of disrepair which the Applicant now wishes to remedy by way of major internal and external works including road resurfacing works.
7. Consultation notices under s.20 of the 1985 Act were, we are told, served on the lessees and several comments were received which,

principally, comprised objections to the works proceeding in the expectation that redevelopment was imminent.

8. The relevant legal provisions are set out in the Appendix to this decision.
9. The tribunal has been provided with a sample lease for maisonette 1 and garage, 65 Wellesley Road, which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge.
10. Directions were originally issued by the tribunal on 6 January 2016 (“the Initial Directions”) which provided for the application to be determined without a hearing, on the papers, unless either party requested a hearing in which case it would be determined at a hearing. No party has requested a hearing and the application has therefore been determined on the papers.
11. The tribunal’s Initial Directions required the Applicant’s representative to serve copies of its application notice, the 2015/16 budget and the Initial Directions on the Respondents and on an Interested Party, Mr Gary Butler of Woburn and Bedford Residents Association (“WBCRA”) and to confirm to the tribunal by 15 January 2016 that this had been done.
12. The Initial Directions required the Respondents, either individually or together, by 29 January 2016, to send the landlord a statement setting out any objections to the 2015/16 budget with reasons.
13. On 5 February 2016 Arko Property Management (“Arko”) notified the tribunal that it had made an error in complying with the Initial Directions in that it had only sent the application notice and directions to the respondents in the First Application.
14. The tribunal therefore issued further directions on 9 February 2016 amending the date for the Respondent’s response to 19 February 2016 and directing that the Applicant notify the tribunal by 15 February 2016 that it had sent a copy of the application notice, the 2015/16 budget and the Further Directions to the Respondents and to Mr Butler. Arko provided that confirmation by letter dated 16 February 2016.
15. On 21 March 2016 in response to a request from the tribunal Arko confirmed that it had not received any statements from any of the lessees.

The tribunal’s decision and reasons

16. The Applicant has assured this tribunal that it complied with the requirement in the Further Directions to provide a copy of those Directions, the application notice and the 2015/16 budget to the Respondents.
17. Arko have also confirmed that no statements (which we take to refer to a lack of any statements setting out objections to the 2015/16 budget) have been received.
18. Given the assurances from the Applicant and the complete absence of any challenge being raised by the Respondents the tribunal can only conclude that the estimated costs in question are not in dispute. As such, we determine that they are payable in full by the Respondents in their apportioned share.

Name: Amran Vance

Date: 21 March 2016

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

- (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 or 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.
- (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.

Section 19

- (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 provisions 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

- (1) An application may be made to the appropriate 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 the appropriate 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.