

**IN THE MATTER OF**  
**HARBOURS EDGE, 12-14 HOTWELL ROAD, BRISTOL, BS8 4UD**

**SOUTHERN RENT ASSESSMENT PANEL AND**

**LEASEHOLD VALUATION TRIBUNAL**

**CASE NO: CHI/00HB/LSC/2007/0071**

**AND**

**IN THE MATTER OF**

**AN APPLICATION – SECTION 27A OF THE LANDLORD & TENANT ACT 1985  
AS AMENDED (“THE 1985 ACT”)**

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**DECISION**

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**Applicants/Leaseholders:** Mrs Gillian Brown (Flat R)  
Mr Miles Bailey and Joanna Jones (Flat T)  
Mr Dale Scott (Flat C)  
Lt. Col. Simon Warner (Flat L)  
Alana Hindle (Flat G)  
Clare Hargreaves (Flat I)  
Mr Graham Howe (Flat B)  
Mr George Spiteri (Flat E)  
Stephanie Siu (Flat A)  
Mr Philip Gibson (Flat H)  
Mr Cheung-Meng Pang (Flat J)

**Respondent/Landlord:** Urban Creation 6 Bristol LLP  
10 Crown Place  
London  
EC2A 4FT

**Premises:** Harbours Edge  
12-14 Hotwell Road  
Bristol  
BS8 4UD

**Date of Application:** 3 July 2007

**Date of Directions Hearing:** 5 September 2007

**Date of Inspection and** 12 December 2007

## **Hearing of Application:**

### **Venue of Hearing:**

The Appeals Service  
Vintry House  
Wine Street  
Bristol, BS1 2BP

### **Members of the Leasehold Valuation Tribunal:**

Mr A D McC Gregg, Chairman  
Mr S Hodges, FRICS  
Mr S Fitton

Clerk: Miss Nicola Bennett

### **Persons Present at the Hearing (For the Applicants):**

Mrs Gillian Brown  
Alana Hindle  
Clare Hargreaves  
Stephanie Siu

### **Persons Present at the Hearing (For the Respondent):**

Mr Jonathan Brecknell (From 11.40 a.m.)

### **Other Persons Present as Observers:**

Miss Zoe Mitchell  
Mr Rob Curley  
Mr James Tarr from Andrews Managing Agents

## **Preliminary Matters**

1. At 10.00 a.m. on the 12<sup>th</sup> of December 2007 prior to the hearing the Tribunal inspected the premises at Harbours Edge, 12-14 Hotwell Road, Bristol. The premises comprise 24 flats, the Applicants being the owners of 11 of those flats. The Tribunal in particular inspected the door entry system together with the water meters on the ground floor. The door entry system was also inspected on the first floor leading to the car park.
2. The Tribunal then adjourned to Vintry House, Wine Street, Bristol, for the hearing.
3. Initially there was no appearance from the Respondent.
4. The Tribunal had previously received and considered the papers relating to this case together with the Applicants paginated bundle, there being no papers or written representations from the Respondent.

## **The Issues**

The Applicant's case was put by Mrs Gillian Brown who asked the Tribunal to determine the liability in respect of specific items contained in the service charges for the years 2006 and 2007. Those specific items being:

- (a) The cost (the purchase) of the door entry system and
- (b) The cost of water supplied to the whole premises as opposed to the individual flats.

## **Relevant Liabilities under the Lease**

Liabilities for the provision of services and the payment of service charges are set out in Schedule 4 of the Applicants' lease, Pages 76-81.

## **The Law**

The Landlord & Tenant Act 1985 (as amended) is the applicable law. For the purposes of the 1985 Act a service charge is defined in Section 18(1) as "an amount payable by the tenant of a dwelling as part of or in addition to the rent

- (a) which is payable directly or indirectly for services, repairs, maintenance, improvement 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 (including overheads)"

"Relevant costs" are defined as costs or estimated costs incurred or to be incurred by or on behalf of a landlord or superior landlord in connection with the matters for which the service charge is payable. Section 20 of the 1985 Act sets out the consultation requirements that are to take place between a landlord (freeholder) and a tenant (leaseholder) prior to expenditure being incurred by way of service charges and the requirement to obtain estimates in respect of that expenditure.

## **The Hearing**

The hearing commenced at 11.00 a.m. and the case for the Applicants was put by Mrs Gillian Brown.

In summary they were as follows:-

### **Door Entry System**

That none of the residents were aware before, during or directly after the purchase of their flats that they would be liable for the capital costs of the door entry system. Furthermore, all the flats were sold on the understanding that the door entry system was included in the purchase price and no information was provided to the contrary.

The Tribunal was told that the Applicant had signed her contract to purchase her flat in or about October 2006. It would appear that the installation of the door entry system was completed on the 16<sup>th</sup> of August 2006 (see Page 16 of the Applicant's bundle). There was an indication that the contract for the installation had been signed on the 27<sup>th</sup> of September 2006 but it transpired that it was not in fact signed by Mr Jonathan Brecknell on behalf of the Respondents until April 2007.

The first indication that a charge for this installation may be made as part of the service charge is contained in Document 13A of the Applicant's bundle where Mr Tarr from Andrews, the managing agent, has written on the service charge budget "or £1,920 plus VAT NACD". At the time of purchase the Applicant therefore regarded the door entry system as part of the fabric of the building, particularly because it had been listed in the specification of the flat (see Page 21 of the Tribunal's bundle). When questioned by the Tribunal Mr Brecknell on behalf of the Respondent agreed that in hindsight the door entry system should have formed part of the original purchase contract.

The Applicant takes no issue with the door entry maintenance charge of £500 or the door entry telephone charge of £1,000 for the dedicated phone line and accepted that these were proper items for the service charge.

The Tribunal, having considered all the documentation and heard from both the Applicant and the Respondent, concluded that the purchase cost of the door entry system was not a proper item to be included as a service charge.

Furthermore, the requirements of Section 20 of the Landlord and Tenant Act 1985 had not been complied with.

### **Water Meters**

The Applicant maintained that a number of the internal water meters had never worked correctly. Mr Tarr confirmed that there was one external water meter provided by Bristol Water in respect of the water supply to the entire building. He furthermore confirmed that when the bill was received from Bristol Water it was divided by amongst all the tenants on the basis of the square footage of each flat as with the other service charges.

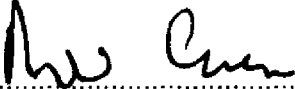
The Applicant contended that this was inequitable because a number of the flats were in sole occupation whereas others were in multiple occupation and indeed some of the flats were empty for much of the time. The Tribunal heard evidence that the defects with regard to the water meters had become apparent and been reported to the Respondent during the warranty period.

The Tribunal therefore considered that the cost of repair, replacement or rectification of the water meters should not be borne by the flat owners as a service charge but should be borne by the landlord Respondent.

Mr Brecknell, on behalf of the Respondent, confirmed that since the defect had been brought to his attention within the warranty period meters would be repaired, replaced or rectified at no cost to the Applicant tenants.

### **The Decision of the Tribunal**

1. That no part of the capital cost of the door entry system should be payable by way of a service charge by the Applicants.
2. That no cost for the repair, replacement or rectification of the water meters on the premises should be charged as a service charge to the Applicants.

Signed  .....

Andrew D McCallum Gregg (Chairman)

A Member of the Southern Leasehold Valuation Tribunal appointed by the Lord Chancellor

Dated: 20<sup>th</sup> December 2007