

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE

DECISION OF THE SOUTHERN LEASEHOLD VALUATION TRIBUNAL

GRANVILLE HOUSE, VICTORIA PARADE, RAMSGATE KENT CT11 8DF

Applicant: Abvale Ltd (Landlord)

Represented by: Mr J Dahms of the Property Management Company (YYZ) Ltd.

Respondents:

1. Granville House Leaseholders Association
2. Mr and Mrs P Taylor (Flat 20)
3. Mrs K Mirza (Flat 29)
4. Mr F Murray (Flat 49)

Represented by: Mr A Kimpton (Flat 12)
Ms F Sherriff (Flat 21)

Date of Hearing: 25 March 2009

Date of application: 29 December 2008

Members of the Leasehold Valuation Tribunal:

Mr M Loveday BA(Hons) MCI Arb
Mr CC Harbridge FRICS
Mr R Athow FRICS MIRPM

1. This is an application for a determination of liability to pay service charges under s.27A of the Landlord and Tenant Act 1985 ("LTA 1985") in respect of Granville House, Victoria Parade, Ramsgate.

2. By an application dated 10 September 2008, the landlord (by its administrative receiver Mr D Abbott) sought a determination under s.27A(1) in respect of the following relevant costs:

(a)	2002 ¹	£ 39,916
(b)	2003	£ 49,202
(c)	2004	£ 56,423
(d)	2005	£ 57,130
(e)	2006	£ 59,139
(f)	2007	£113,060

The application also sought a determination under LTA 1985 s.27A(3) in respect of interim service charges for the 2008 service charge year in the sum of £94,668. The respondent to the application was named as the Granville House Leaseholders Association, a recognised tenant's association under LTA 1985 s.29(1). At a Pre-Trial Review on 15 December 2008, it was ordered that the lessees of Flats 20, 29 and 49 should be joined as further applicants.

3. By a further application dated 16 February 2009, the Granville House Leaseholders Association (by its Chairman Mr Alan Kimpton, lessee of Flat 12) applied under s.27A of the Act to determine liability to pay service charges for the 2007 service charge year. The issue raised in the cross application was whether the relevant costs should or should not take into account a sum of £22,500 allegedly transferred by the landlord from a service charge reserve fund.

4. The Tribunal inspected the property immediately before the hearing. Granville House comprises a substantial 5-storey brick built former hotel on the seafront at Ramsgate.

¹ The service charge year in each lease runs from 1 January to 31 December

The building is in "Victorian Gothic" style with elaborate cast iron balconies and rain water goods and pitched tiled roofs. The building has been converted to provide some 27 flats and a portion of the building is in commercial use. The decorations are worn and the roof is showing signs of ageing. Internally, there is a period panelled entrance hall and staircases and the decorations are generally good. There is a modern fire control system with an 80 zone control panel, fire and smoke detectors, sounder units and emergency lighting throughout the common parts. The ground floor of the building is held on a commercial lease.

5. The hearing took place on 25 March 2009. Mr Jonathan Dahms appeared on behalf of the landlord. Mr Dahms is a Director of YYZ Ltd (trading as the Property Management Company). He is the managing agent for Granville House and was instructed by Mr D Abbott, administrative receiver for the landlord. The First Respondent was represented by its Chairman, Mr Alan Kimpton (Flat 12) and its Treasurer, Ms Fiona Sherriff (Flat 21).

PROCEDURAL MATTERS

6. The First Respondent is a recognised tenant's association under LTA 1985 s.29(1) (which gives it certain rights to be consulted under service charge legislation) but it is not a party to any of the leases at Granville House. On 7 November 2008, the Tribunal gave preliminary directions that if any lessee wished the First Respondent to represent them they should give written instructions to this effect. However, on 15 December 2008, three leaseholders were joined as parties (albeit described as "applicants") at the Directions hearing under paragraph 6 of the Leasehold Property Tribunal (Procedure) (England) Rules 2003.
7. No procedural objection has at any stage been raised by the landlord, the named leaseholders of the three flats or Mr Kimpton on behalf of the leaseholders' association. Whatever the technical status of the First Respondent, the Tribunal proceeds on the basis that both the landlord and the lessees of three flats are parties to this application and that they have proper *locus* to bring and respond to the present application. It should also be noted that the two representatives of leaseholders

association present at the hearing are themselves leaseholders. For the purpose of the application, the Tribunal therefore treats the lessees of the three flats as Respondents rather than applicants and proceeds to make a determination.

8. The second procedural issue is the cross application dated 16 February 2009. The landlord had not been given a proper opportunity to consider and respond to the issues raised in the cross application and it is inevitable that directions would have to be given for this to proceed. It was agreed at the hearing that the Tribunal could not make a final determination in relation to the 2007 service charge year at this stage. Separate directions were therefore given for the determination of the issues raised in the cross application and it was agreed that no order under s.27A should be made in relation to the 2007 service charges pending that determination.

THE SERVICE CHARGES

9. At the hearing, the Tribunal required Mr Dahms to formally prove each of the items of relevant costs. Copies of leases for flats 20, 29, 47A and 49 were provided to the Tribunal which were in similar form. Mr Dahms referred to clause 1 of the leases and paragraph 1.2 of the Seventh Schedule which provided for a service charge. The amount of the service charge was to be ascertained and certified annually and there was provision at paragraph 1.2.5 of the lease for payment of sums on account. The permissible relevant costs were detailed in the Eighth Schedule and Mr Dahms took the Tribunal through the detailed provisions of that Schedule. He then produced copies of the certified annual accounts for each relevant service charge year and a statement of estimated costs for the 2008 service charge year which set out estimated expenditure under a number of headings. Mr Dahms stated that in each year, the estimated charges and the draft certified accounts were submitted to the First Respondent, which made comments on them before they were agreed. He produced copies of letters from the First Respondent dated 3 October 2006, 21 August 2008 and 25 March 2009 to this effect. The Tribunal also asked about the process for arriving at the relevant costs. The costs of electricity and other similar items were checked annually against quotations given by other providers. The auditors advised on best value and the Applicant also discussed costs with the First Respondent. Insurance was

arranged through an independent insurance broker. Where consultation was required in relation to major works, the landlord had complied with LTA 1985 s.20.

10. Mr Kimpton confirmed that the landlord's figures were agreed (apart from the 2007 service charge year).

DECISION

11. In all the circumstances, the Tribunal is satisfied that the relevant costs in each of the service charge years 2002-2006 are recoverable under the terms of the leases. In addition, it is satisfied that those costs were reasonably incurred under LTA 1985 s.19(1). The Tribunal is further satisfied that the interim charge for 2008 is recoverable under the terms of the leases and that these relevant costs are reasonable under LTA 1985 s.19(2). Save for the 2007 service charge year, for which directions have been given, the Tribunal determines under LTA 1985 s.27A that the above sums sought by the Applicant are payable.



Mark Loveday BA(Hons) MCI Arb
Chairman
17 April 2009