



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

Case Reference : **MAN/00BN/LSC/2018/0063**

Property : **Flat 49, Jutland House,
15 Jutland Street, Manchester M1 2BE**

Applicant : **Dr Zubair Iqbal**

Respondent : **Urban Bubble, as the Management Company**

Type of Application : **Section 27A, Landlord and Tenant Act 1985**

Tribunal Members : **A Rawlence MRICS
Judge T.N. Jackson
S Hopkins FRICS**

Date of Decision : **13 June 2019**

DECISION

DECISION

The Tribunal determines that:

- The balancing charge for 2017 is due
- That there was no requirement for s20 consultation to take place over proposed works following a Part IV fire report.
- That the cost of the fire installation works at Junction Works is payable.
- That the cost of electricity is reasonable
- The Tribunal makes recommendations on better communication.

REASONS

Introduction

1. Dr. Z Iqbal (the Applicant) is the leaseholder of Flat 49, Jutland House, Jutland Street, Manchester M1 2BE. On 9 November 2018, he made an application for a determination of the reasonableness of his service charge.
2. Directions were issued on 7 December 2018 and both parties complied with these Directions.
3. Urban Bubble are employed to manage the three properties at Paradise Wharf (namely Junction Works, Whittles Croft and Jutland House) by directors of Paradise Wharf Management Company Ltd. Every leaseholder is a member of the company and directors are elected. Information is sent out by e-mail or mail and is also accessible through a portal.

The Law

4. Section 27A of LTA1985 provides that an application may be made to the Tribunal for a determination as to what service charges are payable, by whom and to whom. The Tribunal will seek to ensure that the level of service charges is reasonable, given the standard of service provided.

The Lease

5. The Lease is dated 18 May 2004 and runs for 150 years from 1 January 2002.
6. The Parties are:
 - Watkins Jones & Son Ltd - Landlord
 - Paradise Wharf Management Company Ltd – Management Company
 - Tenants Keith & Winifred McLeod – Tenants
7. The Ground Rent is £150 per annum and this increases every 25 years.

8. Part I of the Lease defines that:
 - 1.3 the current service charge means the service charge which is payable under the provision of Clause 8
 - 1.8 Service Charge Year means as the context requires
 - 1.8.2 a succeeding year ending on 31 December
9. Part IV 7.7 The Tenant covenants with the Management Company to pay the Current Service Charge being a charge for services provided by the Management Company and calculated and payable in accordance with the provisions of the Seventh Schedule.
10. The 7th Schedule sets out the calculation and payment of the current Service Charge
 1. To pay all or any of these services set out in Clause 10.1 and defraying the charges and expenses set out in Part 2 to this Schedule
 2. The Management Company shall as soon as convenient after the end of each accounting year prepare an account showing the amount of the costs in the immediate preceding year and shall supply the Tenant with a copy of such account and shall calculate the Current Service Charge which shall be final and binding on the Tenant.
 5. For each subsequent accounting year to pay a proportion of the previous Service Charge
 6. Any excess to be added to and paid by the Tenant with the next monthly payment and any overpayment to be credited against the next monthly payment.
 8. Any excess of overpayment carried forward from a previous year or years shall not include any sums set aside for the purposes of Clause 10.1.11
11. Clause 10.1.11 sets out the provisions of a sinking fund.

The Property

12. On the morning of 28th May 2019, the Tribunal inspected Jutland House at Paradise Wharf and found it to be a development consisting of 3 buildings set around the Paradise Wharf canal junction. Jutland House is located with a frontage to Ducie Street, and Whittles Croft and Junction Works are located across the canal. Each building is detached and there is a private self contained carpark to the rear of Whittles Croft and Junction Works. The applicant's property is located within Jutland House, this being constructed of 6 storeys with common access areas of halls, landings and stairways which in turn give access to apartments on each floor. The lowest floor below the level of the front door is occupied and let for office use. Paradise Wharf itself is located within Piccadilly, close to the station and commercial and retails areas of central Manchester.

The Hearing

13. The Hearing was attended by the Applicant, Dr Iqbal and for the Respondents Urban Bubble, Mrs. Andrea Hall and Mr. Steven Austin.

Applicant's Case

14. The Applicant's concerns were:

- £190.57 – account balancing for the year 2017
- Audit 6 mths late
- Lack of communication
- Big increase in utility bills
- Reactive maintenance high figure
- Mismanagement by Urban Bubble as compared to previous managing agents

15. Furthermore

- The split between fire alarm installation and fire stopping works led to no need for s20 consultation but should consultation have taken place?
- Was he liable as works should have been done when the flats were built?
- Were the quotes competitive?
- The level of communication was unacceptable
- Was harassment and manipulation used to cover up here ethical?

16. Dealing with the fire alarm and fire stopping or compartmentalisation works, he stated that the first he knew about it was after the service charge budget was sent to him in early February 2018, he received an invoice for a levy for these works. This was February 18 2018. It took him a while to find out that, following Grenfell, a comprehensive audit of the fire control system was carried out in July 2017. The recommendations from this report were a fire alarm system to be installed in Junction works and both Whittles Croft and Jutland House to have compartmentalisation works carried out.

17. He believed that, as these works all arose from the same fire audit, they should be treated as one job and thus subject to s20 consultation.

18. Communication about these works and damp-proofing works (which were also necessary) was poor; he had not received notice of a resident's meeting in early 2018 where the matters were discussed; the first opportunity to do so being at the AGM in June 2018. In addition, three written quotations had not been received for each job. He confirmed that he was not querying the damp proofing works.

19. Turning to the high cost of electricity used at the three premises, jointly known as Paradise Wharf, he felt that residents' concerns over these figures had not been addressed and there was no evidence that Urban Bubble had done anything to sort the problem. He felt that all residents should have had a communication about these charges and asked to keep a lookout for any abuses of the use of electricity. This had not happened.
20. The late audit of the accounts and the balancing charge not being charged to residents until June 2018 was another reflection that trust was not being met.

Respondent's Case

21. The Respondent stated that the directors of Paradise Wharf Management Company decide when meetings take place and what information is to be disseminated. Urban Bubble have a remit to spend up to £1,000 before seeking director' approval for any works.
22. In 2017 they had commissioned a Part 4 fire audit. Following this, two separate works to be carried out were identified – namely the installation of a fire alarm system at Junction Works and fire stopping works at both Whittles Croft and Jutland House. and These were done (or were in the process of being done) by two separate contracts. They had advised the directors of the Management Company that s20 consultation was not necessary. In any case, they were guided by AMRA (The Association of Residential Managing Agents) and if they were obliged to carry out a s20 consultation they would have done so.
23. They had not received an enforcement notice from the City Council but thought it prudent to carry out the works. The freeholder does not have to contribute to these works nor had he been asked to do so. There have been recent legal cases where the freeholder has not been held responsible.
24. It had proved impossible to find a contractor who was qualified to carry out the two different sets of works. Three quotations were received for the fire alarm works at Junction Works and once they had received quotations for this work, they had called a meeting in January 2018 of all the residents. By the date of that meeting, however, they had only received one quotation for the compartmentalisation works, two more quotations were received in March 2018; all three quotations being different companies to those who had quoted for the fire alarm works. Meetings generally were not well attended, and they were not aware that notification had not been received by all residents. They used an automated system for communication which was by e-mail or post where the resident had given such information.
25. The service charge budget has been issued in early February 2018 and they agreed that figures for the two sets of works had not been included in the budget even though there were notes about the works (items 23 and 24) on the following page. The directors decided to raise a levy for these works and this was issued later in February 2018. There was an administrative error (as it referred to section 20 works), and these were re-issued in March 2018 with a

- further letter in April 2018 with questions and answers attached in relation to these works.
26. The lease did not set a time limit for the audit of their annual service charge accounts and this had been done in June 2018 and slightly earlier in 2019.
 27. At the AGM in 2018, they had agreed that their communication could have been better.
 28. Turning to the cost of electricity used. They had been at a loss to explain the figures which had spiked in 2015. There were some problems with invoices at that time and since 2017 a graph of use showed a fairly consistent use of units over the year, albeit it with Whittles Croft showing a higher usage per floor space. They had employed consultants to check the meters and distribution boards who had found no faults. Their only suggestion was the installation of two heaters in the plant room for Whittles Croft had led to increase usage. They had recently changed electricity provider and hoped that the cost would now fall.
 29. On being questioned by the Tribunal, Urban Bubble confirmed that monies in the sinking fund had already been used for redecorating, repairing the lift, roof and balconies. The Directors wanted to build the sinking fund back up so asked residents for a levy to cover these unforeseen works, following Grenfell, rather than resorting to the sinking fund.
 30. It was apparent from the 2018 accounts that the cost of works for compartmentalisation were not included. The Respondent confirmed that the levy raised had been held over.
 31. The Applicant agreed with the Tribunal that he had not necessarily been financially disadvantaged by the lack of any consultation, but he wanted to be involved in any decision-making. His issue was that if section 20 consultation should have taken place it would have given him the opportunity to know what was being suggested and the opportunity to have some input, even though he accepted that he would not have had any knowledge of contractors in this area of work that he could suggest. Even if section 20 consultation was not required, there had been poor communication with the residents as he had had no knowledge of the fire audit and the subsequent proposed works; he had not known about any meeting in January 2018 and he was not aware of the consultations that took place between the directors and Urban Bubble. Communication with the previous managing agents had been excellent and when he had asked to see electrical invoices these were supplied.
 32. Urban Bubble stated that they had presented everything to the leaseholders and had not done anything against the lease or s 20. Moreover, at the AGM in 2018 they had been honest about their failings in communication.

33. Grenfell had caused them to carry out a Part IV fire audit which had raised two areas of essential works. They confirmed that they had a complaints procedure, including a reference to the appeal procedure to the Residential Property Tribunal Service.

Decision

34. No application was requested under section 20C LTA 1985 order.
35. The Tribunal determines that it is reasonable to pay the balancing charge of £190.57 for the year 2017. The Tribunal notes that the lease does not make provision for any specific time scale for the audited accounts.
36. The Tribunal determines that no s20 consultation was required for the works at Paradise Wharf following receipt of the Part IV Fire Audit. Junction Works, as a listed building, had to have fire alarm system installed not only in the communal parts but in every flat. This work was carried out and completed in 2018. Whittles Croft and Jutland House required additional works to the compartmentalising of the buildings thus guaranteeing the stay put policy (which was not possible at Junction Works). The Tribunal accepts the Respondent's argument that these were two separate works requiring different specialist contractors and that it was not a ruse to avoid section 20 consultation.
37. It became apparent, partly at the inspection and subsequently at the hearing, that the second set of works - the compartmentalising of the two buildings had not taken place during the service charge year in question i.e. from 1 April 2018 to 31 March 2019. There was no information about why these works were not carried out in the service year in question. This is the basis of Dr Iqbal's complaint – the lack of information. The Tribunal notes that the questions and answers in written format were provided in April 2018 and that Urban Bubble had apologised at the meeting in June 2018 for poor communication regarding the levy raised in February 2018. They had promised more defined communication from thereon. The Tribunal notes this did not occur.
38. The Tribunal determines that the cost of the fire alarm installation works should be part of the service charge and are reasonable. However, it cannot make a determination on the second set of works (compartmentalisation) as they are outside its jurisdiction, being a subsequent service charge year. The Tribunal notes the costs for this second set of works appear to be reasonable and would be payable as a service charge relating to that amount. Once costs had actually been incurred, it would be open for a leaseholder to make an application to the Tribunal if he considered the actual costs incurred to be unreasonable.
39. The Tribunal notes that the levy for these works is shown as a deferred item in the accounts for the year 2018 to 2019 and has not been transferred to the sinking fund.

40. The Tribunal was unclear as to why the spike in the electricity supplied in 2015 had occurred and notes the Respondent's attempts to get to the bottom of it. Again, it would have been good practice to inform the residents of this difficulty and the measures taken to sort this problem. Since January 2017 the amount of electricity used has been relatively constant, although the actual charges increased in 2017. The Respondent has now changed suppliers. The Tribunal determines that it is reasonable to pay these amounts. Although invoices were not produced to the Tribunal, the accounts have been audited.
41. The Tribunal comments that the Respondent needs to have clarity when communicating as to the distinct roles of the directors, leaseholders and the residents and communicate appropriately. Much of this case was the result of poor communication and communicating with Directors only to the exclusion of the leaseholders and residents. A more robust system should be in place to alert leaseholders/residents to open meetings.
42. If either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be made within 28 days of this decision (Rule 52 (2)) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

A J Rawlence MRICS
Chairman
13 June 2019