



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

**Case reference** : **LON/00BC/LSC/2023/0209**

**Property** : **Flats 1, 2, 4, 5, 6, 7 & 8  
De Vere Court  
91 Hoe Street  
Walthamstow  
London E17 4SA**

**Applicants** : **(1) Hornbeam Labs Limited  
(2) Timothy Quayle  
(3) Dr Lawrence Best  
(4) Mr Keahn Rahiminejad  
(5) Full Power Corporation**

**Representative** : **Ms Clare Munro**

**Respondent** : **Assethold Limited**

**Representative** : **Mr Richard Granby  
Tanfield Chambers**

**Type of application** : **Determination of the reasonableness  
and liability to pay service charge**

**Tribunal members** : **Mr I B Holdsworth FRICS MCI Arb  
Mr S F Mason FRICS**

**Date and venue of  
Hearing** : **13 December 2023  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **10 January 2024**

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**DECISION**

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## **DECISIONS OF THE TRIBUNAL**

### **Preliminary matter**

- a. The decision made by the Tribunal by Order of Judge Daley on 29 November 2023 debaring the Respondent from taking part in the application proceedings is upheld save for permission granted to Respondent's Counsel to question the Applicant on any written and oral submissions made at the hearing.

### **s27 A and 20 C Application**

- b. The Tribunal determines that disputed service charges amounting to **£31,375.98** are reasonable and payable for the service charge period 1 January 2019 to May 2023. The total annual sums payable for the disputed service charge items are as follows:

Service charge Year	Disputed charges payable <sup>1</sup>
2019/20	£528.00
2020/21	£7,345.00
2021/22	£3,965.00
2022/23	£13,136.58
Part 2023	£6,401.40

1. Payable in accordance with lease provisions

- c. A schedule at Appendix B lists the reasonable service charges for each item in the chargeable years in dispute.
- d. The Tribunal makes a s.20C and paragraph 5A Order under the provisions of the Landlord & Tenant Act 1985 ('the 1985 Act') and paragraph 5A of Schedule 11 of the Commonhold & Leasehold Reform Act 2002 ('the 2002 Act') that prevents the recovery of costs incurred by the Respondent in these proceedings.
- e. The application and hearing costs incurred by the Applicants in bringing this application to the Tribunal to be reimbursed by the Respondent.

### **1. APPLICATION**

- 1.1 The Applicants sought a determination pursuant to s.27a of the 1985 Act and Schedule 11 to the 2002 Act, as to the amount payable as a service charge and the reasonableness of the administration charges for the service charge years 2019, 2020, 2021, 2022 and part 2023.
- 1.2 The Applicants applied for a 20c Order under the provisions of the 1985 Act and paragraph 5a Schedule 11 of the 2002 Act.

- 1.3 Initially an application was made to the Tribunal dated 12 June 2023, by Hornbeam Labs Limited ('Hornbeam'), with Ms Munro as the representative. Hornbeam was subsequently orally joined to the original application at the hearing by additional applicants following a series of written requests made to the Tribunal, all of which confirm Ms Munro as acting on their behalf in this matter. Assethold Limited ('Assethold') is the named Respondent with Eagerstates confirmed as its managing agents.
- 1.4 The Tribunal issued Directions on 19 July 2023, which identified the issues in dispute, in relation to service charges demanded by the Respondent since it had acquired the freehold of the Property in 2019. The total sum in dispute was identified as £65,222.63.
- 1.5 The Directions provided for disclosure by the Respondent on or before 16 August 2023 of 'relevant service charge accounts, estimates, administration charges, all demands for payment and details of any payments made'.
- 1.6 The managing agent, Eagerstates who act on behalf of the Respondent did not comply with the Directions.
- 1.7 The deadline for disclosure was then extended by Tribunal (on 23 August 2023) to 6 September 2023. The Respondent and its agent again failed to comply.
- 1.8 The date for compliance was subsequently extended to 18 October 2023 and then 28 October 2023 by amended Directions issued on 23 October 2023.
- 1.9 On 31 October 2023 the Applicants applied for Assethold to be barred, from the proceedings because it had still yet to comply with Directions.
- 1.10 On 1 November 2023, Tribunal issued a Notice pursuant to rules 9(3), 9(7) and 9(8) of the Tribunal (Procedure) (First Tier) Property Chamber Rules 2013 that they were minded to bar the Respondent from taking any further part in the proceedings. On the grounds that they had:
- Failed to comply with Tribunal Directions.
  - Failed to cooperate with Tribunal, such that Tribunal could not deal with proceedings fairly and justly.
  - The Notice stated that the Applicants barring application should stand as their written representation on whether the Respondent should be barred.
- 1.11 The Tribunal then issued the following Directions:
- The Respondent must make its own written representations to Tribunal by no later than 15 November 2023; and

- Tribunal would then reconsider the matter in light of any representations received on or after 20 November 2023 and may bar the Respondent without further notice or issue further Directions as appropriate.
- 1.12 The Respondent thereafter failed to make any written representations to Tribunal before deadline date of 15 November 2023.
- 1.13 Judge Daley determined on 29th November 2023 the Respondent had failed to comply with Tribunal Directions given in the Notice and, pursuant to rule 9(7), the Respondent was barred from taking any further part in the proceedings.
- 1.14 The Tribunal is aware that some disclosure did take place after the deadline date of 15 November 2023.
- 1.15 On 12 December 2023 the Respondent made an application to the Tribunal seeking an adjournment of the listed hearing on 13 December 2023 at which the 27a was to have been decided.
- 1.16 This application was deemed as a preliminary matter to be decided prior to commencement of the hearing. The parties were advised of this decision, after receipt of the application on 12 December 2023.

## **2. THE HEARING**

- 2.1 A hearing was held on 13<sup>th</sup> December 2023 at Alfred Place.
- 2.2 The Applicants were represented by Ms Munro the Company Secretary of Hornbeam Labs Limited and the Respondent by Mr Granby, Counsel of Tanfield Chambers.
- 2.3 Mr Granby provided Tribunal with a skeleton argument and also advised he had been instructed by Mr Gurvits of Eagerstates, managing agent of the Property. Mr Gurvits did not attend the hearing.
- 2.4 Mr Munro also attended as an observer but did not give evidence.
- 2.5 None of the parties had requested an inspection of the Property, nor did Tribunal consider one was necessary, or that it would have been proportionate to the issues in dispute.

## **3. PRELIMINARY MATTER**

- 3.1 Mr Granby told Tribunal he acknowledged his client had not complied with the Directions issued by Tribunal in respect of disclosure. He referred Tribunal to an e-mail sent by Mr Gurvits at 17:01 on 15 November 2023, advising the Applicants that he was in the process of dealing with the request for disclosure of relevant information.

- 3.2 Mr Granby asked Tribunal to adjourn the hearing and offer both his client and him an opportunity to prepare the Respondent's case. He alleged the Applicants had broadened the issues in dispute since the original application was made. Mr Granby asked that this request be placed before the application to appeal the barring of the Respondent.
- 3.3 Mr Granby did not offer Tribunal any explanation as to why the Respondent had failed to comply with the Directions. He did however acknowledge that several extensions of time had been granted by the Tribunal.
- 3.4 Ms Munro argued against Tribunal adjourning the hearing or lifting the barring order. She said the Respondent had been given numerous opportunities to disclose the requested information; it had failed to provide any substantive information prior to the extended deadline of 15 November 2023. Ms Munro informed the Tribunal that, on this date, no information as specified in the Tribunal's Directions had been disclosed to the Applicants.
- 3.5 Ms Munro acknowledged that since 15 November 2023 some disclosure had taken place. She told the Tribunal that the Respondent's delay in compliance was entirely unnecessary. The information now provided in support of the historic service charges could have been disclosed when the information was first requested on 9 December 2022. The Applicants' Scott Schedules were submitted to Eagerstates for comment on 6 September 2023. Ms Munro was unable to explain why it took almost three-months for the Respondent to comment.
- 3.6 Ms Munro told the Tribunal the information disclosed was lacking in detail, and specifically relevant invoices were not supplied to support the accounts to 30 May 2023. The period 1 January to 30 May 2023 was referred to her as the '*stump*'.
- 3.7 Information disclosed in support of the insurance charges did not include the policy documents, certificate of insurance for several years and any credible evidence of a market testing exercise. Ms Munro contended that Tribunal's requirements for disclosure were not satisfied, even after the extended date of 15 November 2023 had passed.
- 3.7.1 **Tribunal's decision on the preliminary matter**
- 3.7.1.1 It is common ground between the parties that as of 15 November 2023 the Tribunal's Directions had not been satisfied by the Respondent. No explanation or reasonable excuse was proffered by Counsel for this failure by the respondent and their managing agent. No explanation for the failure to comply was offered by the Respondent.
- 3.7.1.2 The time period for disclosure of the information had been extended three times by the Tribunal.

- 3.7.1.3 The Respondent, Assethold and their managing agents Eagerstates are both experienced and knowledgeable property professionals. They are aware of their obligation to satisfy tribunal Directions. Their failure to comply with the Tribunal Directions without explanation or reasonable excuse is disrespectful to the authority of the Tribunal and of the powers granted to First-tier Tribunal by statute. The behaviour of the Respondent and managing agent in this matter has caused additional costs both to the Applicant and tribunal service. The application to defer the hearing was wholly unjustified given it is the failures of Assethold and Eagerstates to satisfy Directions that may have caused any information gaps and obfuscation.
- 3.7.1.4 The tribunal is cognisant that the overriding objective of the First-tier Tribunal is to deal with cases fairly and justly.
- 3.7.1.5 To this end the tribunal determined that the Order of 29 November is varied under the provisions of rule 6 of the Tribunal (Procedure) (First Tier) Property Chamber Rules 2013 in order to satisfy this objective.
- 3.7.1.6 The Order made by Judge Daley on 29 November 2023 barring the Respondent from the proceedings is upheld subject to a variation that permission is granted to Respondent's Counsel to question the Applicant on their submissions both written and oral at hearing.
- 3.7.1.7 The Applicants prepared and submitted a bundle on or around 8 December 2023 due to the failure of the Respondent to satisfy the requirements of the Directions. This was done to ensure the application proceeded on the listed date for hearing.
- 3.7.1.8 In the absence of any material effort on the part of the Respondent to collate and present relevant information the Tribunal determined that for the purposes of determining the s.27A application it would rely only upon the bundle prepared by the Applicants as submitted to the Tribunal on 8 December 2023.
- 3.7.1.9 Any information provided by the Respondent after the **15 November 2023** is deemed inadmissible unless included in the bundle prepared by the Applicants and relied upon in their submission.

#### **4. ISSUES IN DISPUTE AT THE HEARING**

- 4.1 Ms Munro told the Tribunal the dispute with the Respondent was over the reasonableness of the service charges made since 2019. She and the other Applicants did not dispute the s.20 consultation procedures and the payability of the sums charged.
- 4.2 Mr Granby asked Ms Munroe and the Tribunal to confirm the names and addresses of the leaseholders conjoined to the Application. Tribunal was able to assure him that the seven of the nine leaseholders at the Property were parties to this application. These parties had written to the Tribunal to ask to be joined to the 27A application. The joining parties requested Ms Munroe act on their behalf in the application.

- 4.3 Ms Munro also highlighted that the applicants request the Tribunal make a Section 20C Order and Schedule 11 determination.
- 4.4 A skeleton Argument was submitted by the Respondent's Counsel together with copies of Authorities. Counsel explained at the hearing he had been instructed less than 24 hours before the hearing and apologised for the late submission of the materials. Tribunal did not rely upon his submission at the hearing or in making the determination.
- 4.5 The Respondent submitted copy invoices and a link to a bundle on the morning of the hearing. The Tribunal deemed these materials inadmissible in accordance with the findings on the preliminary matter and Order.

## **5. THE PROPERTY**

- 5.1 The Property comprises a purpose built three-storey structure containing nine self-contained flats, three being two bed units, with the remaining six having one bedroom. The block occupies a former brownfield site in Walthamstow, north-east London and was completed in November 2012.
- 5.2 In 2018 the original freeholder, Glasspool Charity Trust, sold the freehold at auction to Assethold Limited, the Respondent.
- 5.3 Assethold appointed Eagerstates as the managing agent of the block they have managed the Property since 8 January 2018.
- 5.4 The leaseholders exercised their Right to Manage (RTM) and duly took over the right to manage the block under De Vere Court RTM Company Limited on 31 January 2023.
- 5.5 On exercising of the RTM, the leaseholders appointed Clarke Hillyer Limited, a local firm of surveyors and estate managers, to manage the block.

## **6. THE LAW**

- 6.1 The relevant legal positions are set out in the appendices to the Decision.

## **7. THE LEASE PROVISIONS**

- 7.1 The bundle contains a sample lease (pp.94-135).
- 7.2 The service charge provisions are at Schedule 7, (p.125 of the bundle); the services are defined in paragraph 7.3 of the lease as follows:

*'Repairing and whatever the landlord acting reasonably regards as necessary in order to repair, replacing, or renewing the retained parts,*

*Decorating the retained parts where appropriate or necessary.*

*Operating maintaining, repairing and whenever the landlord acting reasonably considers it appropriate, renewing, replacing or modifying the plant,*

*Placing and running maintenance contracts to the estate.*

*Providing suitable facilities for disposing of refuse, compacting it or removing it from the estate.*

*Providing reasonable lighting in the common parts inside the building and for the common parts outside the building.*

*Providing reasonable central heating to the common parts within the building.*

*Cleaning the windows and other glass of the retained parts and the outside of the windows and other glass of the building.*

*Supplying, maintaining, servicing and keeping in good condition and, whenever the landlord considers it appropriate, renewing and replacing all fixtures, fittings, furnishings, equipment and any other things the landlord may consider desirable for performing the services or for the appearance or upkeep of the retained parts.*

*Carrying out inspections and tests of the retained parts.*

*Planting, tidying, tending and landscaping any appropriate parts of the common areas ... providing, replacing and renewing trees, shrubs, flowers, grass and other plants in the grounds of the estate. Employing such persons as the landlord acting reasonably considers necessary ...*

*Discharging any amounts, the landlord may be liable to pay towards the expense of making, repairing, maintaining, rebuilding and cleaning anything that is appurtenant to the estate ...*

*Erecting, providing, maintaining, renewing and replacing noticeboards, notices ...*

*Administering and managing the building, performing the landlord's other obligations in this lease and preparing statements or certificates of and auditing the landlord's expenses ...*

*Discharging the reasonable and proper cost of any service or matter the landlord acting reasonably thinks proper for the better and more efficient management and use of the estate and the comfort and convenience of its occupants.'*

7.3 **Schedule 8 of the lease deals with insurance of the building. At 8.6.6 the lease states:**

*'The landlord will effect insurance for the cost of reasonable alternative accommodation necessarily incurred by the tenant in the event of a flat being made uninhabitable as result of damage or destruction by an insured risk in such amount as may be reasonable from time-to-time ...'*



## **8. THE ISSUES**

- 8.1 The service charges in dispute were listed by the Applicants on the Scott Schedules which were submitted to the Respondent for comment in September 2023. For each disputed item the Applicants provide an explanation of their justification and make a proposal of an alternative reasonable sum. No comments were received from the Respondent on these Schedules within the Direction timetable. Copies of these Schedules are appended to this decision at Appendix A.
- 8.2 The Tribunal has relied upon these Schedules as the primary listing of the disputed items. At the hearing the Schedules were used as an Agenda with each item discussed. Evidence was taken from the Applicant on the disputed items. Counsel for the Respondent questioned Ms Muroe on the relevance, accuracy and reliability of this evidence to the matter in dispute.
- 8.3 Several disputed service charges appeared in all service charge account years or a number of the account years. Recurring disputes between the parties include service charges for Insurance, Window cleaning, Bin cleaning and electrical works. These are reviewed by the Tribunal and a determination is given below. These findings are also shown in the Schedules.
- 8.4 A decision on the reasonable sum payable for each of the other matters in dispute is provided by item on the appended schedule. An explanation for each finding is made.
- 8.4.1 **Disputed insurance charges**
- 8.4.1.1 Ms Munro referred Tribunal to her statement of case, paragraph 39 (p.16), emphasising the key points she wished to make in respect of the insurance charge, namely:
- a. Insurance constituted a significant part of the whole service charge and, by 2023, it had increased in excess of 500% since the Respondent's managing agents had been instructed.
  - b. The insurance costs were opaque, with little or no information having been provided in respect of commissions or other financial incentives paid to the broker or Respondent.
  - c. There was a significant difference between the insurance costs incurred and the sums budgeted for these charges.
  - d. Neither receipts nor other proof of payment had been provided by the Respondent to the Applicants, despite repeated requests for such evidence.

- e. Concern was expressed as to whether a market comparison had been sought year-on-year by Eagerstates prior to the Respondent accepting the quotes and imposing the policy charges on the leaseholders.
- 8.4.1.2 Ms Munro explained that the managing agents on behalf of the RTM Company had recently gone to the market to seek quotes for the provision of insurance in respect of the Property.
- 8.4.1.3 Questioning by Counsel on behalf of the Respondent confirmed the policies secured by the RTM Co complied in full with the provisions of the lease. These also adopted rebuild costs that matched a reinstatement valuation obtained by the Respondent and the construction type accorded with that applied by the Landlord. It was the Applicants' contention that the quotes were for comparable policies to those put in place by the landlord.
- 8.4.1.4 The Applicants' market testing exercise revealed that insurance for the Property could be provided through Allianz at a premium of £1,804 for year 2023/24. A further quote was provided by Covéa Insurance in the sum of £1,935.
- 8.4.1.5 The details of both quotes are provided in the bundle.

#### 8.4.2 **Decision of Tribunal**

- 8.4.2.1 The Tribunal has considered the result of the market comparison testing exercise, as carried out by the Applicants and accepts the cover they have sought is a good match to the policies adopted by the Respondent.
- 8.4.2.2 Tribunal is aware of the findings in *Cos Services – v – Nicholson & Williams* [2017] UKUT 382 (LC), in which the Judge stated:

*'It will require the landlord to explain the process by which the particular policy and premium have been selected, with reference to the steps taken to assess the current market.'*

- 8.4.2.3 Whilst that case reference comments in *Forcelux – v – Sweetman* [2001] 2 EGLR 173 that states insurance charges reasonably incurred:

*'Cannot be a licence to charge a figure that it out of line with the market norm.'*

- 8.4.2.4 There is no evidence placed before Tribunal that a market comparison exercise was undertaken and that the insurance charges follow the norm for this type of building. The Respondent's charges for insurance exceed the £1,804 premium being quoted by a reputable insurance provider in 2023 for matching comprehensive cover in all previous disputed service charge years.

8.4.2.5 The Tribunal conclude from the evidence presented that comparable insurance cover was available to the Respondent during the years in dispute and that this cover was available from reputable insurers at a lower price. It is for this reason they determine the insurance charge for each and every year in dispute should be £1,800.

#### 8.4.3 **Reinstatement valuation surveys for insurance purposes**

8.4.3.1 The Respondent commissioned reinstatement valuation surveys in 2019 and 2022 the costs for which £1,500 and £750 respectively. Tribunal was told the 2022 reassessment survey was a desktop exercise based on the 2019 survey.

8.4.3.2 The Applicants confirmed the 2022 reinstatement valuation survey had not been made available to them.

8.4.3.3 Ms Munro told Tribunal that the RTM Co recently appointed managing agent who commissioned a building reinstatement costs survey and health and safety report at a total cost of £1,008 including VAT. She contended that the RTM Co costs implied a reasonable cost for a reinstatement valuation survey was in the order of £500, based upon this comparable quote.

#### 8.4.4 **Decision of Tribunal**

8.4.4.1 The Tribunal considered the evidence and the Applicants' submissions on this matter. They have experience and knowledge of these matters and determined a reasonable cost for an initial reinstatement valuation survey would be £750 plus VAT and a desktop update at £400 plus VAT.

#### 8.4.5 **Cleaning of bins charges**

8.4.5.1 The Applicants took the Tribunal to the invoices submitted in the bundle in respect of bin cleaning which showed a monthly charge for bin cleaning of £80.

8.4.5.2 It was explained that during the service charge year 2020 Eagerstates commenced a programme of regular bin cleaning, with the charges for years 2020/21/22 totalling £1,044. The Applicants contended that Eagerstates sanctioned the monthly bills for bin cleaning when this was wholly unnecessary, it was their opinion that a single clean of the two bins at a cost of £180 per year was reasonable.

#### 8.4.6 **Decision of Tribunal**

8.4.6.1 Tribunal was unable to reconcile the need for monthly cleaning of the bins.

8.4.6.2 After careful review the Tribunal determined an annual clean of the two bins was both necessary and reasonable. The sum payable in each service charge year is therefore £180.

#### 8.4.7 **Quarterly window cleaning charges**

8.4.7.1 Ms Munroe and her fellow Applicants challenged the reasonableness of the quarterly window cleaning costs billed by the Respondent at £1,109 per annum. She explained that she had recently received a quote for carrying out the work at £120 per quarter or £480 per annum. This quote did not provide for the cleaning of windows to overlooking balconies.

8.4.7.2 Mr Granby questioned Ms Munroe about the adequacy of the works specification underpinning the proposed window cleaning charges. She accepted that to comply with all lease provisions the two windows and glazed doors to the rear of the front balconies should be cleaned by the window cleaners. She did add that under the current arrangements this is not done.

#### 8.4.8 **Decision of Tribunal**

8.4.8.1 The tribunal accept the quote of £120 per quarter as reasonable but recognise this sum does not include a charge for all window cleaning as required by the lease. To account for these additional works to ensure lease compliance the sum quote is supplemented by 10% so a reasonable window charge is deduced as £132 per quarter or £528 per annum.

#### 8.4.9 **Electrical works charges**

8.4.9.1 The Applicants highlighted the escalating costs for electrical maintenance costs during the period post the Respondent taking control of block management through Eagerstates.

8.4.9.2 The spend on electrical works during this period is shown in the table below:

01 January to		
31 December 2019/20	Electrical maintenance costs	£469
2020/21		£1,972
2021/22		£5,020
2022/23		£10,621
2023	[until May]	£1,464

8.4.9.3 The Applicants explained to Tribunal that many of the costs incurred in monitoring and maintenance of the electrical supply were incurred without an explanation from the managing agents.

8.4.9.4 The disputed cost items are shown in the schedule at Appendix B.

8.4.9.5 The Applicants review and contentions for each of the disputed payments are included in the schedule.

#### 8.4.10 **Decision of Tribunal**

8.4.10.1 The Tribunal has taken oral and written evidence on each of the disputed charges for the electrical works. Counsel for the Respondent questioned the Applicant following her evidence in chief on these items of expenditure.

8.4.10.2 The Tribunal has considered the relevant evidence for each of these items and make a finding of fact for each charge. This is shown in the schedule together with a justification for each outcome.

#### 8.4.11 **Replacement of carpets through the common parts**

8.4.11.1 A s.20 consultation in respect of works to replace carpets took place in 2022 (p.300 of the bundle). At the consultation the Applicant/leaseholder Flat 2 raised concerns with the Respondent about the necessity to replace the carpets and suggested cleaning as an alternative was sufficient.

8.4.11.2 Tribunal was told these suggestions were rejected and the Respondent pursued their intention to renew the carpets on a like-for-like basis but in a darker colour than that existing.

8.4.11.3 Following collection of funds new carpets were laid and it is Ms Munro's and her fellow Applicants' opinion that the new carpeting is: -

- of a lesser quality than that which it replaced;
- does not include underlay nor gripper rods; and
- is a beige carpet rather than a darker colour as agreed between parties.

8.4.11.4 The Applicants also said that some 30% of the costs for the replacement carpets represented management charges at £1,642 including VAT and they considered this unreasonable. They contend for a 50% disallowance of the costs involved in replacing the carpet.

#### 8.4.12 **Decision of Tribunal**

8.4.12.1 Tribunal acknowledged a satisfactory s.20 consultation procedure was followed prior to the Respondent carrying out works to replace the carpet.

8.4.12.2 Photographs provided in the bundle confirmed the new carpet was beige and there was isolated poor-quality fitting.

#### 8.4.13 **Decorating charges**

8.4.13.1 Internal decorating of the common areas was carried out in 2022 following a Section 20 consultation procedure. The Tribunal were told the decorating was done 'carelessly' with little or no preparation of surfaces or woodwork prior to painting. Pictures to support these statements were provided in the bundle. It is alleged by the applicant the works carried out did not comply with the Section 20 Works Specification.

8.4.13.2 The Applicants claim there was no effective management of the decorating. The residents responded quickly to the substandard work and decorators did return to correct some of the defects. They seek a 30% reduction in the decorating charge of £4317 incl of vat and a disallowance of the management fee amounting to £777.17 inclusive of VAT.

8.4.13.3 Mr Granby did not question Ms Munroe on this matter.

#### 8.4.14 **Decision of Tribunal**

8.4.14.1 The tribunal accept the decorating works were initially below an acceptable standard but there is no evidence provided that the defects were not remedied. Accordingly, the full works charge is allowed. The Tribunal accept the comments about the management charge at £717.17 being excessive for this work and the level of management being inferior. The Tribunal reduce the allowed management charge by 50% to £388.58. The total decorating charge payable is therefore £4705.58.

#### 8.4.15 **Other service charge items in dispute for years 2019-2023**

8.4.15.1 Four Scott Schedules are appended at Appendix B. These set out the Tribunal finding for each of the remaining disputed sums.

8.4.15.2 The Tribunal has reviewed each item and made a Decision as shown in the schedule. The sums payable by the Applicant in accordance with relevant lease provisions show in column 6 with the explanation and justification for the charge given in column 5.

### 9. **s.20 COSTS**

9.1 Any determination with regard to s.20C and a paragraph 5A Order application is made on the basis of whether it is just and reasonable that the Respondent be prevented from recovering its costs of the proceedings based on the level of success enjoyed by the Applicant(s).

9.2 Ms Munro argued that it was necessary for the Applicants to make an application, due to the persistent refusal of the Respondent to provide appropriate information and undertake good management of the Property.

- 9.3 She referred to the failure of the Respondent to comply with the Tribunal's Directions, in particular, the timetable for disclosure of relevant information. The failure to comply with the Directions to disclose documents even after time extensions of several months was highlighted. The Respondent or Counsel offered no explanation or excuse for their failure to comply with Directions.
- 9.4 Tribunal has found in favour of the Applicants on most of the disputed issues and given these outcomes, the Tribunal determines that it is just and fair that the Respondent landlord cannot recover its costs of the Tribunal proceedings through the service charge provisions within the lease.
- 9.5 Tribunal makes a s.20C and paragraph 5A order preventing the recovery of costs incurred by the Respondent in the proceedings.
- 9.6 They also Order the Respondent to reimburse the costs of the Tribunal application and hearing fees to the Applicants.

**Name:** Ian B Holdsworth      **Date:** 10 January 2024  
Valuer Chairman

## **RIGHTS OF APPEAL**

- 1 If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional Office which has been dealing with the case.
- 2 The application for permission to appeal must arrive at the Regional Office within 28-days after the Tribunal sends written reasons for the Decision to the person making the application.
- 3 If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- 4 The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e., give the date, the Property and the case number), state the grounds of appeal and state the result the party making the application is seeking.



## APPENDIX B Scott Schedules

### DISPUTED SERVICE CHARGES – YEAR ENDED 25 DECEMBER 2019

CASE REFERENCE: Lon/00BH/LSC/2023/0209	PREMISES: DE VERE COURT, 91 HOE STREET, LONDON E17 4SA
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ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Sinking fund contributions	2017    £1,350 2018    £1,350  Disputed £2,700	Within scope of lease.  The actual 2017 and estimated 2018 accounts show sinking fund contributions of £1350 taken into account in assessing the budget. Use of the sinking fund is not shown in any accounts produced by the Respondent.  Demand mechanism not relevant.	The Landlord's comments were sought by Tribunal prior to 14.11.23 deadline made in Tribunal Directions. No comments were made by the Landlord by this date. Comments provided subsequently are not admissible.	This a matter which falls beyond the remit of Tribunal. Details of the sinking fund were not provided and there had been no agreement between the parties on the contributions made by the Applicants prior to purchase of the freehold by Assethold Limited the Respondent.	<b>N/a</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Quarterly window cleaning	Billed £1,109 Disputed <u>£629</u> Due £480	Within scope of lease. Excessive – cheaper quotes available, being £120 for quarterly clean. Not correctly demanded as service charge accounts and billing not in accordance with lease.		The Applicants obtained an alternative quote. Tribunal reviewed this quote and questioned the Applicants on the scope of the works. Further questioning of the Applicants was made by Counsel for the Respondent. Tribunal accepts this quote as reasonable for a comparable service that offered by Eagerstates. However, to ensure lease compliance a supplement of 10% is added for balcony window cleaning.	<b>£528</b>

## DISPUTED SERVICE CHARGES – YEAR ENDED 25 DECEMBER 2020

CASE REFERENCE: Lon/00BH/LSC/2023/0209	PREMISES: DE VERE COURT, 91 HOE STREET, LONDON E17 4SA
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ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Insurance 2020/21 + broker's fee	Billed £2,563 Disputed <u>£759</u> Due £1,804	Within scope of lease for 2020.  Unreasonable in amount. Alternative quote £1,804. No information supplied re commissions or fees.  Incorrectly demanded as accounts not made up in accordance with lease.	The Landlord's comments were sought by Tribunal prior to 14.11.23 deadline made in Tribunal Directions. No comments were made by the Landlord by this date. Comments provided subsequently are not admissible.	Tribunal has considered submissions from the Applicants and questioning by Counsel for the Respondent.  Tribunal accepts the comparable quote of Aviva for insurance of the Property.  Tribunal is also willing to apply this premium charge retrospectively to the years in dispute.	<b>£1,800</b>
Quarterly window cleaning	Billed £1,848 Disputed <u>£1368</u> Due £480	Within scope of lease.  Excessive – cheaper quotes available, being £120 for quarterly clean.  Not correctly demanded as noted above.	Ditto	The comparable quote obtained by the Applicants for the provision of this service is accepted as appropriate plus a small premium.	<b>£528</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Drone survey	Billed £250 Disputed <u>£250</u> Due £0	Within scope of lease for 2020 if it can be counted as an 'inspection'. Not a reasonable expense for a building of eight years old. Not correctly demanded as noted above.	Ditto	Tribunal is aware that drone surveys are helpful in gathering necessary information in preparation of a planned maintenance schedule. Therefore, the cost for this drone survey was reasonable, based on the experience and knowledge of the Tribunal.	<b>£250</b>
Works to gas meter cabinet and electrical cupboard	Billed £1,762 Disputed <u>£1,762</u> Due £0	Within scope of lease for 2020. Unreasonable cost in an eight-year-old building and unsupported with no information as to work done. Not correctly demanded as noted above.	Ditto	Tribunal is hindered in determination as to the reasonableness of this charge, due to a lack of information provided by the Respondent. No costs allowed due to lack of justification of costs.	<b>nil</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Fire health and safety – six monthly services	Billed £555 Disputed <u>£555</u> Due £0	Within scope of lease for 2020. Unreasonable as likely duplication of other fire risk work. Incorrectly demanded as noted above.	Ditto	It is noted these costs were incurred in 2019 but charged in the following year. It is not proven by the Applicants that this was a duplication of the fire risk assessment monitoring and therefore the sum is allowed.	<b>£555</b>
Assessment of fire-resistant external walls	Billed £2,712 Disputed <u>£2,712</u> Due £0	Within scope of lease for 2020. Unreasonable as duplication of work undertaken under Section 20 and expensed in the 2021 accounts. If this is something else, then it, plus the cladding investigation and surveyor for external walls, should form a project for Section 20 purposes. In that case the liability would be limited to £250 per leaseholder.	Ditto	Tribunal does not accept that this work would have required a s.20 consultation as it was a necessary safety survey. Tribunal has detailed experience of this type of work and deems the cost reasonable and payable.	<b>£2,712</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
		Not correctly demanded – if valid should be S20 works.			
Cladding investigation	Billed £1,500 Disputed <u>£1,500</u> Due £0	Within scope of lease for 2020. Unreasonable as noted above re external wall assessment. Not correctly demanded. Cladding work should form a project for Section 20 purposes. Likely duplication of actual s20 cladding works. Otherwise, liability limited to £250 per leaseholder for whole project	Ditto	Tribunal reviewed the submissions made by the Applicants and outcome of further questioning by Counsel for the Respondent. The Tribunal concludes these charges were reasonable and payable.	<b>£1,500</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Surveyor – advice on external cladding	Billed £945 Disputed <u>£945</u> Due £0	Within scope of lease for 2020. Unreasonable as noted above re external wall assessment. Not correctly demanded. Cladding work should form a project for Section 20 purposes. Likely duplication of actual s20 cladding works. Otherwise, liability limited to £250 per leaseholder for whole project	Ditto	<p>Tribunal reviewed both written and oral submissions made by the Applicants, together with responses made to further questioning by Counsel for the Respondent.</p> <p>Tribunal is unable to identify the purpose of this advice. A justification had not been provided by the Respondent as to why this advice was necessary. The surveyor's report arising had not been provided to the Applicants.</p> <p>Tribunal determines this sum is disallowed.</p>	<b>Nil</b>

**DISPUTED SERVICE CHARGES – YEAR ENDED 25 DECEMBER 2021**

CASE REFERENCE: Lon/00BH/LSC/2023/0209	PREMISES: DE VERE COURT, 91 HOE STREET, LONDON E17 4SA
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ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Insurance + broker's fee	Billed £1,954 Disputed <u>£150</u> Due £1,804	Within scope of lease for 2021. Unreasonable in amount. Alternative quote £1804. No information supplied re commissions or fees. Incorrectly demanded as accounts not made up in accordance with lease.	The Landlord's comments were sought by Tribunal prior to 14.11.23 deadline made in Tribunal Directions. No comments were made by the Landlord by this date. Comments provided subsequently are not admissible.	Tribunal has considered submissions from the Applicants and allowed further questioning by Counsel for the Respondent. Tribunal accepts the comparable quote of Aviva for insurance of the Property. Tribunal is also willing to apply this premium charge retrospectively to the years in dispute.	<b>£1,800</b>
Bin cleaning	Billed £360 Disputed <u>£180</u> Due £180	Within scope of lease for 2021. Unreasonable cost as bin cleaning is over frequent. Once a year is enough. Incorrectly demanded as above.	Ditto	Tribunal reviewed the submission that the frequency of bin cleaning was excessive and agree with this contention and accept the charge should be £180 pa.	<b>£180</b>



ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Quarterly window cleaning	Billed £1,109 Disputed <u>£629</u> Due £480	Within scope of lease. Excessive – cheaper quotes available, being £120 for quarterly clean. Not correctly demanded as noted above.	Ditto	The comparable quote obtained by the Applicants for the provision of this service is accepted as appropriate plus small premium to ensure all works completed.	<b>£528</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Electrical safety assessment	Billed £2,160 Disputed <u>£2,160</u> Due £0	Within scope of lease for 2021. Unreasonable in that work failed to identify remedial work required. Also, over frequent given ARMA advice to inspect every five-years. Incorrectly demanded as noted above.	Ditto	It was contingent on property managers to ensure the electrical wiring to the common parts with a Property is safe, secure and compliant. It is necessary for regular electrical safety testing to be undertaken. The costs for these works equate to £240 per leaseholder and this is considered excessive, The Applicants are not provided with details of the results of the periodic electrical inspection and testing (i.e. copy of the EICR).	

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
				<p>The Applicants had not been given any information following this inspection.</p> <p>It is difficult for Tribunal to determine whether or not the Applicants had received value for money.</p> <p>No charge allowed as expenditure not justified.</p>	<b>Nil</b>
Electrical safety rubber mat	Billed £809 Disputed <del>£759</del> Due £50	Within scope of lease for 2021. Unreasonable in amount. Rubber mats are available online for less than £50. Incorrectly demanded as noted above.	Ditto	<p>Information was not provided on the nature and purpose for this mat.</p> <p>The sum is excessive for an insulating rubber safety mat and it has not been explained by the Respondent why this was necessary. This lack of information has disadvantaged the Respondent in the Tribunal's decision-making process.</p>	

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
				Allowance made for mat at £50.00 A cost determination is therefore made based upon the experience and knowledge of Tribunal.	<b>£50</b>
Works around flues, overflow	Agreed on the basis that cladding work in 2020 is disputed	This item was misdescribed in the accounts; this was the cladding work. See 2020 schedule. Section 20 procedure	Ditto	Not applicable	<b>N/a</b>
Fire engineering consultancy	Billed £1,800 Disputed <u>£900</u> Due £900	Within scope of lease for 2021. Unreasonable as likely duplication of other fire risk work plus over-frequent inspections. Incorrectly demanded as noted above.	Ditto	Tribunal was told by the Applicants that no details of the fire engineering consultancy had been provided to them, despite their repeated requests to receive the outcomes arising from the consultancy. The Applicants accept some work was necessary and proposed they pay 50% of the charge.	

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
				Tribunal accepted this proposal as reasonable as no evidence to explain scope of works.	<b>£900</b>
Fire health & safety services	Billed £482 Disputed <u>£482</u> Due £0	Within scope of lease for 2021. Unreasonable as likely duplication of other fire risk work, e.g. fire engineering consultancy for £1,800. Incorrectly demanded as noted above.	Ditto	Tribunal is cognisant of the need for regular fire health and safety reviews. However, it is difficult for Tribunal to determine the necessity of these services when details have not been provided by the Respondent, to either Tribunal or the Applicants. It is for this reason Tribunal has determined this cost is not allowable.	<b>Nil</b>
Replace emergency lights	Billed £1014 Disputed <u>£507</u> Due £507	Within scope of lease for 2021. Unreasonable as further replacements required within two years. Incorrectly demanded as noted above.	Ditto	Replacement of the emergency lighting was deemed by the Applicants as a duplication of work undertaken less than two-years previously.	

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
				<p>Details in justification of these works had not been provided by the Respondent in any of its submissions.</p> <p>The Applicants accept some work was done and are willing to pay 50% of the costs.</p> <p>Tribunal, in the absence of any alternative evidence in support of the need for early replacement of the emergency lighting accepts this proposal.</p>	<b>£507</b>
Replace fluorescent lights	Billed    £439 Disputed <u>£0</u> Due    £439	Now agreed	Ditto	Agreed matter	<b>Agreed</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Fire alarm replacement	Billed £804 Disputed <u>£804</u> Due £0	Within scope of lease for 2021. Appears to be duplication of fire alarm upgrades undertaken under section 20 and paid for separately. Incorrectly demanded as noted above.	Ditto	Tribunal is similarly challenged by a lack of evidence from the Respondent as to the necessity to replace the fire alarm in a building of less than nine-years of age at the time the works were undertaken. It is for this reason this sum is disallowed.	<b>Nil</b>

**DISPUTED SERVICE CHARGES – YEAR ENDED 25 DECEMBER 2022**

CASE REFERENCE: Lon/00BH/LSC/2023/0209	PREMISES: DE VERE COURT, 91 HOE STREET, LONDON E17 4SA
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ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Insurance 2022/23 + broker's fee	Billed £4,212.67 Disputed <u>£2,408.37</u> Due £1,804.30	Within scope of lease but taken over by RTM co from 31/01/23. Unreasonable in amount. Alternative quote £1804. No information supplied re actual payment, commissions or fees. Incorrectly demanded as accounts not made up in accordance with lease.	The Landlord's comments were sought by Tribunal prior to 14.11.23 deadline made in Tribunal Directions. No comments were made by the Landlord by this date. Comments provided subsequently are not admissible.	Tribunal has considered submissions from the Applicants and allowed further questioning by Counsel for the Respondent. Tribunal accepts the comparable quote of Aviva for insurance of the Property. Tribunal is also willing to apply this premium charge retrospectively to the years in dispute.	<b>£1,800</b>



ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Bin cleaning	Billed £1,044 Disputed <u>£864</u> Due £180	Within scope of lease for 2022. Unreasonable cost as bin cleaning is over frequent. Once a year is enough. Incorrectly demanded as above.	Ditto	Tribunal reviewed the submission that the frequency of bin cleaning was excessive and agree with this contention and accept the charge should be £180 pa.	<b>£180</b>
Carpet cleaning	Billed £1,119 Disputed <u>£1,119</u> Due £0	Within scope of lease for 2022. Unreasonable as unnecessary given carpet scheduled for replacement from at least 4 February 2022. Incorrectly demanded as above.		Tribunal reviewed the submissions made by the Applicants, together with outcomes arising from questions raised by Counsel for the Respondent.	

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
				Tribunal has determined that cleaning of the common parts carpets was a fair and reasonable remedial decision by a competent managing agent when no carpet replacement is scheduled. The Tribunal allow £156 but disallow two further carpet cleaning invoices that are dated after the decision to replace the carpets.	<b>£156</b>
Quarterly window cleaning	Billed £1,116 Disputed <u>£636</u> Due £480	Within scope of lease. Excessive – cheaper quotes available, being £120 for quarterly clean. Not correctly demanded as noted above.	Ditto	The comparable quote obtained by the Applicants for the provision of this service is accepted as appropriate. The quoted cost plus small premium is therefore deemed reasonable.	<b>£528</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Decorating	Billed £5,095 Disputed <del>£2,305</del> Due £2,790	Done under Section 20 consultation. Unreasonable in amount due to poor quality of work and lack of management. Disputed to the extent of 30% of the cost and all of the management charge. Demanded via Section 20 notice, estimates and fees.	Ditto	A 30% additional management charge is not reasonable for the work carried out. The quality of the workmanship had been challenged and photographs in the bundle supported the Applicants' contention that the standard of decorative works had fallen below a reasonable quality. The full charge is allowed. Tribunal has therefore allowed 50% management charge (£388.58).	<b>£4,705.58</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Drains patchwork	Billed £864 Disputed <u>£864</u> Due £0	Within scope of lease for 2022. Unreasonable as unnecessary given lack of information on the repair work and previous invoices for drains work. Incorrectly demanded as accounts not made up in accordance with lease.	Ditto	It is not disputed that preventive works to drains is more cost effective than repairs following damage caused by debris blocking or other defects to the drainage. No evidence provided of need for drainage work to prevent damage. No sum allowed.	<b>Nil</b>

<p>Electrical work by BNO – Advance audit report and works</p>	<p>Billed:  Advance audit £1,805  BNO works £1,197  Annual inspection  <u>£2,220</u>  £5,222  Disputed <u>£2,972</u>  Due £2,250</p>	<p>Within scope of lease for 2022.  Unreasonable volume of work particularly from BNO Systems. Likely to be duplication or inadequate work on first visit necessitating further visits.  Not correctly demanded. BNO work should form a project for Section 20 purposes. Liability limited to £250 per leaseholder.</p>	<p>Ditto</p>	<p>Tribunal determined that a s.20 consultation procedure was not required as it constituted survey and necessary safety work.  It was however noted the annual inspection costs of £2,220 were above those typically incurred for this type of work.  The building network organisation works were separate to the annual inspection. No detail of these works is provided.  The purpose of the advance audit is not known, and it is for this reason the costs of the works is not allowed,  Applicants offered payment of £2,250 and Tribunal accept this offer as reasonable in absence of any</p>	<p style="text-align: right;"><b>£2,250</b></p>
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ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
				contrary evidence from respondent.	
Other electrical work	Billed £1,192 Disputed <u>£346</u> Due £846	Within scope of lease for 2022. Unreasonable amounts as likely to be duplication or inadequate work on first visit necessitating further visits. Incorrectly demanded as accounts not made up in accordance with lease.	Ditto	A lack of information in respect of other electrical works makes determination on these costs difficult. The opportunity to provide this information had been given to the Respondent for many months prior to it before debarred from the proceedings. No evidence available to support the charge proposed by Applicants. In absence of any reliable and credible evidence the whole sum is allowed.	<b>£1,192</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Front and side cleaning and repair	Billed: Front/side clean & repair £1,850 Retaining wall repair £1,800 Disputed <u>£1,825</u> Due £1,825	Within scope of lease for 2022. Excessive charge for a day's work done untidily and badly finished and split into two invoices. Not correctly demanded. Single day's work from one contractor should form a project for Section 20 purposes. Liability limited to maximum £250 per leaseholder.	Ditto	Tribunal does not accept this work required a s.20 consultation procedure, as it fell into two discrete events which were not related. The photographic evidence provided in the bundle was helpful in determining the extent and quality of the works. Following review of the photographs Tribunal accepted the proposal made by the Applicants that a sum of £1,825 was reasonable for these works.	<b>£1,825</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Removal of vegetation	Billed 630 Disputed <u>£630</u> Due £0	Within scope of lease for 2022. Duplication of grounds maintenance therefore unreasonable. Also not executed competently as bush is still in place. Incorrectly demanded as accounts not made up in accordance with lease.	Ditto	The Applicants made submissions on this matter, and these were questioned by Counsel for the Respondent.  It was not clear to Tribunal why it was necessary to pay a sum of £630 for the removal of a bush, such comprised gardening works which the grounds/ maintenance workforce could have undertaken.  Tribunal decided this sum was disallowed.	<b>Nil</b>
Survey for insurance purposes	Billed £750 Disputed <u>£250</u> Due £500	Within scope of lease for 2022. Should be reduced to £500 in line with 2023 reinstatement valuation cost. Incorrectly demanded as accounts not made	Ditto	Tribunal, based on its knowledge and experience of these matters, determined the survey was allowable at a fee of £480 inc VAT.	<b>£480</b>



ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
		up in accordance with lease.			
Timber bin cleaning/preservative	Now accepted		Ditto	Not applicable	<b>N/a</b>
Wooden door works	Now accepted		Ditto	Not applicable	<b>N/a</b>

**DISPUTED SERVICE CHARGES – PERIOD TO 31 JANUARY 2023/ACCOUNTS TO 30 MAY 2023**

CASE REFERENCE: Lon/00BH/LSC/2023/0209	PREMISES: DE VERE COURT, 91 HOE STREET, LONDON E17 4SA
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ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Insurance January 2023/24 + broker's fee	Billed £5165.93 Disputed <u>£3608.63</u> Due £1804.30	Within scope of lease but taken over by RTM co from 31/01/23. 2023/24 would cover period to 25.12.24. Unreasonable in amount. Alternative quote £1,804 Not correctly demanded as insurance is a management function taken over by RTM co so outside scope of Respondent's responsibility.	The Landlord's comments were sought by Tribunal prior to 14.11.23 deadline made in Tribunal Directions. No comments were made by the Landlord by this date. Comments provided subsequently are not admissible.	Tribunal has considered submissions from the Applicants and allowed further questioning by Counsel for the Respondent. Tribunal accepts the comparable quote of Aviva for insurance of the Property. Tribunal is also willing to apply this premium charge retrospectively to the years in dispute.	<b>£1,800</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Cleaning	Billed £600 Disputed <u>£457</u> Due £143	Within scope of lease until 31/01/23. Unreasonable for a five-week period compared with £1,726 for 12-months. Not correctly demanded as accounts are for a period covered by RTM company.	Ditto	This apportionment by the Applicants was not disputed by Counsel on behalf of Respondent. Tribunal therefore accepted the proposal that £143 was payable.	<b>£143</b>
Quarterly window cleaning	Billed £372 Disputed <u>£252</u> Due £120	Within scope of lease until 31/01/23. Excessive – cheaper quotes available, being £120 for quarterly clean. Not correctly demanded as noted above.	Ditto	The comparable quote obtained by the Applicants for the provision of this service is accepted as appropriate. The quoted cost is therefore deemed reasonable.	<b>£120</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Gardening and weed/hedge cutting	Billed £588 Disputed <u>£465</u> Due £123	Within scope of lease until 31/01/23. Unreasonable for gardening in January. Normal monthly cost is £61 maximum. Cost to 31/01/23 should be no more than two-months. Not correctly demanded as accounts are for a period covered by RTM company.	Ditto	This charge was discussed at the hearing, and it was agreed between the parties that £123 was reasonable for two-months' gardening charges.	<b>£123</b>
Light bulb replacement	Billed £864 Disputed <u>£864</u> Due £0	Within scope of lease until 31/01/23. Unreasonable given no supporting paperwork and failure of emergency lighting test within 4 months. Not correctly demanded as noted above.	Ditto	The Respondent had failed to provide any information to the Applicants for this period and Tribunal was hindered by a lack of detail in making a decision and this was the consequence of failure to comply with the Tribunal's Directions.	<b>Nil</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Management fee December 2021/22	Billed £756 Disputed <u>£531</u> Due £225	Within scope of lease until 31/01/23. Unreasonable due to possible duplication with previous year and disproportionate to whole year charge. Not correctly demanded as noted above.	Ditto	The Tribunal determines a management fee of £225 based on the apportionment of the annual charge for this period is due.	<b>£225</b>
Repair to walls and ceiling	Billed £1200 Disputed <u>£1200</u> Due £0	Within scope of lease until 31/01/23. Unreasonable given lack of any support or indication of what was actually done. It is therefore impossible to say what a reasonable charge would be for unidentified work. Not correctly demanded as noted above.	Ditto	No details in respect of these charges had been provided either to the Applicants or Tribunal. Tribunal's decision is that this sum is disallowed.	<b>Nil</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Handover charge	Billed £600 Disputed <u>£600</u> Due £0	No provision in lease for handover charges. Fee presented on invoice rather than service charge accounts. Amount is unreasonable as no handover work actually done.	Ditto	This is an unreasonable charge for the work required at handover to the RTM Company and the amount is therefore disallowed. No interaction by Respondent with RTM Co.	<b>Nil</b>
Inventory charge	Billed £162 Disputed <u>£162</u> Due £0	No provision in lease for inventory charges. Fee is unreasonable as no movable plant in the common parts and no inventory agreed with or made available to the RTM company. Not correctly demanded as accounts are for a period covered by RTM company.	Ditto	The outcome of the inventory had not been provided to the RTM Company nor the Tribunal. It was therefore not evident what work was done for this sum and the charges are disallowed.	<b>Nil</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Carpet	Billed £6,980 Disputed <del>£4,310</del> Due £2,670	Recarpeting work done under Section 20 consultation. Unreasonable in amount due to carpet quality, no underlay as per consultation and excessive management fee. Demanded via Section 20 notice, estimates and fees.	Ditto	It was evident to Tribunal that new carpeting was installed at the Property and the works were carried out after an appropriate and correctly conducted s.20 consultation procedure. However, the quality of the carpeting/fitting/underlay is deemed to fall below the standard expected by the Applicants and a reduction of 35% to cost is made. The management is charged at 15%.on the reduced total. Giving a revised sum of £3,990.40	<b>£3,990.40</b>

ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
EWS1 covering letter	Billed £600 Disputed <u>£600</u> Due £0	Within scope of lease until 31/01/23. Unreasonable because it is out of line with fees for the actual service, possibly a double charge, probably unnecessary if the Respondent acted conscientiously in 2020. Should have been part of the original s20 consultation so not properly demanded.	Ditto	This covering letter should have been requested by the managing agent at the time the building consultant prepared the work. This was a mistake made by the managing agent and the costs of securing the EWS1 covering letter are not deemed recoverable.	<b>Nil</b>
Communal doors trimming	Billed £330 Disputed <u>£330</u> Due £0	Within scope of lease until 31/01/23. Unreasonable expense as Respondent spent £1,375 on wooden door works in 2022. Why was it not done properly then? Not correctly demanded as noted above.	Ditto	Tribunal accepts some door trimming is necessary and typically a cost of around £100 per door was to be anticipated for works in the locality of this Property. The Respondent provides no details of the works so total cost disallowed.	<b>Nil</b>



ITEM	COST	TENANT'S COMMENTS	LANDLORD'S COMMENTS	TRIBUNAL DECISIONS	
				Narrative	Sum payable
Drone roof survey	Billed £300 Disputed <u>£300</u> Due £0	Within scope of lease until 31/01/23 if it can be counted as an 'inspection'.  Not a reasonable expense for a building approximately ten years old.  Not correctly demanded as noted above.	Ditto	Tribunal notes a survey of the roof via drone camera had been carried out less than two-years previously and it was not apparent from any submissions that this additional drone survey was justified.  Tribunal determines this sum is disallowed.	<b>Nil</b>
Code lock repair	Now accepted	Not applicable	Not applicable	Not applicable	<b>N/a</b>

## **APPENDIX C**

### **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.

## **Section 20**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either: -
- (a) complied with in relation to the works or agreement; or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.
- (2) In this section 'relevant contribution', in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement: -
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount; or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount: -
  - (a) an amount prescribed by, or determined in accordance with, the regulations; and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

### **Section 20B**

- (1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.
- (2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

## **Section 20C**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made: -
  - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
  - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
  - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

## **Section 21B**

- (1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.
- (2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.
- (3) A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.
- (4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.
- (5) Regulations under subsection (2) may make different provision for different purposes.

- (6) Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.