



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

**Case reference** : **LON/00AW/LSC/2023/0364**

**Property** : **Flat 27 and parking bay 15, One  
Wycombe Square Aubrey Walk London  
W8 7JF**

**Applicant** : **Campden Hill Residents Company  
Limited**

**Representative** : **James Sandham**

**Respondent** : **Caloway Consulting limited (BV)**

**Representative** : **Richard Devereux-Cooke**

**Type of application** : **For the determination of the liability to  
pay service charges under section 27A of  
the Landlord and Tenant Act 1985**

**Tribunal members** : **Mrs E Flint FRICS  
Ms M Krisko FRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **24 October 2024**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The tribunal makes the determinations as set out under the various headings in this Decision.

## **The application**

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable by the Respondent in respect of the service charge years 2020 and 2021.

## **The hearing**

2. The Applicant was represented by James Sandham of counsel at the hearing and the Respondent was represented by Richard Devereaux-Cooke of counsel.
3. Immediately prior to the hearing the Respondent handed in further documents, namely a supplementary bundle of 581 pages. The Applicant was willing to accept reference to any relevant documents. The Tribunal already had a trial bundle of 869 pages and skeleton arguments. It became apparent that there was no need to consider the contents of the supplementary bundle which was put to one side and not referred to by the parties or considered by the Tribunal.
4. Discussions between the parties resulted in the issues outstanding being narrowed to those set out below at paragraph 11.

## **The background**

5. The property which is the subject of this application is an apartment on the fifth and upper fifth floors of a purpose built block.
6. The Respondent took an assignment of a lease for 999 years from 1 January 2003 and is one of 50 leaseholders with a share in the freehold company, Wycombe Square Freehold Limited.
7. The Applicant is the appointed manager under the terms of the Lease. Parken Aspen has been the appointed managing agent since 2009 and is directed by Mr Solomon Unsorfer.
8. By clause 15 of the Lease, the Respondent covenanted to pay the applicant, as Manager under the Lease:
  - The Estate Service Charge

- The Apartment service Charge
9. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
  10. The Respondent holds a long lease of the property which requires the Management Company to provide services and the tenant to contribute towards their costs by way of a variable service charge.

### **The issues**

11. At the start of the hearing the parties identified the relevant issues for determination as follows:
  - (i) The payability and/or reasonableness of service charges for 2021 in respect of Security Services (£408,384), waterproofing a balcony (£40,436) and the Entrance Hall refurbishment (£72,820.31) plus £158,102.
12. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

### **Security Services: £408,384**

13. Mr Sandham for the Applicant confirmed that the cost in 2020 of £391,345.56 had previously been contested. However the respondent had accepted the reasonableness of the 2020 cost prior to the hearing. He called Mr Unsdorfer to give evidence regarding the 2021 costs.
14. Mr Unsdorfer referred to his witness statement. He explained that Wycombe Square comprises three blocks of flats and nineteen detached houses built over an underground car park. Twenty four hour security is provided 365 days of the year which requires the employment of three day guards and four night guards.
15. The Directors of the Management Company were anxious to keep costs down and, prior to his company's involvement in 2009, had entered into an informal arrangement with Mr Joseph, one of the Directors, to arrange the necessary cover. Mr Unsdorfer stated that to the best of his knowledge there was no written agreement. The salaries of the guards were paid out of the service charge account together with a 5% management fee to Mr Joseph. He was of the opinion that security guards were usually paid a little above the London Living wage and guards on a high net worth estate such as this would usually be paid more than the average wage for a guard. He said that the cost of the guards

equated to £13.92 per man hour which was not significantly above the Respondent's quotation at £13.50 based on security of a shop in Wigmore street. He did not consider the two jobs to be comparable.

16. Mr Devereaux-Cooke called upon Mr Mark Oleynik to give evidence who confirmed that the Respondent was a shell company of which he was a Director and that he and his wife lived at the subject premises.
17. Mr Oleynik stated in his witness statement that he had obtained a quotation for four security guards in the sum of £120,000. He could not recall ever having been consulted about the security services and was of the opinion that the cost in 2021 was excessive and unreasonable.

### **The tribunal's decision**

18. The tribunal determines that the amount payable in respect of security services in 2021 is £408,384.

### **Reasons for the tribunal's decision**

19. The cost in 2021 is less than 5% more than the cost in 2020 which the Respondent is no longer challenging. Invariably there will be adjustments to the annual cost due to increases in hourly rates, levels of sickness etc.
20. The quotation obtained by the Respondent was not on a like for like basis. The Tribunal determines that the costs incurred were reasonable and payable.

### **Balcony Waterproofing £40,436**

21. Mr Unsdorfer stated that the works had been subject to s20 consultation and competitive tenders sought. The notices had been posted or emailed in the same way as the bills are sent to the leaseholders.
22. The alternative quotation obtained by the Respondent was not comparable as it did not provide for scaffold access, the application of a self levelling compound or a protective layer on top of the membrane at costs of £4,855, £4,100 and £1,520 respectively. Adding these costs to the Respondent's quote of £19,500 plus fees of £4,100 would achieve a higher cost of £40,890. Mr Unsdorfer said that the tradesmen would not be allowed access through the common parts.
23. Mr Oleynik stated that he had had repairs to his balcony which were arranged by the managing agents, scaffolding had not been required because access had been provided by himself through his apartment. He

had experience in development and the self levelling compound would be part of the specification: it was the norm when repairing balconies.

### **The tribunal's decision**

24. The tribunal determines that the amount payable in respect of balcony repairs is £19,500 plus fees at 10% ( £1,950) and VAT giving a total of £25,740.

### **Reasons for the tribunal's decision**

25. The Tribunal was not satisfied that scaffolding was necessary. Clearly when the Respondent's balcony was repaired access was provided through the common parts. The Tribunal is an expert Tribunal and having considered the evidence of both parties determines that the Respondent's quotation represents the reasonable cost of the repair for a balcony which it was estimated was approximately 3m x 4m. We were not provided with a full specification or accurate dimensions. The evidence was that fees were charged at 10%, therefore the addition of £4,100 fees by Mr Unsdorfer in his calculation was incorrect.

### **Refurbishment of Entrance Hall £72,820 and £158,102**

26. Mr Unsdorfer said that the works had been subject to s20 consultation. Although there had not been formal observations a number of leaseholders had made their views known. Indeed if the s20 Notices had not been properly served the Board of Directors would have raised the issue with him.
27. He explained that the total cost of the work was not known because the project had not been completed. The sum of £158,102 was a tender figure which had been amended, no figures totalling this sum appeared in the service charge account. The sums actually expended were £8,610 in 2022 and £49,882 in 2023. The work had been tendered and the lowest quotation accepted.
28. The majority of the costs of the work will be spent in 2024.
29. Mr Oleynik asserted that he had not been consulted. However he accepted that communications from the managing agent were usually by email and that he had a large number of unread emails in his inbox.

### **The Tribunal's decision**

30. The Tribunal determines that the consultation under s20 was completed in accordance with the Act.

31. No determination will be made with the agreement of the parties as the works are in progress. It was accepted by both parties that the Respondent may wish to make a s27A application in the future when all the actual costs of the works are known.

### **Fees**

32. Both parties wished to consider their position regarding fees once they had received the Tribunal's decision. It was agreed that if either party wishes to make an application that Directions will be issued for the matter to be dealt with by written submissions.

**Name:** E Flint

**Date:** 24 October 2024

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).