FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**BIR/47UC/LIS/2023/0011**
Property	**:**	**Flats 15, 16 and 17 Leamington Court, Wells Road, Malvern, WR14 4HF**
Applicant	**:**	**Ms D E P Baker**
Respondent	**:**	**Leamington Court Management Company Limited**
Representative	**:**	**Counsel – Mr H Rowan, instructed by Realty Law**
Type of Application	**:**	**Applications under sections 27A and 20C of the Landlord and Tenant Act 1985 for a determination of liability to pay and reasonableness of service charges and the limitation of costs** **Application for costs under Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013**
Tribunal Members	**:**	**Judge M K Gandham** **Mrs J Rossiter MRICS** **Mr J Arain**
Dates of Hearing	**:**	**20, 21 September 2023 and 16 May 2024**
Date of Tribunal's Reconvene	**:**	**29 August 2024**
Date of Decision	**:**	**4 November 2024**

DECISION

Introduction

1. On 3 March 2023, the Tribunal received an application from Ms Daphne Evadne Portia Baker ('the Applicant') under section 27A of the Landlord and Tenant Act 1985 ('the Act') to determine whether the service charges demanded for the service charge years 2018/19, 2019/20, 2020/2021, 2021/22 and 2022/2023 were payable, and the amounts which were reasonably payable, in respect of Flats 15, 16 and 17 Leamington Court, Wells Road, Malvern, WR14 4HF (together referred to as 'the Property'). In addition, the Applicant made an application under section 20C of the Act in respect of costs.

2. The Property, although legally defined as three separate leasehold units (Flats 15, 16 and 17 Leamington Court), is actually a single residential apartment, registered at the Land Registry under Title Number WR143460, of which the Applicant is the registered proprietor.

3. The Property comprises part of a building known as Senior House ('the Building') which is situated on an estate called Leamington Court ('the Estate'). The freehold of the Estate is held by Leamington Court Management Company Limited ('the Respondent') and is registered at the Land Registry under Title Number WR140285.

4. Directions were issued to the parties in relation to the application on 12 April 2023 and an inspection was arranged for 20 September 2023, to be followed by a hearing scheduled to take place that afternoon and to continue on 21 September 2023.

5. Following the hearing, further directions were issued on 29 September 2024, including directions for costs under Rule 13 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 ('the Rules').

6. A second hearing took place on 16 May 2024 and the Tribunal reconvened on 29 August 2024, following receipt of information requested from the Respondent, to make its determination.

The Law

7. The relevant provisions in respect of liability to pay and reasonableness of service charges are found in sections 19 and 27A of the Act (as amended), which are set out as follows:

> ***Section 19 Limitation of service charges: reasonableness***
>
> *(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 provision 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 Liability to pay service charges: jurisdiction

(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.
…

8. Section 20c of the Act (as amended) provides:

Section 20c Limitation of service charges: costs of proceedings

(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….the First-tier Tribunal….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 person specified in the application.
…
(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.

9. The limited powers for a Tribunal to award costs are contained within Rule 13 of the Rules. The relevant parts of that Rule provide:

13.—(1) Subject to paragraph (1ZA), the Tribunal may make an order in respect of costs only—

…
(b) if a person has acted unreasonably in bringing, defending or conducting proceedings;
…

(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

(3) The Tribunal may make an order under this rule on an application or on its own initiative

The Leases

10. The Property appears to have originally been envisaged as comprising three separate apartments – Flat 15, Flat 16 and Flat 17 Leamington Court. As such, the leasehold title to the Property is held under three separate leases, each dated 16 September 1983 and made between (1) the Respondent and (2) Anna Dufa Storr-Egan and Brendan Storr-Egan ('the Original Leases').

11. On 10 October 2012, deeds of variation in respect of all three leases were executed between the Respondent and the then owners of the apartment, Nicholas John Parkes and Siobhan Josephine Williams, ('the Deeds of Variation'). The Deeds of Variation granted new leases for each of the flats for a term of 999 years from 1 January 2012 at a peppercorn rent but confirmed that the covenants, provisos and stipulations contained in the Original Leases still applied as if set out in full, subject to any modifications detailed in the Deeds of Variation.

12. In respect of the service charge, the Deeds of Variation amended the percentages for the apportionment of the service charge for the Property as follows:

FLAT	GENERAL	HOUSE
15	4.7	9
16	7	14
17	4.6	8.77

13. The other provisions in respect of service charge are as set out in the Original Leases, which were in broadly identical terms to each other.

14. Under clause 2 of the Original Leases, the lessees covenanted with the lessor to observe and perform the obligations set out in the Sixth Schedule, the lessor covenanting in clause 3 to perform the obligations set out in the Seventh Schedule.

15. In paragraph 16 of the Sixth Schedule to the Original Lease, the lessee covenanted as follows:

> 16. The Lessee shall comply with and observe any reasonable regulations which the Lessor may consistently with the provisions of this Deed make to govern the use of the Flats and the Reserved Property. Such regulations may be restrictive of acts done on the Estate detrimental to its character or amenities. Any costs or expenses incurred by the Lessor in preparing such regulations or in supplying copies of them or in doing works for the improvement of the Estate or in providing services to the Lessee and other Owners of Flats or in employing porters or other servants shall be deemed to have been properly incurred by the Lessor in pursuance of its obligations under the Seventh Schedule notwithstanding the absence of any specific covenant by the Lessor to incur them and the Lessee shall keep the Lessor indemnified from and against his due proportion thereof under Clause 19 of this Schedule accordingly.

And in paragraph 19, the lessee covenanted as follows:

> 19. The Lessee shall contribute and shall keep the Lessor indemnified from and against 4.7 % of all costs and expenses incurred by the Lessor in carrying out its obligations under and giving effect to the provisions of the Seventh Schedule hereto, including clauses 10 to 14 inclusive of that Schedule, after deducting interest, if any, received by the Lessor on cash in hand PROVIDED ALWAYS to the intent that the costs and expenses incurred by the Lessor in the maintenance repair decoration carpetting cleaning and lighting of the building in which the Premises are situated (being either Leamington House or Senior House as the case may be) is bourne only by the Owners of the Flats therein the Lesee will pay a 9.16% of such costs and expenses of the Lessor in complying with its obligations under Clause 4 6 and 7 of the Seventh Schedule in so far as the same relate to the particular building in which the Premises are situated and any sewers drains pipes wires ducts and conduits exclusively serving the same.

[*Although the above extract is taken from the original lease for Flat 17, all three leases contain identical clauses other than the amount of the apportionment payable, which was varied by the Deeds of Variation as stated above*].

16. Paragraph 4 of the Seventh Schedule referred to maintaining the "*Reserved Property*" in "*a good and tenantable state of repair decoration and condition*", paragraph 6 related to giving notices for works, and paragraph 7 referred to keeping the Building "*properly carpeted cleaned and in good order*" and *"adequately lighted"*.

17. Under paragraph 20 of the Sixth Schedule, the lessee covenanted to pay the lessor on account the service charge in two yearly instalments on 25 March and 29 September each year.

18. As the freehold of the estate is held by the Respondent, the management company for Leamington Court, paragraph 22 of the Sixth Schedule confirmed that the lessee was to procure that the owner of the apartment at all times held the relevant share and was registered as a member of the Respondent company as the holder of that share. As such, the Applicant (together with all other leasehold owners of apartments on the Estate) is a member and shareholder of the Respondent company.

19. Paragraph 11 of the Seventh Schedule to the Original Leases set out the provisions for the collection of the service charge and a reserve fund. It stated as follows:

> 11.(a) The Lessor shall so far as it considers practicable equalise the amount from year to year of its costs and expenses incurred in carrying out its obligations under this Schedule by charging against such costs and expenses in each year and carrying to a reserve fund or funds and in subsequent years expending such sums as it considers reasonable by way of provision for depreciation or for future expenses liabilities or payments whether certain or contingent and whether obligatory or discretionary.

(b) If and so far as any moneys received by the Lessor from the Lessee during any year by way of contribution to the Lessor's said costs and expenses are not actually expended by the Lessor during that year in pursuance of this Schedule nor otherwise dealt with so as to be an allowable expense in calculating the Lessor's income for tax purposes for that year the Lessor shall hold those moneys upon trust to expend them in subsequent years in pursuance of this Schedule and subject thereto upon trust for the Lessee absolutely.

The Inspection

20. The Tribunal inspected the Property on 20 September 2023. The Applicant attended and the Respondent was represented by Mr Kevin Gregory, a director of the Respondent company.

21. The Estate is located off Wells Road in Malvern, Worcestershire, just north of Little Malvern. It encompasses two large Victorian houses – the Building (Senior House) and Leamington House – in generous grounds, with a forecourt for parking and gardens to the rear. On the day of the inspection, the grounds appeared to be generally well maintained.

22. The Building comprises Flats 9, 10, 12, 13, 14 and the Property, together with common areas, such as entrance halls and stairwells. Flats 1 to 8 are located within Leamington House, which was not inspected. Both houses are made of solid stone and brick, with pitched slate roofs.

23. The Property is accessed via an internal staircase in the Building, leading to the entrance door to the Property located on the first floor. The Property itself comprises a hallway, kitchen, lounge and several bedrooms and bathrooms spanning over both the first and second floor, with part of a loft space above a section of the first floor (accessible from a hatch on the second floor) also included within the leasehold title to Flat 15.

24. The Property had been decorated to a high standard; however, there were clearly some areas of disrepair, such as cracks in the plaster and staining on parts of the internal ceiling and walls, indicative of a previous leak from the roof. The wooden frame of the window in the lounge was also in need of some repair.

The Hearings

25. The Tribunal held two hearings in respect of this matter. The first took place over the 20 and 21 September 2023 and the second took place on 16 May 2024. Although the main issues in respect of the disputed items of service charge and costs were dealt with at the second hearing, the Tribunal has set out below the background to both hearings and its decision, as this was taken into account when making its determinations on costs.

Documentation submitted for the first hearing

26. The Tribunal had been provided with skeleton arguments from both parties together with a trial bundle ('the Trial Bundle'), which included copies of the service charge invoices for the years in dispute together with invoices from 2019 to 2022.

27. The Applicant's Skeleton Argument, dated 19 September 2023, referred to issues relating to the installation of the alarm system and lack of consultation; unclear invoicing and accounting, and legal invoices which the Applicant submitted did not form part of the service charge. The Applicant also made a request for legal costs under Rule 13 of the Rules.

28. In a witness statement the Applicant had provided, dated 8 September 2023, the Applicant confirmed that she did not dispute that the gardening, cleaning and general maintenance had been carried out but questioned the calculation of the proportion of costs that had been allocated to her. She also raised queries regarding the reserve fund and specific invoices received from MWE Ltd and Lockton, as well as legal and insurance invoices provided within the bundle.

29. The Respondent's Skeleton Argument, dated 18 September 2023, pointed to the failure of the Applicant to produce a Scott schedule detailing the specific invoices she was disputing, as was required by the Directions Order dated 12 April 2023. As such, the Respondent submitted that it did not know the case it had to answer until it received the Applicant's witness statement and had, therefore, "*scrambled to adduce sufficient evidence*" to make the response.

30. Based on the witness statement, the Respondent considered that the dispute related to invoices for legal costs, the installation of a fire alarm and emergency lighting system installed and serviced by MWE Limited, invoices from Lockton Insurance, insurance invoices and the reasonableness of the reserve fund.

31. The Respondent submitted that the Applicant had failed to set out a prima facie case that any service charges were unreasonable and had produced no comparator evidence in support of her application. As such, the Respondent stated that any costs applications, including a section 20C Order and any Rule 13 costs, would be resisted.

The Hearing of 20/21 September 2023

32. The Applicant attended and Mr Gregory, accompanied by Mr Christopher Griffin (another director of the Respondent company), attended on behalf of the Respondent. The Applicant represented herself and the Respondent was represented by Mr Hugh Rowan of Tanfield Chambers.

33. During the first day of the hearing, the Applicant confirmed that she was neither disputing her percentage of the service charge or the frequency it was payable, rather she did not consider that the invoices had been apportioned between the Estate and the two houses in accordance with the lease provisions.

34. The Applicant also explained that she had been unable, from the information provided on the invoices, to understand how each invoice had been apportioned between the general estate service charge and that charged to the Building.

35. The directors explained that the invoices were stamped either Schedule 1 - an estate charge, Schedule 2 – a charge relating to Leamington House or Schedule 3 – a charge relating to the Building. The Applicant confirmed that, with that information, she would, on the following day of the hearing, be able to detail which invoices she was still disputing.

36. On 21 September 2023, the Applicant identified which invoices she was still disputing and the reasons why. As the Respondent had not had an opportunity to make any comments or submissions with regard to those specific invoices, the Tribunal confirmed that a second hearing would be arranged.

37. On 29 September 2023, the Tribunal issued a Directions Order by which the Respondent was directed to draft a new Scott schedule ('the Scott Schedule') setting out the identified invoices and the Respondent's response to the issues raised by the Applicant. The Scott Schedule was then to be sent to the Applicant for her to be able to give a short reply to the Respondent's response. Both parties were also asked to provide any written submissions regarding any application in respect of costs.

38. The Applicant was charged with producing a supplemental hearing bundle to include the information requested in the directions order.

The Hearing of 16 May 2024

39. The Applicant attended and represented herself at the second hearing. The Respondent was, again, represented by Mr Hugh Rowan and both Mr Gregory and Mr Griffin attended on behalf of the Respondent.

40. The Scott Schedule set out the invoices in dispute, with reference to the relevant page numbers in the Trial Bundle (shown in square brackets in this decision). Although both parties had completed the Scott Schedule, the Applicant also provided her own spreadsheets for the service charge years in question.

41. At the hearing, the Tribunal went through the items detailed as "*still disputed*" by the Applicant in the Scott Schedule and heard submissions from both parties in respect of the same.

42. After hearing the Respondent's submissions, the Applicant confirmed at the hearing that she no longer disputed some of the invoices [372], [649] and [781].

43. In relation to items marked as relating to insurance, the Applicant confirmed that she did not dispute those invoices which related to buildings insurance. She also queried whether an invoice received from Hunter Roofing [633] related to work carried out to both houses, as the invoice was unclear. She confirmed that the invoice was not disputed if it did relate to work to both houses.

44. Following the hearing, the Tribunal issued a further directions order requesting documentation to provide clarification regarding the invoice from Hunter Roofing [633], the insurance invoices and various transfers from the reserve fund ('the Additional Documentation').

The Issues in Dispute

45. From the parties' various submissions, in addition to the costs' applications, the issues in dispute related to:

- the allocation of the service charge,
- the invoices for legal costs,
- the invoices relating to insurance,
- the fire alarm system, and
- the reserve fund.

46. The Additional Documentation received from the Respondent following the hearing included an email received from Hunter Roofing which confirmed that their invoice dated 6 March 2021 related to work carried out to both houses. As such, invoice [633] was no longer in dispute. In addition, the Additional Documentation clarified which invoices related to buildings insurance, so again were not disputed by the Applicant: [332], [333], [442], [588] and [743].

Submissions on Service Charge

The Allocation of the Service Charge

47. The Applicant confirmed that, although she agreed that general maintenance had been carried out, her objection was to the amount of money that she was asked to pay towards those invoices, i.e. the allocation of the same. She stated that she could not understand how the Respondent had, initially, misunderstood this argument.

48. She stated that the Respondent's Responses, as set out in the Scott Schedule, clearly demonstrated that the wrong amounts had been billed to her. She stated that these included invoices that had been labelled to the wrong house and an invoice that did not even relate to work carried out on the Estate.

49. As such, she said that she had shown, as a matter of fact and law, that the service charges were unreasonable, as they had not been raised in accordance with the lease provisions.

50. The Respondent accepted that various invoices had been incorrectly stamped and confirmed that the allocation apportionment had been confirmed and clarified in the Scott Schedule. The relevant invoices were: [372], [385], [400], [403], [406], [410], [412], [415], [471], [472], [474], [475], [476], [494], [498], [609], [611], [612], [615], [617], [618], [619], [620], [622], [626], [633], [766] to [779], [781], [787], and [790].

51. The Respondent also confirmed that various items were in fact credit notes: [427], [429], [500] to [515], [636], [652] to [710], [795] to [841]. Again, the Respondent stated that it had confirmed and given an explanation of the charging in the Scott Schedule.

The Invoices for Legal Costs

52. The Applicant stated that she was a barrister and would have been prepared to provide advice free of charge to assist the Respondent, a company in which she was the largest shareholder.

53. She submitted that legal advice was not chargeable under the provisions of the leases and that there was no evidence to indicate that one of the legal invoices [314] related to advice received following the issuing of a section 22 notice. In any event, she submitted that section 22 notices were routinely dealt with by managing agents, and that the application for the appointment of a manager was currently before the FTT and that any legal costs should be dealt with as part of that application.

54. In relation to two invoices for legal advice relating to a GDPR request [424] and [566], the Applicant stated that the directors had conducted an unlawful campaign of harassment against her, including false and malicious complaints made to the Bar Standards Board, contacting companies she did business with and conducting a search of her personal records. The Applicant submitted that it was absurd that the Respondent had then billed her for the cost of legal advice given to the directors seeking to protect themselves against the action they had taken against her.

55. The Respondent submitted that legal costs are recoverable under paragraph 10 of the Seventh Schedule to the Original Leases, which provided as follows:

> *"employ and engage such servants agents and contractors as it considers necessary or desirable for the performance of its obligations under [the Seventh] Schedule and pay their wages commissions fees and charges."*

56. The Respondent stated that this general provision was similar to those found in in the decisions in *Assethold Ltd v Watts [2014] UKUT 537* – in which advice from a surveyor was allowed, *Bretby Hall Management Co Ltd v Pratt [2017] UKUT 70 (LC)* – where expenses included those reasonable costs of managing a development, and *Conway & Ors v Jam Factory Freehold Ltd* [2013] UKUT 0592 (LC) ('*Conway*') – which considered the position with regard to the appointment of a manager.

57. The Respondent placed particular emphasis on the dicta of the Deputy President in *Conway*, where he stated at paragraph 42 of that decision:

> *"The management of a complex residential building necessarily and routinely involves dealing with inquiries, complaints and criticism. If leaseholders seek the appointment of a new manager, or seek to persuade a landlord to make changes in the style or approach to management, the*

landlord's participation in such discussions would, in my view, also be "in the management of the building."

58. The Respondent stated that the legal invoices in the Scott Schedule were not costs in litigation but, instead, related to the management of the estate. As such, the Respondent submitted that they were costs incurred in performance of the Respondent's obligations under the Seventh Schedule, so were properly recoverable.

The Insurance Invoices

59. The Applicant submitted that it was impossible to tell from the invoices whether they related simply to buildings insurance, which she accepted was payable, or insurance for directors, which she stated was not recoverable as part of the service charge and should, instead, be paid by those who were covered by it.

60. The Respondent submitted that directors are servants or agents of the Respondent and that the cost of insurance was, therefore, an appropriate service charge cost. The Respondent noted that taking out directors' and officers' insurance where appropriate is expressly included in the RICS Service Charge Residential Management Code of Practice as an example of suitable insurance.

The Fire Alarm System

61. The Applicant had made a brief reference to not accepting charges for MWE Ltd, not knowing what work this related to and there having been no consultation for this work, in her first witness statement. In her Skeleton Argument, she also referred to no risk assessments having been carried out for the instalment of an alarm system "*of that nature*".

62. In her second witness statement, dated 23 November 2023, the Applicant contended that the alarm was installed as a part of a campaign of harassment against her. She stated that the alarm system included a sounder in her apartment and outside her door, and also the installation of emergency lighting which was activated by movement and came on every time she moved in her bedroom.

63. The Applicant stated that there was nothing in the documents provided by the Respondent which made the installation of tens of thousands of pounds worth of alarm mandatory, nor was it reasonable to have incurred such a cost. She referred to the risk assessment as "*nonsense*" and stated that the documents provided by the Respondent did not come close to complying with the consultation requirements under section 20 of the Act.

64. At the second hearing, the Applicant stated that she had not received any of the copies of the section 20 notices provided by the Respondent. She stated that she had been away from her apartment for lengthy periods and referred to her letterbox having been taped up while she was away.

65. The Respondent, in its statement of case dated 10 November 2023, confirmed that the works were subject to section 20 consultation under the Act and that the

consultation procedure had been followed. The Respondent referred to a witness statement provided by Mr Griffin, which noted that Fire Risk Assessments had been carried out by managing agents in March 2018 and February 2019, with a recommendation that an alarm and detection system and emergency escape lighting be installed.

66. A copy of the section 20 correspondence to the Applicant was provided, which included a Notice that the managing agent would be entering into a contract for the works with MWE Ltd. The Respondent also provided a copy of the 2018 and 2019 Fire Risk Assessments, which recommended the installation of a Grade A LD2 fire alarm system and emergency lighting, together with a copy of a Fire Risk Assessment carried out in February 2022 (following the works), which confirmed that no high-risk actions were identified at the time of the inspection.

67. The Respondent averred that the costs of the installation of the works fell within either the definition of "*improvement of the Estate*" or "*services*", as set out in paragraph 16 of the Sixth Schedule to the Original Leases, or within the ambit of paragraph 4 of the Seventh Schedule – keeping the Reserved Property in a "*good and tenantable state of repair decoration and condition*", which would include keeping the property safe in accordance with the Regulatory Reform (Fire Safety) Order 2005. Alternatively, the Respondent submitted it would fall within the definition of keeping the common parts "*in good order*" under paragraph 7 of the Seventh Schedule.

68. The Respondent confirmed that, in addition to the initial installation, the installers had carried out maintenance visits, callouts and repairs, all of which were recoverable under the above provisions. The relevant invoices were: [381], [389], [483], 495], [496], [629], [630], [631], [632], [637], [639], [640], [642] [647], [649], [650], [782], [783], [786], [788], [789], [791].

The Reserve Fund

69. The Applicant stated that, although regrettable, there was no provision in the lease for payments on account for a reserve fund and that the sums collected by the Respondent for it did not comply with either the provisions of the Seventh Schedule of the Original Leases or with RICS Guidance.

70. The Applicant submitted that the provisions of paragraph 11 of the Seventh Schedule provided that any excess of service charge should be carried towards a reserve fund used to reduce the service charge in subsequent years. She further stated that the Respondent had previously agreed to follow the RICS Code of Practice and signed a Consent Order dated 23 February 2018 ('the Consent Order') to that effect, but that there was no evidence that it had done so. [A copy of the Consent Order (FTT Ref: BIR/47UC/LIS/2017/0040) was included in the Trial Bundle.]

71. The Respondent noted that in a skeleton argument produced by Kerry Bretherton KC dated 19 February 2018 for that previous tribunal application ('the 2018 Skeleton Argument') [a copy of which was also included within the Trial Bundle], it stated at paragraph 22:

"*The Applicant does not complain about the existence of a reserve fund and acknowledges that it is a requirement under the lease. Rather, her complaint is that the reserve fund is being used to accumulate large sums of money in relation to matters which have not been properly considered or costed, extending decades into the future*."

72. The Respondent submitted that there was a clear entitlement to a reserve fund under paragraph 11 of the Seventh Schedule, which the above extract showed that the Applicant had previously acknowledged, and that in the absence of a clearly particularised challenge, the sums collected could not be stated as being unreasonable.

73. At the hearing, Mr Rowan noted that in the 2018 Skeleton Argument it referred to the Respondent, at paragraph 30, as having "*failed to obtain a survey or any other professional advice when calculating the costs of future work*" and that for large buildings, such as those on the Estate, it was appropriate to "*conduct a comprehensive stock condition survey and a life-cycle costing exercise, both undertaken by appropriate professionals*". Mr Rowan stated that the Respondent had carried out a survey and had commissioned a long-term expenditure plan, which dealt with both of these arguments.

74. The Additional Documentation supplied following the hearing included a copy of the survey – an Inspection Report carried out in August 2018 by IGA, together with an undated Leamington Court Long Term Expenditure Plan by HLM and a Long Term Cyclical & Maintenance Plan dated 9 July 2023 by Inspire Property Management.

Submissions on Costs

75. Although in her application form the Applicant had indicated that she did not want to make an application under section 20C of the Act but did want to make an application under Paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, her subsequent written submissions made it clear that she was making an application under 20C of the Act and an application under Rule 13(b) of the Rules.

Application for an Order under Rule 13

76. The Applicant confirmed that she was making an application, pursuant to Rule 13(1)(b) of the Rules, due to the Respondent's conduct both before and during the proceedings. She noted that the Upper Tribunal in *Willow Court Management Company (1985) Ltd v Alexander* [2016] UKUT 290 (LC) ('*Willow Court*'), had referred to both as being relevant to such an application.

77. The Applicant referred to the Respondent's conduct in this matter as being "*alarmingly unreasonable*" and "*so unpleasant and malicious*" that it fell at the extreme end of unreasonableness.

78. The Applicant drew the Tribunal's attention to the three stage test set out in *Willow Court*: firstly, that the tribunal must assess (as a value judgement not as an exercise of discretion) whether the conduct was sufficient to meet the objective standard of conduct threshold; secondly, that the tribunal must consider whether, in exercising its discretion, it was appropriate to make an award and, finally, the form and quantum of the cost award.

79. She submitted that in *Willow Court* it was held that unreasonable behaviour "*must*" include conduct which is "*vexatious*" and "*designed to harass the other side… the acid test is whether the conduct permits of a reasonable explanation*".

80. The Applicant submitted that the Respondent's unreasonable conduct had started immediately after the previous tribunal hearing [in 2018] and continued through to these proceedings. She referred the Tribunal to the evidence of unreasonable conduct she had provided in a Section 22 Notice and witness statement in support of another recent application she had made to the tribunal for the appointment of a manager, copies of which had been included within the Trial Bundle. She stated that this conduct included making false and malicious statements and reports, checking personal records and contacting companies that the Applicant did business with.

81. In relation to these proceedings, the Applicant submitted that, quite apart from the fact that the proceedings only came about due to the failure to appoint a RICS compliant managing agent in accordance with the Consent Order, the Respondent had refused to supply the Applicant with receipts and accounts when they were requested, even though an application had been made to the County Court for the same.

82. The Applicant noted that the Respondent had still not fully complied with directions, as it had not provided all of the invoices for the years in dispute, and that those which had been supplied had not been disclosed until 27 July 2023, well after the time detailed in the tribunal's directions order. She also referred to invoices having been badly labelled, the Respondent making a complaint when she had asked for a single day's extension and comments made about her professional standing in submissions.

83. In relation to any application for an order under Rule 13, the Applicant noted that the bar was extremely high and that there must be findings of fact. She submitted that the Respondent's claim was unfounded as it was unclear as to what malicious or vexation conduct the Respondent contented that she had committed.

84. The Applicant referred the Tribunal to the decision by the Upper Tribunal in *Lasker v Prescot Management Company Limited* [2020] UKUT 241 (LC), in which it was found that an applicant had not been unreasonable even if the allegations she made against a respondent had been false, as she had believed them to be true.

85. The Applicant also referred the Tribunal to the decision of the Upper Tribunal in *Connell v Beal Developments Ltd and other* [2023] UKUT 135 (LC), in which, even though an application had been abandoned, a costs order was found not to

be appropriate. The Applicant, again, submitted that this supported the assertion that granting a wasted costs order was incredibly high and further highlighted the "*need for malicious and vexatious behaviour*" to be present before costs could be awarded.

86. The Applicant noted that in the County or High Court a litigant in person's costs were limited to £19.00 an hour. She stated that, as she had only claimed for times that she would have otherwise been carrying out professional obligations, she could charge her professional rate, being £350.00 an hour for 61 hours, amounting to £21,350.00.

87. The Respondent also sought an order for their costs under Rule 13(1)(b) on the basis that the Applicant had acted unreasonably in bringing, defending or conducting proceedings.

88. The Respondent noted that the tribunal had refused to consolidate this application with the Applicant's application for the appointment of a manager, as there was "*no substantial nexus between the two sets of proceedings*" and stated that the Tribunal also did not have jurisdiction to look behind the Consent Order.

89. The Respondent's written submissions set out a brief chronology of actions taken by the parties in this matter, including a short precis of the first hearing, and then referred to *Willow Court* and the description of unreasonable behaviour set out in paragraph 24:

> "*Would a reasonable person in the position of the party have conducted themselves in the manner complained of?" "is there a reasonable explanation for the conduct complained of?*"

90. The Respondent stated that there were a number of factors in support of their assertion that the Applicant's conduct had been unreasonable and, being a qualified barrister, it was also unreasonable for her to misunderstand the law.

91. The Respondent submitted that the current application had been a "*fishing exercise*", evidenced by the Applicant having changed the basis of her dispute several times during the process and, without any genuine ground for disputing the service charge, the claim was an abuse of process. The Respondent also noted that the Applicant had altered her position dramatically between her last application and the current application in relation to her stance on whether there should be a reserve fund.

92. The Respondent stated that the Applicant had failed to present evidence in line with directions, including any alternative quotes or documents, and that the burden was on the Applicant to prove some element of unreasonableness (*Wynn v Yates* [2021] UKUT 278 (LC)), which she had abjectly failed to even attempt to do.

93. The Respondent confirmed that it had already apologised for the four-week delay in disclosure of the invoices, which delay was caused by having to recover various invoices from a previous managing agent, and that the Applicant still had ample

time to be able to consider all of the invoices in readiness for the hearing. As such, the Respondent stated that the delay was no excuse for the disputed invoices only being identified on the second day of the initial hearing and the matter should have been adjourned had the Applicant wished to change her position.

94. The Respondent submitted that the Applicant's conduct was a "*paradigmatic case of unreasonable conduct*", so the Tribunal should exercise its discretion to award costs due to the costs wasted in the initial two-day hearing.

95. In relation to the terms of the order, the Respondent stated that, due to the seriousness of the conduct complained of and because the Applicant was unreasonable in bringing the proceedings (as well as in their conduct of the proceedings), an order for costs encompassing all of the costs incurred by the Respondent to date, to be summarily assessed by the Tribunal, should be awarded.

96. The Respondent provided a Statement of Costs which calculated the costs at £13,539.50.

Application under Section 20C

97. The Applicant sought an order under section 20C of the Act as she submitted that, based on both her case and the Respondent's defence, her application had successfully shown that the service charge was unreasonable.

98. The Respondent referred the Tribunal to summary of the principles for a section 20C Order in the judgement of Judge Behrens in *Bretby Hall Management Co Ltd v Pratt* [2017] UKUT 70 (LC) ('*Bretby Hall*'):

> *"1. The only principle upon which the discretion should be exercised is to have regard to what is just and equitable in the circumstances.*
> *2. The circumstances include the conduct of the parties, the circumstances of the parties and the outcome of the proceedings.*
> *3. Where there is no power to award costs there is no automatic expectation of an order under s.20C in favour of a successful tenant although a landlord who has behaved unreasonably cannot normally expect to recover his costs of defending such conduct.*
> *4. The power to make an order under s.20C should only be used in order to ensure that the right to claim costs as part of the service charge is not used in circumstances which make its use unjust.*
> *5. One of the circumstances that may be relevant is where the landlord is a resident-owned management company with no resources apart from the service charge income."*

99. The Respondent stated that it would rely on the same submissions relating to the conduct of the Applicant, as set out in the Rule 13 application, for resisting any section 20C order.

The Tribunal's Determinations

100. The Tribunal considered all of the written and oral evidence submitted, which is briefly summarised above.

101. The Scott Schedule, completed with references to the relevant paragraphs in the Tribunal's decision, is attached hereto. [It is noted that a few of the disputed invoices are missing from the Scott Schedule; however, any determinations in respect of the same are set out below].

Service Charge

The Allocation of the Service Charge

102. The Tribunal noted that the Respondent accepted at the hearing in May that various invoices had been incorrectly stamped; the Respondent had amended and clarified those items on the Scott Schedule. The Tribunal also noted that the Applicant had accepted that those invoices were now agreed, subject to them being apportioned correctly as per the percentages detailed in the Deeds of Variation.

103. Accordingly, the following invoices are no longer in dispute subject to them being correctly apportioned:

    [372], [385], [400], [403], [406], [410], [412], [415], [471], [472], [474], [475], [476], [494], [498], [609], [611], [612], [615], [617], [618], [619], [620], [622], [626], [766] to [779], [781], [787], and [790].

104. The Respondent also confirmed that various items were in fact credit notes, so were not service charge costs: [427], [429], [500] to [515], [636], [652] to [710], [795] to [841].

The Invoices for Legal Costs

105. The Tribunal noted that the Seventh Schedule of the Original Leases dealt with the lessor's covenants relating to the management of the Estate, including provisions relating to insurance, maintenance and accounting. Paragraph 10 of the Seventh Schedule confirmed that the lessor could employ and engage such servants, agents and contractors as it considered necessary for the performance of its obligations under that Schedule. This would, necessarily, include fees such as those for an accountant, insurance broker and managing agent.

106. In accordance with the decision of the Upper Tribunal in *Conway*, the Tribunal accepted that managing the Estate would also include dealing with enquiries such as the appointment of a new manager, so finds that legal costs relating to advice given in relation to the same would be payable.

107. Although the Applicant submitted that there was no evidence to indicate that the invoice dated 28 November 2018 from FBC Manby Bowdler Solicitors [314] related to advice following the issuing of a Section 22 Notice, the invoice clearly states "*Re: Section 22 Advice*" and the Tribunal accepts that such advice was

given, whether it followed the service of a notice or was in anticipation of the same.

108. As the Applicant had failed to provide any corroborating evidence to indicate that such costs were not reasonable, the Tribunal determines that the sum of £1,200.00 was reasonable and payable as part of the service charge.

109. In respect of the two invoices for legal advice relating to a GDPR request dated 29 September 2020 [424] and 22 December 2020 [566], the Respondent did not dispute that these related to enquiries made by the Applicant following correspondence that had been sent about her by directors of the Respondent company.

110. The Tribunal considers that it would be improbable that such legal advice would need to be given in relation to general correspondence relating to the management of the Estate, especially when the Applicant is one of the members of the freehold Respondent company and would likely be entitled to such general information.

111. The Tribunal finds it more likely that the legal advice was private advice provided to directors and, consequently, the costs of invoices for £900.00 [424] and £600.00 [566] did not fall within the provisions of paragraph 10 of the Seventh Schedule and were not payable as part of the service charge.

The Insurance Invoices

112. The Tribunal noted that the Applicant had not questioned the reasonableness of any invoices which related to the buildings insurance, which she also accepted were payable.

113. In relation to the other insurance documents, following receipt of the Additional Documentation, the Tribunal was able to clarify that the following invoices related to either management liability packages or legal insurance for the Respondent company:

[334] - £188.71; [335] - £190.40; [443] - £188.71; [444] - £190.40; [589] - £322.14; [590] - £190.40; [745] - £278.95

114. Although the Respondent submitted that directors were the servants or agents of the Respondent and that the cost of such insurance was an appropriate service charge cost, expressly included in the RICS Service Charge Residential Management Code of Practice, the Tribunal does not agree.

115. The RICS Service Charge Residential Management Code of Practice 3rd Edition states that, although it is prudent for clients to be covered by directors' and officers' liability insurance, that should be a cost "*to the company*" [12.5]. Costs can only be recovered as a service charge item if provided for in the lease provisions.

116. Although the Seventh Schedule of the Original Leases provides for buildings insurance and public liability insurance (paragraph 2) there is no such provision for insurance for directors or legal costs. Such insurance is also not covered under paragraph 10 of the Seventh Schedule.

117. As such, although the Tribunal accepts that this insurance may be prudent, it finds that the costs £1,549.71 should have been borne by the members of the Respondent company, not as part of the service charge. [The Tribunal notes that this may mean that the Applicant is, ultimately, still liable to pay towards the same as a member of that company].

The Fire Alarm System

118. Although the Applicant had raised queries in relation to whether any fire risk assessments had been carried out and the nature of the alarm system which had been installed, the Respondent had provided copies of Fire Risk Assessment reports carried out by Philip, Laney & Jolley on 14 March 2018 and Quantum Compliance on 12 February 2019.

119. The Tribunal noted that both reports specifically referred to Grade A LD2 fire alarm system for the communal areas, with interlinked heat detectors inside each flat as an option, and also recommended the provision of emergency lighting designed to comply with BS 5266 within the communal areas. There was no supporting evidence to indicate that the Respondent had any input in deciding where sounders or motion sensors should be positioned. The Tribunal also noted that the latest fire risk assessment confirmed that the alarm installed was satisfactory and should be serviced and inspected six monthly.

120. Accordingly, the Tribunal found that the alarm was not installed as any form of harassment against the Applicant and that it was more than reasonable for the Respondent to have arranged for the fire alarm system and emergency lighting to be installed, in fact, not to have done so may have been considered negligent.

121. Although the Applicant also referred to there having been no consultation in relation to the works, the Tribunal accepted that the evidence provided by the Respondent indicated that consultation had been carried out. The copy Section 20 correspondence and Notices provided by the Respondent confirmed that quotes were obtained for a Grade A LD2 fire alarm system and emergency escape lighting, that MWE Ltd provided the cheapest quote and were subsequently instructed to install and maintain the system.

122. At the hearing, the Applicant referred to her, possibly, not having received the consultation notices and correspondence due to being away from her apartment for lengthy periods of time and her letterbox having been taped up. The Tribunal considers that, if an occupier is away from their Property for a significant period of time, it is incumbent upon them to arrange for the post to be redirected. In relation to the allegation that her letterbox had been taped up, the Tribunal noted that the Applicant had not referred to this until giving evidence at the May hearing, however, did confirm that she was aware of the works being carried out and even granted access for a detector to be installed.

123. Being a legally qualified barrister, if the Applicant was unhappy with the works and had serious concerns as to whether such works had been consulted upon, the Tribunal would not have expected her to have waited three years to make an application in respect of the same.

124. As such, taking into account all of the evidence, the Tribunal was satisfied that that fire risk assessments had been carried out, that consultation had taken place and that the installation of both the fire alarm and emergency lighting system was reasonable. In relation to the cost of the works, the Applicant had failed to provide any quotes to suggest that MWE Ltd's costs were not reasonable and, as previously stated, the Section 20 Notices indicated that they had provided the cheapest quote and their final costs had not greatly exceeded the same.

125. In relation to the lease provision for such works, the Tribunal agrees with the Respondent – that the works would fall under the definition of "*improvement of the Estate*" or "*services*", as set out in paragraph 16 of the Sixth Schedule to the Original Leases.

126. Accordingly, the Tribunal finds that the cost of the works carried out by MWE Ltd, together with the invoices relating to the subsequent service and maintenance of the system, are reasonable and payable as part of the service charge. The relevant invoices are: [381], [389], [483], 495], [496], [629], [630], [631], [632], [637], [639], [640], [642] [647], [649], [650], [782], [783], [786], [788], [789], [791].

The Reserve Fund

127. The Tribunal noted that the Applicant appeared to have changed her stance regarding the existence of a reserve fund from the position set out in the 2018 Skeleton Argument. At that time, she acknowledged that a reserve fund was a requirement under the lease terms.

128. The Tribunal accepts that the wording in the Original Leases is not as clear as it could be; however, finds that it does provide for payment to be made on account and for the provision of a reserve fund.

129. Paragraph 20 of the Sixth Schedule to the Original Leases refers to paying the "*lessor on account of the lessee's obligations*" and paragraph 21 of the Sixth Schedule refers to balancing payments. Paragraph 11(a) of the Seventh Schedule also refers to "*charging against such costs and expenses in each year*", which again indicates that payments are made on account.

130. With regard to a reserve fund, paragraph 11(a) also states that the monies charged against costs and expenses in each year is to be carried:

> "*to a reserve fund or funds and in subsequent years expending such sums as it considers reasonable by way of provision for depreciation or for future expenses liabilities or payments whether certain or contingent and whether obligatory or discretionary*".

The Tribunal finds that the use of the plural, "*years*", indicates that the reserve fund is not just for the following year and that the wording of paragraph 11(b) – in which it refers to costs not expended during the year to be held upon trust "*to expend them in subsequent years in pursuance of this Schedule*", supports this position.

131. At the hearing, Mr Rowan confirmed that the Respondent had carried out a condition survey and had commissioned a long-term expenditure plan, which dealt with both concerns that were raised in the 2018 Skeleton Argument, and the Additional Documentation supplied following the hearing included those documents.

132. Accordingly, the Tribunal is satisfied that the provisions of the lease do provide for payments to be made on account and allow for the provision of a reserve fund, and that the Respondent has taken the recommended steps in relation to assessing the level of contribution towards future expenses for that fund.

Costs

Application for an Order under Rule 13

133. The Tribunal noted that both parties' applications were in respect of an order under Rule 13(1)(b), each citing the others' unreasonableness.

134. Both parties also referred to the decision in *Willow Court* as providing guidance on the correct approach to costs claims under Rule 13 and the three-stage process that should be adopted when dealing with such applications.

135. In *Willow Court*, the Upper Tribunal discussed the assessment of unreasonable behaviour and considered that in deciding whether behaviour was reasonable required a "*value judgement*". At paragraph 24, the Upper Tribunal went on describe such conduct as follows:

> *""Unreasonable" conduct includes conduct which is vexatious, and designed to harass the other side rather than advance the resolution of the case. It is not enough that the conduct leads in the event to an unsuccessful outcome."*

Accordingly, the Applicant's statement that unreasonable behaviour '*must*' include conduct which is "*vexatious*" is not quite correct.

136. In addition, although the Applicant stated that behaviour prior to the proceedings was relevant when considering unreasonableness, and referenced evidence of Respondent's unreasonable behaviour as commencing after the previous proceedings in 2018 as detailed in her Section 22 Notice and witness statement in support of her separate appointment of a manager application, the Tribunal noted that the Upper Tribunal had stated in *Willow Court* that: "*Only behaviour related to the conduct of the proceedings themselves may be relied on at the first stage of the rule 13(1)(b) analysis.*"

137. The Upper Tribunal did go on to qualify that statement in two respects, firstly when the motive for bringing proceedings might be relevant and, secondly, once unreasonable conduct had been established, in appropriate cases the wider conduct might be relevant. In this case, however, as the Section 22 notice and witness statement had been given in support of the Applicant's separate application rather than this one, the Tribunal considers that the correct forum for considering such behaviour would be in relation to that application. In addition, the "*malicious*" behaviour referenced in the witness statement appeared to relate to individual directors rather than the Respondent, who was the relevant party in these proceedings.

138. With regard to these proceedings, although the Applicant submitted that the proceedings only came about due to the failure of the Respondent to appoint a RICS compliant managing agent in accordance with the Consent Order, the Applicant's dispute also related to whether certain invoices should have been included as part of the service charge and the installation of the fire alarm. As such, the Tribunal does not consider that the Respondent was unreasonable in defending the proceedings.

139. In relation to other matters referred to by the Applicant, the Tribunal does not consider that the failure to comply with directions, especially when the Respondent had given an explanation for the same, or the incorrect stamping of certain invoices, would reach the very high threshold required for establishing unreasonable conduct.

140. In relation to any comments made with regard to the Applicant's professional status, the Tribunal considered that the parties seemed determined to establish that the other had acted unreasonably, especially during the first hearing. That said, at the beginning of the hearing in May, the Respondent's Representative did apologise for any disrespect that his submissions may have caused the Applicant and confirmed that this was not his intention at all. Again, the Tribunal does not consider that any such conduct by either party, or their representative for that matter, was designed to "*harass the other side rather than advance the resolution of the case*".

141. With regard to whether the Applicant's conduct in proceeding or conducting the proceedings was unreasonable, the Tribunal has detailed its own brief history of events leading up to the second hearing above.

142. The Tribunal does not agree with the Respondent's assertion that the current matter had been a "*fishing exercise*" by the Applicant. The Applicant had, in her initial witness statement following invoices being disclosed to her, queried the legal costs, the charges by MWE Ltd and, with regard to invoices for gardening, cleaning and general maintenance, she stated:

> "*I do not question the amount paid to these professionals, but I question the calculation of the proportion that has been allocated to me*".

143. Neither the Respondent nor the Tribunal had been quite clear on what the Applicant meant by such a statement at the beginning of the first hearing,

particularly as the Applicant had erroneously set out the wrong percentages for the allocation of the service charges in paragraph 7 of her Skeleton Argument, so thought she may have been mistaken as to the amounts that she should have been paying. At the hearing, however, the Applicant clarified what she had meant.

144. The Respondent had not explained the significance of the various stamps on the invoices and the Applicant agreed, once in receipt of that information, to spend the remainder of that day narrowing down the invoices that she was still querying. Had the Applicant not gone through that exercise and detailed those invoices on the second day of the hearing, the misallocation of various invoices between the houses and the Estate may not have been discovered.

145. In relation to the failure to provide alternative quotes, these were not required when the Applicant's arguments related to whether invoices had been allocated correctly between the Estate and whether sums were payable under the lease provisions.

146. The Tribunal did accept that the Applicant appeared to have altered her previous stance in relation to the reserve fund and, initially, failed to fully set out her arguments regarding the installation of the fire alarm; however, found this impacted more on the weight to be attributed to her evidence on those matters than on her conduct of the proceedings.

147. Accordingly, the Tribunal also finds that the behaviour of the Applicant in commencing and conducting the proceedings does not amount to unreasonable conduct.

148. Having not passed the threshold for the making of any order, the Tribunal is not concerned with the second or third stage detailed in *Willow Court*.

149. Although not requested by either party, the Tribunal can, under Rule 13(2) make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid. Such an order does not require an application and an "*unreasonable*" test does not apply.

150. In this matter, as stated above, the Tribunal finds that without the Applicant having queried how various invoices had been apportioned between the houses and the Estate, the errors in stamping may not have been discovered. The Applicant had raised this initially, albeit her argument had not been fully understood, and the Respondent, at the second hearing, accepted that this had occurred and had clarified a number of invoices.

151. In the circumstances, the Tribunal considers that it is appropriate that an order be made under Rule 13(2) and, hereby, orders that the Respondent reimburse to the Applicant the sum of £150.00, being a half share of both the application and the hearing fee.

Application under Section 20C

152. In relation to the Applicant's application under section 20C of the Act, in making such an order, the Tribunal must consider what is 'just and equitable' in the circumstances of the case, taking into account matters such as the conduct and circumstances of the parties and the outcome of the proceedings.

153. In addition to the comments of Judge Behrens in *Bretby Hall*, the Tribunal also notes the comments of Martin Rodger KC (Deputy President) in *Conway*, in which he referred back to the decision of Judge Rich QC in *Schilling v Canary Riverside Property Limited* LRX/65/2005 and his reflection upon his earlier decision in *The Tenants of Langford Court (Sherbani) v Doren Limited* LRX/37/2000 ('*Doren*'). At paragraph 54, he stated:

> "*In Schilling v Canary Riverside Development PTE Limited LRX/26/2005 Judge Rich QC reiterated that the only guidance as to the exercise of the statutory discretion which can be given is to apply the statutory test of what is just and equitable in the circumstances. The observations he had made in his earlier decision were intended to be "illustrative, rather than exhaustive" of the matters which needed to be considered. He added at paragraph 13 that:*
>
> *"The ratio of the decision [in Doren] is "there is no automatic expectation of an Order under s.20C in favour of a successful tenant." So far as an unsuccessful tenant is concerned, it requires some unusual circumstances to justify an order under s20C in his favour.""*

154. The Applicant did succeed in some, if not all, of her arguments, as the Tribunal did find that some of the invoices should not have been payable as part of the service charge. The Applicant's concerns had also been justified relating to the allocation of some of the costs between the houses and the Estate, something which affected all of the leaseholders.

155. The Respondent's submission in relation to resisting such an order related to the Applicant's conduct which, for the reasons stated above, the Tribunal found was not unreasonable.

156. Having taken into account all of the circumstances of this case and the submissions made, the Tribunal finds that an order under 20C is just and equitable, and hereby orders that the costs incurred, or to be incurred by the Respondent in connection with these 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 Applicant.

Appeal Provisions

157. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (Rule 52 of Rules).

M. K. GANDHAM
.....
Judge M K Gandham