FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AW/LSC/2025/0646**
Property	**:**	**Flat 6,12 Vicarage Gate, London, W8 4AG**
Applicant	**:**	**Twelve Vicarage Gate Management Limited**
Representative	**:**	**Mr S Reid (Counsel)**
Respondents	**:**	**(1) Marc Chabot** **(2) Nalini Chabot**
Representative	**:**	**Mr L Gibson (Counsel)**
Type of application	**:**	**Liability to pay and/or the reasonableness of service charges**
Tribunal	**:**	**Tribunal Judge O'Brien** **Mr J Stead MSc**
Date of Hearing	**:**	**7 October 2025**
Date of Determination	**:**	**17 November 2025**

DECISION

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(1) The Tribunal makes the determinations set out in paragraphs 8, 9. 10, 14, 18 and 23 below.

(2) The proceedings are to be transferred back to the County Court sitting at Wandsworth.

(3) The Respondents must reimburse the hearing fee paid by the Applicant in the sum of £220.

Background

1. The Applicant company is the freehold owner of 12 Vicarage Gate London W8 4AG, a substantial Victorian terraced house in central London which has been converted into 7 flats. The leasehold owners of the flats are all members of the Applicant company. The First and Second Respondent are the leasehold owners of Flat 6. The First Respondent was a director of the Applicant until 29 May 2019.

The Proceedings

2. On or about 22 February 2023 the Applicant commenced proceedings in the County Court against the Respondents for alleged service charge arrears of £61,319.70 representing all service charges which it considered had fallen due since 2019. The Respondents defended the claim and brought a counterclaim. By order of District Judge Jolly dated 23 August 2024 much of the defence and counterclaim was struck out and the proceedings were transferred to the First-tier Tribunal 'to be treated as an application by the Defendants for a determination of liability to pay and reasonableness of service charges'. In fact the tribunal has proceeded on the basis that the Claimant in the County Court proceedings is the Applicant in the proceedings before it and the Defendant is the Respondent.

3. The matter was listed for a final determination on 7 and 8 October 2025. Happily the parties had managed to narrow the issues between them and the hearing was concluded on the first day. Following the transfer of proceedings from the County Court the Respondents have paid approximately £12169 towards their service charges 'under reservation'. The matters which remain in dispute are summarised below.

4. At the hearing the Applicant was represented by Mr Reid of counsel and the Respondents, who both attended, were represented by Mr Gibson of counsel. We were supplied with a bundle running to 1280 pages by the Applicant for use at the hearing. In addition to the parties' completed schedule of disputed charges, the bundle contained witness statements from a Mr Richard Hay, a director of the Applicant and leaseholder of flat 2, and Ms Cerezci a leaseholder of flat 7 and Mr Adam Dxiuba of Hillgate Management Ltd on behalf of the Applicant. It also contained two identical statements from Mr and Mrs Chabot and an expert report regarding the condition of the building dated 13 April 2025 prepared by Mr Jacob Acton MRICS on their behalf. We heard oral evidence from Mr Dziuba and from Mr Chabot.

The Issues

At the start of the hearing with the assistance of the parties we defined the issues which we had to determine as;

(a) whether the following items demanded by the Applicant in the years 2019 to 2022 were payable and/or reasonable.

- Lift repairs in 2019
- Management fees for 2019-2022.
- Legal costs incurred in 2022
- Cost of repairs to Flat 3 in 2022

(b) whether the external redecoration works completed in 2022 were caried out to a reasonable standard;

(c) whether the cost of replacing the water tanks in 2022 was reasonably incurred;

(d) whether the reserve fund contribution demanded by the Applicant of £12,979.34 for the period 1 January 2019 to 3 March 2023 is payable by the Respondents and/or reasonable;

(e) Whether an order under s.20C of the Housing Act 1985 or paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 should be made;

(e) Whether an order for reimbursement of any application/hearing fees should be made.

Lift Repairs

5. An integral aspect of the Respondent's Defence and Counterclaim in the county court proceedings relates to the cost of works of repair to the lift undertaken in 2019. The Applicant company had the misfortune to be the victim of misappropriation of funds relating to the lift works on not one but two separate occasions. In 2017 the Applicant's chosen contractor, Trojan Lifts, absconded with £20,000 of leaseholder funds intended for the lift works. In 2018 the Applicant's then managing agent absconded with further funds raised by the leaseholders to repair the lift. The Respondents contributed a total of £15,184.00 to the missing funds for lift repairs in 2017 and 2018. Presumably all the leaseholders in the building were similarly out of pocket. The lift repairs were eventually completed in 2019, and the Respondents were required to pay a further £10,398 towards that cost.

6. The Respondents do not seek to challenge the reasonableness of the cost of the lift works undertaken in 2019, and in principle accept that the cost is recoverable from them as a service charge. In the schedule of disputed service charges the Respondents asserted that the Applicant had not complied with the s.20 consultation process in respect of the 2019 lift works however in the course of the tribunal hearing they confirmed that they no longer wished to pursue that point. Essentially they seek to counterclaim the sums which they had previously paid for the lift repairs in 2017 and 2018 and have raised that issue as a set-off defence in the County Court. Both counsel agreed that this is not a matter which the tribunal can determine on an application under s.27A of the 1985 Act and agreed that it should be referred back to the county court on the determination of the remaining issues.

Management Fees

7. The Respondents challenge the management fees incurred since 2019 when management of the building was taken over by the current managing agent Hillgate Management Ltd. The sums charged in respect of flat 6 were as follows
    - £266.48 in 2019
    - £455.62 in 2020
    - £474.60 in 2021
    - £488.16 in 2022

    The Respondent's case is that the standard of service received from Hillgate Management Ltd has been so poor that the amount recoverable should be reduced by 50%.

8. We struggled to identify the specific aspects of the managing agent's service which the Respondents maintained were not to a reasonable standard. Mr Chabot complained that he was not sent any service charge demands between 2020 and 2022. The Applicant's explanation is that it wished to preserve its forfeiture rights until the letter before action which was sent in December 2022. It is difficult to discern any specific complaint which might be relevant to the standard of service provided by the managing agents in Mr Chabot's statement, although we note that he was dissatisfied with their response to observations he submitted as part of a section 20 consultation process which is discussed below. He disagreed with the choices they have made in terms of the maintenance of the building. We are not satisfied that the Respondent has demonstrated that the standard of service provided by the managing agent was sufficiently poor to warrant a reduction in the fee recoverable. We bear in mind that there have been substantial differences of opinion between Mr and Mrs Chabot and the present directors of the Applicant as regards the management of the building, and the management company act on the instructions of the present directors. The sums which were charged were, based on our professional experience as an expert tribunal, within a reasonable range of fees for a building of this nature and in this location and we consider that they were reasonable.

Legal Costs

9. In 2022 the Respondent incurred legal costs of £440.70 of which the Respondent was obliged to pay £59.84. Mr Chabot's reason for contesting this charge is that it related to legal proceedings being brought against him. He does not deny that the costs were reasonably incurred, reasonable in amount or due under the lease and has supplied no other reason why they should be reduced or disallowed. We dismiss his challenge to this item.

Cost of Repairs to Flat 3 in 2022

10. The Respondents dispute the cost of £187 which was incurred when a water pipe was damaged in the course of works to the water tanks on the roof necessitating repairs to Flat 3. The Respondent's consider that this should have been paid by the contractors who damaged the pipe. We have no information as to how the pipe was damaged and what repairs were necessary in consequence. We note that the sum is very modest and, absent any clear case as to why it is something that the Applicant was not obliged to repair, we will allow it.

Major Works 2022

11. In 2022 the Applicant embarked on a programme of major works which included the replacement of water tanks on the roof, the recommissioning of a communal fan system and the redecoration to the front exterior of the building. The Applicant complied with the statutory consultation process required by s.20 of the 1985 Act and Mr Hays' evidence is that the majority of leaseholders were supportive of the plans. The Respondent's share of the cost of these works was £20,378.88. The Respondents submit that the Applicant ought to have refurbished and cleaned the cold-water tanks rather than have them replaced. The Respondents further argue that the standard of the external decoration was very poor and that the sum recoverable from them in this regard should be reduced by 50%. We have not been told how much of the sum of £20,378 demanded relates to the replacement of the cold-water storage tanks on the roof and how much relates to the external decorations.

12. Dealing firstly with the cold-water storage tanks, the Applicant commissioned a report from Acqualogic Ltd in relation to the condition of the two cold water storage tanks on the building's roof in 2021. A copy of their subsequent report dated 10 December 2021 is included in the bundle. The report notes that the tanks need to be cleaned and disinfected and required a number of repairs and upgrades in order to make them compliant with the Water Supply (Water Fittings) Regulations 1999. It recommended that in the long term that the tanks should be replaced. The Applicant decided to replace the tanks rather than upgrade them, and the eventual cost of the replacement was £21,081.76. Mr Dziuba explained in his witness statement at paragraph 93 that the Applicant considered that it would be more economical to replace the tanks as part of the major works undertaken in 2022, rather than continue to incur increased maintenance costs until such time as they were replaced.

13. The Respondents obtained an alternative quotation from a plumbing company to clean the old tanks and upgrade the lids and pipework in the sum of £2,274. At the hearing the Respondents accepted that the water tanks would eventually have to be replaced at some point in the future.

14. In our view, considering in particular the cost of cleaning and upgrading the tanks in comparison with the cost of replacing them the Applicant acted reasonably in deciding to replace the tanks as part of the 2022 major works programme. It was one of two reasonable options available to it. The fact that it may have been less expensive in the medium term to upgrade and repair the existing tanks does not mean that the option chosen was not a reasonable one; see Waaler v Hounslow London Borough Council [2017] EWCA Cil 45; [2017] 1 WLR 2817 at para 37.

15. The second objection relates to the standard of the external decoration works to the building. As part of the s.20 consultation process Hillgate Management Ltd obtained three quotes for the redecoration works totalling £100,476, £69,602.77 and £49,725 respectively. The Applicant decided to accept the lowest tender which was from a P Arbuckle & Sons and the work was completed in 2022.

16. Mr and Mr Chabot consider that the work was not done to a good standard and has shown signs of deterioration far earlier than it would have done had it been done properly. They rely on a building report prepared for these proceedings by a Mr Jacob Acton MRICS of Acton Surveyors Ltd. As regards the exterior condition of the building he concluded as follows;

    "Externally the brickwork and render are in poor condition with degrading pointing cracking and signs of moisture ingress Victorian decorative features including cornices and motifs exhibit significant paint deterioration. Moss growth and plaster damage necessitating urgent attention to prevent further degradation… the overall condition of the surveyed areas indicates a need for targeted repairs and maintenance to preserve the integrity and the appearance of the property'

17. Included with the report are a number of photographs of the exterior paintwork of the building. It does appear to have deteriorated in parts. The paintwork to the cornicing above the front portico looks particularly 'tired', as does the paintwork to the walls of the steps to the front door. It seems that the paintwork to the front railings was simply painted over rather than stripped, and the resulting finish is uneven. Mr Acton's inspection took place a mere 2 years after the exterior decorations were completed.

    Section 19(1)b of the 1985 Act provides

    (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;

18. In our view the exterior decoration works carried out in 2022 were not of a reasonable standard and the amount recoverable from the Respondents should be reduced. Mr Gibson suggested a reduction of 50%. We note that Mr Acton considered that significant remedial work to the exterior redecorations was required less than 3 years after they had been completed. Based on our expertise as an expert tribunal we will reduce the sum recoverable from the Respondents by 50% of the due proportion of the final sum paid to Arbuckle and Son in respect of the exterior decorations. We are not in a position to calculate the exact reduction based on the information available to us.

Reserve Fund Contributions 2019-2023

19. In his schedule of disputed charges Mr and Mrs Chabot argued that they were only liable to pay a contribution to a reserve fund if the funds were required to meet specific and ascertained expenditure.

20. Paragraph 18 of the Third Schedule to the lease provides that the tenant is liable to contribute towards

> *Such reasonable sums as shall be estimated by the managing agents… to provide a final reserve fund to meet the anticipated costs and expenses or renewal of plant and equipment periodic decoration of the exterior and internal common parts of the building and other matters of alike substantial and non-annually recurring nature'*

21. Mr Gibson did not argue that the costs had to be ascertained before any sum became payable towards the reserve fund under terms of his client's lease. He submitted that there was a lack of transparency as to how the amounts claimed had been calculated and no information as to what the anticipated future costs might be. He noted that the Applicant had failed to disclose any kind of capital expenditure plan, or maintenance schedule which might explain what costs the applicant anticipated might arise in the future.

22. In his statement Mr Hay simply states that the demands towards the reserve fund were intended for future expenditure, but other than exhibit two invoices for £1450 and £3600 dated 2020 and 2021 respectively he gives no further information as to what the anticipated costs were in the period 2019-2023.

23. It is common ground that before the appointment of Hillgate Management Ltd the management of the building operated without any reserve fund or sinking fund at all. It is reasonable and prudent for a landlord to build up a reserve and/or sinking fund as the Respondents acknowledge. In this case we have not been provided with any information regarding what the anticipated costs might have been or how the Respondent's contributions were calculated. However we bear in mind the fact that building such as the present are expensive to

maintain, particularly where they incorporate items of plant such as water tanks ventilation fans and lifts, and the Applicant in 2019 was building up a fund from scratch. We note from the accounts that the total reserve fund contribution in respect of the whole building for 2019 to 2023 was £20,000. This does not seem like an unreasonable sum for a building of this nature and in this location. In our view the sums demanded towards the reserves in respect of the period 1 Jan 2019 to 24 March 2023 were reasonable.

24. We do not make any orders under paragraph 20C of the 1985 Act or paragraph 5A of Schedule 11 of the 2002 Act, notwithstanding the fact that the Respondents have partially succeeded in respect of one of the issues. The Respondents have largely failed in their challenges to the disputed costs, and there is no reason why such orders should be made in those circumstances.

25. As the applicant has largely succeeded we will make an order for the reimbursement of the hearing fee of £220.

Name Judge N O'Brien **Date 17 November 2025**

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).