

In the leasehold Valuation Tribunal
Ref LON/00AM/LSC/2006/0433

Applicant Wood Group on behalf of Fassett Management Ltd

Respondents Various Leaseholders in Flats 1-19
10 Fassett Square London E8 1BF

Tribunal

Ms E Samupfonda (LLB Hons)
Mr F Coffey FRICS
Mrs J Clark

1. This is an application under section 27A Landlord and Tenant Act 1985, "the Act," for a determination of the reasonableness of the costs to be incurred in respect of proposed works of cyclical repair and redecoration. The Applicant is the managing agent of Fassett Management Ltd, the Freehold owner of the block. The Respondents are both leasehold owners and shareholders of Fassett Management Ltd.
2. An oral pre trial review was held on 17th January 2007. Ms Gallagher, property manager, represented the Applicants and Mr Walker represented the Respondents. Directions for the future conduct of the case were made. The Respondents did not comply with these directions.

3. The Hearing

The hearing of the application took place on 14th March 2007. Ms Gallagher represented the Applicants. The respondents were neither present nor represented. In summary, Ms Gallagher informed the Tribunal that a specification of workmanship and materials had been prepared by Messrs Zomboroy Moldovan Moore; Architects and quotation of costs invited for works of external repair and redecoration of the property, with the following revealed results;

Crispin and Borst Ltd	£174,175.06
Fullers Ltd	£182,640.00
Baders Construction Ltd	£227,942.00

The Above Quotations of Cost being exclusive of Value Added Tax

The Architects reported on the tenders and it appears recommended that Messrs Fullers be appointed, this following negotiations with that company with regards to certain additional works.

The total cost of the project, including additional works, professional fees and VAT amounted to £302,684.12. This sum including the sum of £14,405 by way of, it appears, negotiated costs and a contingency sum by way of works to the South stair balcony doors. It being deemed prudent by the Landlord to attend to these works at the same time as the delayed works of external redecoration.

Of the total sum, £51,000 was to be met by way of a contribution from the 'reserve fund.'

Ms Gallagher explained that the lease requires the Landlord to carry out external redecoration s every 5 years and this was due in 2005/6. To that end, the lessees were notified in 2003 that sums would be required and have since then been contributing towards a sinking fund. Repairs were delayed due to insufficient funds.

She confirmed that Notice of Intention to carry out works in accordance with Section 20 of the Act was served. The Lessees did not make any observations, did not object to the proposed works, costs or this application.

4. The law

The Tribunal has jurisdiction under section 27A(3) of the Act to determine this application. This provides

“ An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to

- (a) the person by whom it would be payable,
- (b) the person to whom it would be payable,
- (c) the amount which would be payable,
- (d) the date at which it would be payable, and
- (e) the manner in which it would be payable.

The amount of service charge that a landlord is entitled to recover is subject to the reasonableness test as set out under section 19 of the Act. This provides

“ 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.”

5. **The Lease**

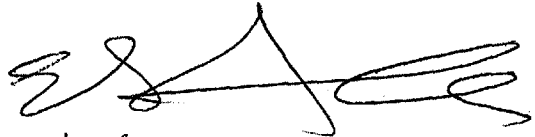
The lessees' obligations to contribute towards the service charge are set out in the Fourth Schedule of the lease. The lease provides that "the service charge payable by each tenant is to be calculated in the proportion as specified in the Particulars of the total Service Charge for the Relevant Financial Year."

6. **Decision**

Having considered the evidence and submissions made, the Tribunal determined that the costs to be incurred are reasonable and therefore payable in accordance with section 27A (3). However, the Tribunal noted that the original tenders related to external decorations and repairs only and excluded works to the south stair balcony door. The additional cost of this work was arrived at, it appears by negotiation between the architects and Fullers. It is perhaps therefore a 'guestimation' and in due course will require to be properly determined by the architects in the usual way and the final account, professional fees account etc adjusted accordingly.

Furthermore, once the works are completed, the Respondents will be entitled if they wish to make an application for a determination of the reasonableness of the costs incurred under section 27A (1) of the Act.

Chairman



Dated

27/3/07