



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

**Case Reference** : **LON/00BG/LSC/2013/0578**

**Property** : **2 and 3 Bridge House Quay,  
London, E14 9QW**

**Applicant** : **Mr Ian Gibson**

**Respondent** : **Mountpoint Limited**

**Representative** : **Mulberry Management Ltd**

**Type of Application** : **Payability of service charges**

**Tribunal Judge** : **Mrs V.T. Barran**

**Date of Decision (on  
papers) and venue** : **23 August 2013  
10 Alfred Place, London WC1E 7LR**

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**DECISION**

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## **Decision**

The Tribunal does not have jurisdiction to determine the applications for the reasons stated below.

## **Background**

1. Two applications were made under section 27A (and 19) of the Landlord and Tenant Act 1985, as amended, in respect of what were characterised as service charges for the current year to October 2013 and all subsequent years for the two properties. Application was also made under section 20C of the Act for an order re costs.
2. The Tribunal directed the parties to meet to try to settle the dispute and notes they did meet but that the matter remains unresolved so that a formal decision of the Tribunal is required.
3. The managing agents informed the Tribunal and the applicant that the properties were freehold. They referred to a previous decision dated 15 March 2006 of the Leasehold Valuation Tribunal on 27 Lancaster Drive on the same estate [ref LON/00BG/LSC/2005/0320.]
4. The Tribunal indicated to the parties in Directions dated 25 June 2013 that it may not have jurisdiction to deal with application and considered the issue could be determined on the papers. The parties were however offered a hearing and asked for their submissions and comments. No request for a hearing was received.

## **The law**

5. Section 18(1) of the Landlord and Tenant Act, as amended states:

“In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent—

  - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs”.
6. Section 27A of the 1985 Act states:

“An application may be made to a leasehold valuation 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.

### **The facts**

7. The Jamestown Harbour Estate includes freehold and leasehold properties. The respondent is a company that manages the Estate including the communal areas ('amenity lands') and is the freeholder of the amenity lands.
8. By a Transfer of Part dated 17 July 1985, 3 Bridge Quay House was sold by Relyonus Ltd to Christopher Duckenfield Venning and Judith Ann Venning. It was described as plot H 3 and is shown as such on the title plan. It is registered as freehold under Title No EGL 160569 and Mr Gibson was registered as proprietor on 6 January 2001.
9. By a Transfer of Part dated 5 September 1985, Bridge Quay House was sold by Relyonus Ltd to Paul Edgar Blackshaw and Carina Rose Blackshaw. It was described as plot H2 and is shown as such on the title plan. It is registered as freehold under Title No EGL 163049 and Mr Gibson was registered as proprietor on 21 March 2003.
10. The Transfers referred to above are shown as registered charges against both freehold titles. Mr Gibson entered into direct covenants with the respondents to observe and perform the covenants and provision of clause 5 of both Transfers.
11. Clause 5 of the Transfers contain provisions whereby the purchaser (now Mr Gibson) covenants to pay a share of the costs and expenses incurred by the respondent ( the manager) for the Amenity lands in the estate and other provisions.

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

12. I have had regard to the written submissions of the parties including, crucially, the official copies of the Land Registry titles and copies of two Transfers of Part dated 17 July and 5 September 1985. I have also read the decision of the leasehold valuation tribunal dated 15 March 2006 relating to 27 Lancaster Drive on the same estate. This case was drawn to the attention of Mr Gibson and the tribunal by the respondents.
13. Mr Gibson brought the current applications because he is unhappy at the level of the service charge for a proposed parking scheme. There is no mention of "service charge" in the Transfers but the applicant's wording may simply have been colloquial. Strangely he included with

the application, not the Transfers of part referred to above, but an undated unsigned lease of Plot FF5 and garage. Unfortunately the tribunal initially processed the application as a landlord and tenant dispute. However I can see no relevance of this document to these two properties that are clearly freeholds (not subject to leases) as now admitted by Mr Gibson.

14. The "service charge" cannot be a service charge within the meaning of section 18 of the 1985 Act, because the Applicant is not a "tenant" within the meaning of that section. He is a freehold owner of both properties and the relationship between the parties is not one of landlord and tenant either for the properties or for the amenity lands. To this extent, the application under section 27A of the 1985 Act is misconceived.
15. I did consider whether the tribunal could accept this as an application to determine the reasonableness of "estate charges" where they arise under an estate management scheme, pursuant to section 159 of the Commonhold and Leasehold Reform Act 2002.
16. However, section 159 only extends to estate charges arising from schemes that have been approved by the High Court under section 19 of the Leasehold Reform Act 1967, or approved by this Tribunal under Chapter 4 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (see section 69 of that Act), or under section 94(6) of the 1993 Act. None of those appear to apply in the present case.
17. Given the tribunal has no jurisdiction to deal with these applications I have no power to deal with the application under section 20 of the Act for an order limiting a landlord's costs.
18. No application for reimbursement or repayment of the application fee (£150.00) has been made, and in any event I decline to make any order. This matter has involved considerable work for the respondent and the Tribunal.

**Name:**

V.T.Barran

**Date:**

23 August 2013