12652

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**MAN/00BY/LSC/2017/0104 & 0105**
Property	:	**12 & 51 Bispham House** **Lace Street** **Liverpool** **L3 2BP**
Applicants	:	**Flat 12 – Alan McFeely** **Flat 51 – Katherine Chamberlain**
Representative	:	**Weightmans**
Respondent	:	**Acrophile Limited**
Representative	:	**J B Leitch**
Type of Application	:	**Landlord and Tenant Act 1985 – s 27A**
Tribunal Member	:	**Judge J Holbrook**
Date of Determination:	:	**28th February 2018**
Date of Decision	:	**5 March 2018**

DECISION

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DECISION

A. **Nothing is presently payable by Mr McFeely under clause 2(ii)(b)(3) of his lease of Flat 12 Bispham House or under the seventh schedule thereto.**

B. **Nor is anything presently payable by Ms Chamberlain under clause 2(ii)(b)(3) of her lease of Flat 51 Bispham House or under the seventh schedule thereto.**

REASONS

1. On 18 December 2017, the Tribunal received an application from Mr Alan McFeely for a determination under section 27A of the Landlord and Tenant Act 1985 as to whether service charges are payable under his lease of Flat 12 Bispham House. Mr McFeely is the long leaseholder of Flat 12 under a lease dated 2 April 2001 granted by Liverpool Housing Action Trust.

2. A similar application was received from Ms Katherine Chamberlain in respect of Flat 51 Bispham House. Ms Chamberlain is the long leaseholder of Flat 51 under a lease dated 29 July 2002, also granted by Liverpool Housing Action Trust.

3. The respondent to both applications is Acrophile Limited, the current landlord under the leases.

4. The applicants sought, in particular, a determination as to whether anything is now payable to the respondent as a contribution to "Improvement Works" under the seventh schedule to their leases. They asserted that this issue had already been determined by the Tribunal – in the negative – in respect of Flat 2 Bispham House in a decision dated 22 June 2017 issued under case reference MAN/00BY/LSC/2015/0122 ("the Previous Decision").

5. On 19 January 2018, I directed the respondent to inform both the Tribunal and the applicants whether it accepted that the issues in these proceedings should be determined to the same effect as the Previous Decision. On 14 February, the respondent's solicitors sent an email to confirm that, in their view, the immediately pertinent terms of the leases of Flats 12 and 51 are in similar form to the corresponding provisions of the lease of Flat 2, such that they would expect a determination of the substantive point in dispute in the present proceedings to mirror that in the Previous Decision. Given these circumstances, the respondent did not intend to oppose the present applications.

6. I have inspected copies of the leases of Flats 12 and 51, and I agree that the relevant provisions are materially the same as the corresponding provisions of the lease of Flat 2. No additional evidence has been produced in these proceedings and so I see no reason to now depart from the findings made by the Tribunal in the Previous Decision: the "improvement contribution" referred to in clause 2(ii)(b)(3) of each lease is not payable at present. Nor is anything presently payable by way of contribution to the cost of "Improvement Works" under the seventh schedule.

7. Finally, I note that the applicants have applied for orders under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002. I have not determined those ancillary applications as it seems unnecessary to do so given the way these proceedings have concluded. However, if the applicants think I am mistaken about this, they have liberty to apply.

Judge J Holbrook
5th March 2018