

12626



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

Case Reference : **MAN/00CJ/LSC/2016/0104**

Property : **14, 33, 39, 42, 47, 72, 74, 78, 128 and 186 St Ann's Close Newcastle upon Tyne NE1 2QT**

Applicants : **Various at St Ann's Close, through Mr Richard Alan Maughan – Lead Applicant of leaseholders of the above Apartments. Details of the Applicants appear in the document annexed to this decision marked "Annex A".**

Respondent : **Newcastle City Council**

Tribunal Members : **Judge W.L. Brown
Mr I D Jefferson TD BA Bsc FRICS
Mrs A K Usher**

Date of original Determination : **1 February 2018**

Date of Decision : **13 March 2018 (the "Decision")**

DECISION

The Tribunal decided to review the Decision.

DECISION OF THE TRIBUNAL

1. The Tribunal has considered the Respondent's request dated 2 February 2018 for the Tribunal to review the Decision (the "Application") and determines that:
 - (a) it will review its decision;
 - (b) in consequence the Application will not be regarded as application for permission to appeal.

REASONS FOR THE DECISION

2. In accordance with Rule 53 The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the "Rules") the Tribunal has considered whether to review the Decision in accordance with Rule 55 following the Respondent's representations. It has decided to undertake a review.
3. The Respondent states that the Tribunal has erred in the Decision as to the amount of the total cost of major works to the roofs of the 9 blocks comprising St Ann's Close. It refers the Tribunal to its invoices to each Applicant and summary table of the costs broken down block by block and showing the apportionment to each Applicant. The Applicants are aware of these documents and their content.
4. The Tribunal agrees that while its attention was not drawn specifically to those documents during the hearing the content of those documents is relevant to clarify the actual cost to each Applicant of the major works. By referring to those figures the Decision will make clear the actual amounts approved as reasonable to be paid by each Applicant. The Tribunal determines therefore that the Decision should be amended as follows.
5. The wording in the heading of the Decision at (1) shall be regarded as deleted and replaced with: "The sum for major works invoiced as service charges in service charge year 2015/16 is determined as reasonable. It is noted that the sum invoiced for the major works to the Respondent is as recorded in the combined total for each block as shown in Annex C."
6. "Annex C" is appended to this Decision, titled "Final Costs".
7. The first sentence in Paragraph 48 of the Decision shall be regarded as deleted and replaced with: "The Respondent's evidence is that the sum invoiced for the major works to it is as recorded in the row entitled "Total" for each block as shown in Annex C."
8. Paragraph 70 of the Decision shall be regarded as deleted and replaced with: "In the absence of challenge by the Applicants to the actual cost of the works the total cost of the major works is determined as reasonable. The Tribunal accepts the Respondent's evidence that the sum invoiced to it has been as recorded in the combined total for each block as shown in Annex C. That cost is apportioned

between the 262 properties within the St Ann's development, including specifically those of the Applicants. The Applicants' contribution percentage figure varies from lease to lease and in light of the practice adopted by the Respondent regarding apportionments (see paragraph 7). The total cost of the major works can only be recovered through the service charge from each Applicant on a block by block amount (which sum for each block will differ) and then applying the service charge percentage from each lease. The Respondent will need to provide each Applicant with a breakdown of the cost of the total works by block, in accordance with the relevant leases and then apply the correct percentage to each block cost to arrive at the relevant recovery charge per apartment. The apportionment is to be according to the percentage customarily applied for general service charges for each of the apartments as set out in the document attached to this Decision marked Annex B noted as "Correct due proportion".

9. In addition, as part of the process for the Tribunal to make this decision on the Application it has reviewed the invoices sent to each Applicant by the Respondent for their respective contributions to the major works cost. The Tribunal has discovered that the Respondent has divided the total sum for each block (shown entitled "Total" in the tables within Annex C) by the number of flats in each block instead of applying the percentage adopted by custom and which is unchallenged by the Applicants (see paragraph 6 of the Decision). The share of each Applicant leaseholder has been calculated by the Tribunal applying that undisputed apportionment. When the due proportions are applied there is a slight disparity in the correct actual amounts, but the range of difference is from £0.16 to a maximum of £3.15. The Tribunal considers that these differences are trivial in the circumstances and determines for this case that there is no need for the Respondent to produce amended invoices to the Applicants and the sums determined as reasonable as payable by each Applicant is as recorded in Annex C.

Final Costs

Block 1 - 12 Properties

Block	83-90, 259-262
Materials	£17,010.41
Labour	£6,275.44
Preliminaries	£1,637.64
Scaffold	£2,971.34
Sub total	£27,894.83
Technical fee	£1,743.43
Total	£29,638.26
Leaseholders share	£2,469.85

Block 4 - 28 Properties

Block	65-76, 115-130
Materials	£29,315.81
Labour	£10,815.11
Preliminaries	£3,531.91
Scaffold	£5,120.82
Sub total	£48,783.65
Technical fee	£3,048.98
Total	£51,832.63
Leaseholders share	£1,851.17

Block 7 - 33 Properties

Block	32-40, 219-242
Materials	£38,363.90
Labour	£14,153.11
Preliminaries	£4,503.51
Scaffold	£6,701.32
Sub total	£63,721.84
Technical fee	£3,982.62
Total	£67,704.46
Leaseholders share	£2,051.65

Block 2 - 30 Properties

Block	1-6, 131-154
Materials	£38,363.90
Labour	£14,153.10
Preliminaries	£4,094.10
Scaffold	£6,701.32
Sub total	£63,312.42
Technical fee	£3,957.03
Total	£67,269.45
Leaseholders share	£2,242.31

Block 5 - 28 Properties

Block	53-64, 203-218
Materials	£29,315.81
Labour	£10,815.11
Preliminaries	£3,531.91
Scaffold	£5,120.82
Sub total	£48,783.65
Technical fee	£3,048.98
Total	£51,832.63
Leaseholders share	£1,851.17

Block 8 - 40 Properties

Block	7-22, 179-202
Materials	£38,363.90
Labour	£14,153.11
Preliminaries	£4,622.00
Scaffold	£6,701.32
Sub total	£63,840.33
Technical fee	£3,990.02
Total	£67,830.35
Leaseholders share	£1,695.76

Block 3 - 30 Properties

Block	77-82, 91-114
Materials	£38,363.90
Labour	£14,153.10
Preliminaries	£4,094.10
Scaffold	£6,701.32
Sub total	£63,312.42
Technical fee	£3,957.03
Total	£67,269.45
Leaseholders share	£2,242.31

Block 6 - 28 Properties

Block	41-52, 243-258
Materials	£29,315.81
Labour	£10,815.11
Preliminaries	£3,531.91
Scaffold	£5,120.82
Sub total	£48,783.65
Technical fee	£3,048.98
Total	£51,832.63
Leaseholders share	£1,851.17

Block 9 - 33 Properties

Block	23-31, 155-178
Materials	£38,363.90
Labour	£14,153.11
Preliminaries	£4,503.51
Scaffold	£6,701.32
Sub total	£63,721.84
Technical fee	£3,982.62
Total	£67,704.46
Leaseholders share	£2,051.65

ANNEX C