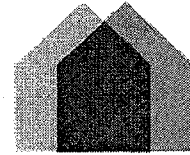


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**Residential  
Property**  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL**

**LON/00AC/LSC/2007/0150**

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**Premises:** Flat 1-10 York Mansions ,252 ,West Hendon  
Broadway, London, NW9 6BG

**Applicant:** Mr N.M. Malik, Flat 6 accompanied by Miss N.  
Patel, Flats 1 and 10

**Represented by:**

**Respondent :** Doverhall Developments Limited

**Represented by:** Mr R Shaw and Mr P.T Glover of Urban Point  
Property Management Ltd.

**Tribunal:** Mrs C.A. Lewis FCIArb  
Mr. M. Cairns MCIEH  
Mr D. Wilson JP

**Date of Hearing:** 21/08/07

**Date of Decision:** 4. October 2007

**LON/00AC/LSC/2007/0150**

**Flats1-10, YorkMansions, TheBroadway, West  
Hendon, London, NW9**

**Preliminary**

**1. The Applicant seeks a determination of the reasonableness and liability to pay service charges for the years 31<sup>st</sup> December 2003 to 31<sup>st</sup> January 2007, under Section 27A of the Landlord and Tenant Act 1985, and an Order for the limitation of the Landlords costs in the proceedings under section 20C of the Act.**

**2. The Applicant holds flat 6 under the terms of a lease granted on 10 January 1989 for a term of 99 years.**

**3. A Pre Trial Review hearing had taken place on 12<sup>th</sup> June 2007 which was attended by Mr Malik and Miss Patel. The Respondents had not been represented. The Tribunal identified the following issues to be determined:**

- i) The Applicants liability to pay service charges for the service charge years from 31<sup>st</sup> December 2003 to 31<sup>st</sup> January 2007.**
- ii) The items in dispute are insurance, repairs and management for each service charge year in question, entryphone costs for service charge**

years 2003 and 2004, excess service charge for service charge year 2003 and 2004, cleaning for service charge years 2004 to 2007, survey fees for service charge year 2004 to 2006, insurance claim in service charge year 2005, and major works in service charge year 2005.

### Inspection

4. A site visit was made prior to the hearing. Inspection was limited to external elevations and access stairs and landings. York Mansions form the second and third floors of a three-storey block fronting onto The Broadway. The ground floor is given over to a mix of retail units.

This is an inter-war block. External walls are solid brickwork rendered at second floor level and with tile cladding to bays. The main roof is pitched with interlocking tile coverings. Windows are a mix of single and double glazed units and varying designs. Access to the residential accommodation over the shops is via a central straight flight staircase giving onto an open access walkway. The main entrance has a security door, operated by a buzzer / intercom system.

Second floor flats are accessed by further straight flights of stairs off the main walkway. There is a service road to the rear of the block providing further access to retail and residential units.

The Tribunal noted a number of disrepair items and maintenance deficiencies, including fallen tiles to bay cladding, defective rainwater goods, collapsing timber door canopies, spalled and cracked walkway copings and shabby paintwork.

## **The Hearing**

### **The Applicants Case**

**5. The Applicant referred to a written statement of case which he had prepared and also gave further evidence. He dealt with the items in dispute as follows**

#### **a) Insurance**

**This was in respect of the years 2003-2007. The insurance had now risen from £103.32 pa per flat to £817.40. Other similar properties paid between £150 and £200 pa. The insurance covered both the residential and the commercial premises, and it was not clear how it was apportioned. The commercial premises had been unoccupied since at least 2000, and at one stage squatters had been evicted. For the past 8 years the insurance had always been provided by the same company and the present annual premium was £12,474. The leaseholders thought that the commercial premises should pay a higher proportion of the costs.**

**The Applicant produced an alternative quotation of £5,056pa which he had obtained from Rent Guard Insurance.**

#### **b) Repair work does not relate to flat**

**An invoice for £616.87 did not apply to flat 6 as stated, the work had never taken place to his flat.**

#### **c. Entryphone**

**The Applicant said that a lot had been spent on repairing the present entryphone system. He had obtained an alternative quotation of £165 pa + VAT and said that this would include maintenance.**

**c) Surveyors Fees**

**In spite of the amount claimed for surveyors fees since 2004 of £3,941.05, major repairs had not yet been carried out, and the last quotation for major works was disputed by the lessees. Over the past few years the lessees had paid thousands of pounds for random maintenance.**

**d) Cleaning of common Parts.**

**In view of the poor standard of cleaning, the lessees disputed the amount claimed of £1,200 pa. On occasions they had had to clean the common parts themselves. There were also "one off" charges.**

**e) Work done by Mallbecker Management Ltd.**

**The invoice for this work for £1,464.05 related to repairs to an asphalt roof belonging to the commercial premises below. The cost should not be included in the lessees' service charge.**

**f) Other matters**

**The management company rarely consulted the lessees with regard to the repair work and the quality of the work was often poor and had to be done again. One of the reasons for high service charges was that the management company used repair and maintenance companies based some distance from the property. The same maintenance company had been used for 8 years.**

## **The Respondents Case**

**6. Mr.Glover and Mr. Shaw of Urbanpoint Property Management Ltd. gave evidence on the disputed issues on behalf of the Freeholder Doverhall Developments Ltd and stated that in their opinion the whole matter could have been resolved without the need to come to the Tribunal. They wanted to get York Mansions back in good order and needed to recover the outstanding service charges.**

### **a) Insurance**

**Under the terms of the lease the landlord was entitled to insure the building and over the years had kept the premium at the same level. The premises on the ground floor had been in use as a public house, but was later unoccupied which had caused the premiums to rise. It was currently undergoing full renovation and would be used as an international supermarket. The insurance broker had advised the freeholder that the facility with the insurer was reviewed on a global basis in order to ensure the competitiveness of the rates used to calculate the premium and the suitability of the insurance cover.**

**The Respondents produced and submitted a table showing the actual charges, together with refunds and balancing amounts. This demonstrated annual charges of £226.74 per flat per annum between 10.05.02 and 09.05.06. The table also showed the allocations between the flats, the former public house and other retail units since 2002 [Doc R1].**

### **b) Repair Works**

**Company records showed that Mr. Malik was not the legal owner of Flat 6 in March 2003 and therefore could not know about repair work at that time.**

**c) Entryphone**

A total of £483.41 had been spent on the system since January 2003, approximately £100 per annum. This was a relatively small cost for entryphone repairs. The entryphone service suggested by the lessee was a maintenance service only.

**d) Excess Service charge.**

The excess service charge is an amount by which the actual service charge expenditure for a period exceeds the service charge estimate for the period. There was a service charge credit for the year 2003 to each leaseholders account, and this dispute was not understood. For the year 2004 the excess service charge had been apportioned between the leaseholders. The amount had been for surveyors fees to draw up a specification and obtain specifications for major works. The fee was a percentage of full services based on the final tender sum submitted by contractors, in accordance with RICS rules.

**e) Cleaning**

Cleaning took place twice a month and the price of £300 per month was reasonable. The cost had remained at the same level, and the cleaner completed an attendance sheet at the premises. There had been a one-off charge but that was because the regular cleaner had refused to deal with the particular problem.

**f) Survey Fees**

Surveys were carried out on the property about every 5 years, and additional survey fees at 15% of the cost of major works were incurred in accordance with the RICS. There was an additional invoice for £571.05 in respect of a surveyor's report relating to damp penetration. It was not known to which flat the report referred. None of the surveyors fees related to the commercial premises.

**g) Insurance Claim**

There was an insurance claim arising from a leak from Flat 2 which had damaged the flat below. Redecoration had been claimed and met for a cost of £4,100. It was unclear what the dispute was over this matter.

**h) Major works**

i) It had not been possible to proceed with major works following consultation process in 2004 due to ongoing disputes and the failure of some tenants to contribute to the costs. Further attempts had failed and any lessee who had paid towards the works had been reimbursed. Recently the Section 20 consultation process had been started again as there was a new landlord. They now awaited written instructions on how to proceed.

**j) Management fees**

The management fees from 2003 of £100 plus VAT per unit had only risen to £115 plus VAT per unit in 2006. They did not understand which aspect of management was disputed.

**k) Mallbecker Management Ltd.**



**Although this work to the asphalt roof was over the shops it was part of the lessees' walk-way.**

**l) Other Matters**

**The managing agents would always use contractors named by the lessees where appropriate.**

**The Tribunal's Determination**

**7. The amounts for each item in dispute are shown on the attached Schedule A together with the amounts determined by the Tribunal to be reasonable and payable**

**8. Insurance**

**It was clear from the evidence of the parties at the hearing that some changes had occurred since the date of the original application, and that while Mr Malik had referred an alternative quotation for the insurance from Norwich Union of £5,056 he did not produce it. He said his quotation was based on the Culver Schedule but it did not appear to the Tribunal to have been prepared on a like- for -like basis in every respect. He would also not have been in a position to have known the history of the number of claims made on the insurance. Whilst the Tribunal observe that the insurance costs have lacked clarity, we are persuaded that once apportioned between the categories and taking into account credit amounts, the annual cost per flat have been reasonable, consistent and so were reasonably incurred. The Tribunal note that the insurance cost had risen significantly over recent periods, and were not persuaded that the managing agents had necessarily done the best they could for the year ended 2007, Mr Malik can challenge the landlord if they**

fail to shop around, and the parties at the hearing agreed to talk to each other to try to come to a more satisfactory arrangement in the future<sup>8</sup>. Repairs to flat

The Respondents case was that the repairs in question for Flat 6 had been carried out before Mr Malik had an interest in it. Mr Malik claimed that 11 not 10 flats should share the service charge, but this was disputed by the Lessor and there was no proof before the Tribunal.

The Tribunal was satisfied that the work in question had been carried out before the time of Mr Malik. During their inspection of York Mansions, they noted other doors to flats which had more than 15 panes of glass, as described, and also that the bill was correctly made out to "York Mansions".

#### **9. Entryphone**

The annual cost of the entryphone was approximately £100. The Respondent had investigated Mr Malik's reference to an alternative company, but was told that the cost of £165 plus VAT did not include replacement parts. They also undertook to look at other contracts which included parts in the future. The Tribunal consider that the contract proposed by Mr Malik would involve more cost and that the cost of the existing arrangements had been reasonably incurred.

#### **10. Survey Fees**

Earlier major works had not been carried out in 2004 and the necessary Section 20 Consultation Procedure had not been followed through due to lack of funds from the lessees. Survey work had taken place in 2006 when a further Section 20 Notice had been served. The charges made by the Lessor were found to be within the normally accepted range by the Tribunal.

## **11. Cleaning**

The cleaning work was carried out under a contract with a Ltd. Cleaning Company at a cost of £2.31 per week, per tenant. This company would have the normal running expenses associated with a Ltd. company, and the Tribunal accept the amounts claimed.

## **12. Works carried out by Mallbecker Management Ltd.**

Mr Malik had misunderstood precisely where the work involved had taken place. The Tribunal observed that it was shown on the relevant invoice to be over the kiosk and betting shop in premises below York Mansions, and not around the back of the block as he had described. This meant that the work was to the lessees' walkway and falls squarely within the provisions of the lease 2. (ii)(c) relating to the landing etc.

## **13. Management etc.**

At the hearing the Respondents representatives agreed to look into Mr Malik's suggestions regarding the management and administration of the property. The Tribunal has looked at the charges presently in question and have concluded that in their experience, they are not unreasonable overall.

**Application under S.20 C of the Act**

**In the light of their findings in favour of the landlord above, the Tribunal consider that in the event that they are able to add the costs of proceedings to the service charge under the terms of the lease, it would not be just and equitable for them to make an Order under S.20C that the landlord should not be able to add the costs of proceedings to the service charge.**

**Reimbursement of Fees**

**For the same reasons the Tribunal make no order for all or part of the Applicants fees of the application to be reimbursed by the Respondent.**

**Chairman:** C. A Lewis      **Date:** 4 October 2007

## INSURANCE

The Applicant had queried the reasonableness of building insurance in years ending 31/12/2003 to 31/12/2007. The Respondents produced a schedule indicating that the 'total insurance charged' to any flat from 10/05/2002 until 31/12/2007 was £965.24\*.

The service charge statement for Flat 6 indicated the following charges attributed to insurance:-

Year End:	31.12.03	£103.32
Year End:	31.12.04	£456.92
Year End:	31.13.05	£226.24
Year End:	31.12.06	£778.68
Year End:	31.12.07	£817.40

*\*Note: A credit was noted in the summary statement for this flat dated 17/11/05 for £460.37 and for all the flats a credit of £2,991.93 was shown in the summary schedule provided by the Respondent's at the Hearing.*

The Applicant had suggested that an annual charge of £200 per flat was reasonable. £965.24 divided by 5 years equates to £191.29.

The Tribunal therefore considers the £956.24 to be reasonable and reasonably incurred for the period 10.05.02 until 31.12.07. A balancing exercise will need to be carried out in the actual finalised and certified service charge statement for years ending 31.12.07 (currently estimated).

Remaining items raised in the Statement of Case were determined as follows:-

**BASED ON APPLICANT'S STATEMENT OF COST AT PAGE 123 OF BUNDLE**

<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
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Item	Disputed	Determined	Disputed	Determined	Disputed	Determined	Disputed	Determined
Repairs	£616.87	£616.87	£1001.31	£1001.31				
Entryphone			£566.35	£566.35				
Surveyors etc			£2,627.36	£2,627.36			£1,313.69	£1,313.69
Cleaning	Nil	Nil	£1,264.75	£1,264.75	£1,200	£1,200	£1,200	£1,200
Asphalt Work					£1,464.05	£1,464.05		