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

Case Reference : **MAN/00EU/LSC/2012/00141**

Property : **Various residential properties at
Jodrell Drive, Keepers Road &
Stansfield Drive, Grappenhall,
Warrington, Cheshire WA4 3HA**

Applicants : **Mr I Rahman
Mr & Mrs A Pitalia**

Representative : **N/A**

Respondent : **Regents Square (Grappenhall)
Management Company Limited**

Representative : **pdcc legal, Solicitors**

Type of Application : **Determination of reasonableness of
service charges; order preventing
recovery of costs incurred**

Tribunal Members : **Judge J Holbrook
Mr D Pritchard FRICS**

**Date and venue of
Hearing** : **Determination on the papers**

Date of Decision : **13 August 2013**

DECISION

DECISION

In respect of the service charge period which commenced on 1 January 2012 and ended on 31 December 2012, each of the Applicants is liable to pay the Respondent a service charge in respect of each leasehold Property owned by that Applicant. The amounts payable are set out in the tables in the Appendix to this Decision.

REASONS

Background

1. Mr Imran Rahman is the leasehold owner of six residential apartments known as 2, 10, 18 & 20 Jodrell Drive, 17 Keepers Road and 102 Stansfield Drive, Grappenhall, Warrington, Cheshire WA4 3HA.
2. Mr & Mrs Anil Pitalia are the leasehold owners of six residential apartments known as 6, 8, 12 & 22 Jodrell Drive and 96 & 98 Stansfield Drive.
3. All of the above premises ("the Properties") form part of a residential development known as Regents Square, Grappenhall ("the Estate").
4. An application was made to a leasehold valuation tribunal under section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act") for a determination of liability to pay, and reasonableness of, service charges in relation to the Properties. The application related to the two service charge years which ended on 31 December 2011 and 31 December 2012 respectively.
5. Application was also made under Schedule 11 to the Commonhold and Leasehold Reform Act 2002 for a determination of the Applicants' liability to pay administration charges demanded by the Respondent in connection with their tenancies of the Properties.
6. As an ancillary matter, application was also made for an order under section 20C of the 1985 Act for an order preventing the Respondent, Regents Square (Grappenhall) Management Company Limited, from recovering costs incurred in connection with the proceedings under section 27A as part of the service charge.
7. A leasehold valuation tribunal had previously made two determinations, dated 7 November 2011 and 12 March 2012 respectively, of the Applicants' service charge liability for previous years ("the First and Second Determinations"). On 26 February 2013 the LVT issued a further determination ("the Third Determination") which dealt with the disputed service charges and administration charges for the 2011 service charge year. Expressions defined in the First, Second or Third Determinations have the same meaning in this

Decision. The Third Determination did not seek to resolve disputed issues relating to the 2012 service charge year, but the LVT gave directions with a view to those issues being determined at a later date.

8. On 1 July 2013, the functions of leasehold valuation tribunals transferred to the First-tier Tribunal (Property Chamber) ("the Tribunal") and so the outstanding issues concerning the 2012 service charge year now fall to be determined by the Tribunal.
9. The parties were informed that those issues would be determined on the basis of written representations alone, without an oral hearing, unless any party gave notice that they required an oral hearing to be held. No such notice was received. The Tribunal therefore proceeded to determine the issues on the papers alone. It did not inspect the Estate on this occasion.

Issues and law

10. The First Determination described the Properties and the Estate, and identified the service charge machinery in the relevant Leases. As far as the 2012 service charge year is concerned, it is understood that the Applicants make a general challenge to the reasonableness of the expenditure incurred by the Respondent. They also seek a further order under section 20C of the 1985 Act.
11. The First Determination also set out the law which the Tribunal must apply under the 1985 Act in determining the payability and/or reasonableness of service charges and in deciding whether to make an order under section 20C. It is unnecessary to repeat the detailed statutory provisions.

The 2012 service charges

12. The Respondent produced audited accounts for the 2012 service charge year. The aggregate service charge expenditure was shown as £18,475.00 for Jodrell and £18,986.00 for Stansfield. The amount claimed by the Respondent in respect of each Property is found by applying the appropriate "Lessee's Proportion" specified in each Lease to the total expenditure for the relevant Block (i.e., whether the Property concerned forms part of Jodrell or part of Stansfield).
13. The 2012 accounts had not been available to the Applicants when they applied for a determination of their service charges. Indeed, that application was made before the year had ended. The accounts were produced by the Respondent during the course of these proceedings in response to a direction of the LVT in the following terms:

"... the Respondent must supply to each Applicant a copy of the final service charge accounts for the 2012 service charge year, together with statements of account dealing with the service charges payable by that Applicant for each of their Properties in

services to buildings of comparable size and character. No evidence has been provided to suggest that any individual heads of expense comprised within those charges are unreasonable in amount. Nor is there any evidence that any of the services provided were not provided to a reasonable standard.

18. Nevertheless, it is noted that the aggregate expenditure includes the sum of £1,440.00 for "Legal & Professional Fees". This expenditure is apportioned equally between Jodrell and Stansfield in the 2012 accounts. Upon further enquiry from the Tribunal, the Respondent has acknowledged that the inclusion of this expenditure in the 2012 service charge would contravene the Order made under section 20C of the 1985 Act in the Third Determination. It follows that the sum of £720.00 must therefore be deducted from the expenditure claimed for each Block before that expenditure is attributed to the individual Properties.
19. The resulting service charge liabilities for 2012 are set out in the Appendix to this Decision.

Application for a further Order under section 20C of the 1985 Act

20. In light of the Tribunal's criticism of the approach which the Applicants have taken in their challenge to the 2012 service charge, we do not consider it to be just and equitable to make a further order under section 20C of the 1985 Act. However, this does not affect the validity of orders previously made by the LVT in relation to costs incurred in earlier proceedings.