

RESIDENTIAL PROPERTY TRIBUNAL

LEASEHOLD VALUATION TRIBUNAL

Reference; LVT/0001/04/14 - Lavender Grove

In the Matter of: 155 Lavender Grove, Cardiff, CF11 3SZ

In the Matter of an Application under Section 27A of the Landlord and Tenant Act 1985

AND in the matter of an Application under Section 20C of the Landlord and Tenant Act 1985

TRIBUNAL David Foulds (chair)  
Roger Baynham FRICS

APPLICANT Mrs Ilhem Najeh

RESPONDENT The County Council of the City and County of Cardiff

RESPONDENT REPRESENTATIVE Richard Grigg (Solicitor)

Date of Hearing 18<sup>th</sup> June 2014

Date of Decision

DECISION

1. The Tribunal determines that the sum of £423.16 is payable in respect of the Block, Communal and Estate Repair costs that are the subject of this application.

REASONS

2. This Decision is in respect of that part of the application in respect of Block, Communal and Estate repairs that was adjourned pending the decision of the Court of Appeal in the case of Phillips v Francis [2012] EWHC 3650 (Ch).
3. On 28<sup>th</sup> October 2014 the Court of Appeal set out the correct approach to applying sec 20 of the Landlord and Tenant Act 1985 to “qualifying works” and the limitation on recoverability of the costs of such works if statutory consultation is not carried out to works to which it applies.
4. The Court of Appeal decided that “qualifying works” should be construed as applying to a set of works and not all works included within a given financial period such as a service charge year. The correct approach is to

look at the works in question and make a determination on whether they are works either carried out at one time or over a period of time that can reasonably be considered to be the same set of works. The total costs of those works is then to be considered when applying the statutory rules on the cap on recoverability if the works require any lessee liable to contribute to pay more than a set sum and which is currently £250.00.

5. Applying the above legal approach to the qualifying works in the present case, the Tribunal determines that all the items of cost in respect of Block, Communal and Estate repairs that are the subject of this application, are in respect of separate sets of works as they involved quite different works carried out a different times.
6. None of the individual sets of qualifying works exceed a contribution by a leaseholder liable to so contribute of a sum exceeding £250.00.
7. The Tribunal therefore determines that the costs as demanded for Block, Communal and Estate Repairs are £5,385.33 less the £2,000.00 in respect of the work on the vents making a sub total of £3,385.33. Of this amount the Applicant's percentage contribution demanded by the Respondent is £423.16.
8. The decision of this Tribunal dated 6<sup>th</sup> August 2014 found no sums payable as the Respondent had not at that time complied with section 47 and section 48 Landlord and Tenant Act 1985. The Tribunal has since received a copy of a letter from the Respondent to the Applicant dated 13<sup>th</sup> August 2014 in compliance with the said sections.
9. The Tribunal therefore determines that the sum of £423.16 is payable in respect of the Block, Communal and Estate Repair costs that are the subject of this application.

Dated this 11<sup>th</sup> Day of November 2014



CHAIRMAN