

UPPER TRIBUNAL (LANDS CHAMBER)



UT Neutral citation number: [2012] UKUT 241 (LC)

UTLC Case Number: LRX/170/2011

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

**IN THE MATTER OF AN APPEAL AGAINST A DECISION
OF A LEASEHOLD VALUATION TRIBUNAL FOR THE
LONDON RENT ASSESSMENT PANEL**

BETWEEN

FREEHOLD MANAGERS (NOMINEES) LTD

Appellant

and

**MARTINA PIATTI
POLO PIATTI**

Respondents

**Re: 40 Wetherden Street
London E17 8EJ**

**Decision on the application by the Respondents under
section 20C of the Landlord and Tenant Act 1985 as amended**

1. The Upper Tribunal has already issued the substantive decision in this matter. It is necessary for me now to consider an application made by the Respondents under section 20C of the Landlord and Tenant Act 1985 whereby they seek an order that the costs incurred by the Appellant (as landlord) in connection with the proceedings before the Upper Tribunal are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Respondents. The Upper Tribunal "may make such order on the application as it considers just and equitable in the circumstances", see section 20C(3).

2. The LVT in paragraph 22 of its decision made an order under section 20C in favour of the Respondents. The Appellant has not sought to appeal, and has not been granted permission to appeal, against that part of the LVT's decision. Accordingly the LVT's order in paragraph 22 stands so far as concerns the costs incurred in connection with proceedings before the LVT.

3. The Appellant was successful in the appeal to the Upper Tribunal upon the point of principle, namely whether the LVT was wrong in concluding that the Appellant was not entitled to charge a reasonable amount for the costs incurred by the Appellant in consenting to the subletting. However notwithstanding this, I conclude that I should make an order under section 20C for the following reasons:

(A) The need for the appeal to the Upper Tribunal arose from what was ultimately decided to be an error of law by the LVT, which was not the responsibility of the Respondents, who have throughout acted in person.

(B) The Respondents were only affected to the extent of a small sum of money by the decision of the LVT, whereas the Appellant (or its agents Freehold Managers Plc) administer a large portfolio of properties on behalf of several companies involving a high volume of applications for consent.

(C) Accordingly the point of principle was of much greater significance to the Appellant than the Respondents.

(D) The Appellant sought to justify the reasonableness of the charge by reference to its standard charges -- it appeared to be seeking an approval in respect of its standard charges. In this respect it was unsuccessful. The decision was ultimately made upon the particular facts of the case.

(E) Also the Appellant was constrained to reduce the amount sought from the initial sum of £260 to £165.

(F) In these circumstances I consider it would be just and equitable for the Appellant to bear its own costs in relation to the proceedings before the Upper Tribunal, rather than to be able to pass them (or some element of them) on to the Respondents through the service charge provisions.

4. Accordingly I order that all of the costs incurred by the Appellant in connection with the proceedings before the Upper Tribunal are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Respondents.

His Honour Judge Nicholas Huskinson

29 January 2013