

Closing your purse-strings to Service Charge abuse

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Statistics show that Service Charge abuse is reaching epidemic proportions throughout leasehold flats in the United Kingdom. The perpetrators of this behaviour are invariably Managing Agents instructed by the freehold owner to oversee the property under the terms of the Lease. There are several remedies leaseholders can employ to ward off this type of abuse. Awareness of leaseholder rights is of course the first key to padlocking the purse strings.

What are Service Charges?

Service Charges are fees which are payable under the terms of a Lease. These generally include buildings' insurance, maintenance costs and management fees. Sometimes, Leases also include clauses in relation to payments into a sinking (or reserve) fund and paying for the freeholder's legal costs associated with the property. The exact wording of the Lease is important in deciding what is chargeable and what is not.

Common abuses

Invariably, many leaseholders feel that a minor rise in their Service Charge payments every year is not significant enough to merit a challenge even though the increase is not justified. It is only when costs escalate beyond an acceptable level that the mood changes from passing irritation to frustration and anger.

Commonplace Service Charge abuses are as follows:-

- Charging unreasonably high buildings' insurance
- Charging for improvements to the building as opposed to repairing and maintaining the property
- Using a 'catch all' provision in a Lease which states that a landlord can charge for anything he decides is necessary but which is not specified in the lease
- Requesting a contribution into a sinking (or reserve) fund which a landlord is not entitled to collect if there is no provision for it in the Lease
- Requesting an excessively high contribution into a sinking fund based on exaggerated future projections of what is needed to be done
- Requesting payment for services or expenditure which are not recoverable under the terms of the Lease but it is hoped that the leaseholders will not check
- Reading ambiguous terms of the Lease to the financial disadvantage of the leaseholders
- Providing only scant detail of expenditure in the Annual Certificate or budget so as to prevent leaseholders from checking whether the expense is payable.
- Deliberately exaggerating or miscalculating costs
- Charging for costs which have not been paid at all

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Action to be taken

Due to recent legislation, there is no longer a requirement to accept Buildings' Insurance from the landlord or his agent. This means that you can avoid having to pay for excessive insurance premiums as long as procedures are correctly followed. To benefit, Leaseholders must provide a Notice of Cover to their landlord at least fourteen days before the new policy is due to be renewed setting out the details of the insurance policy proposed. The insurance policy must be from an authorised provider and cover the same areas as the previous insurance. Contact Pro-Leagle for more information on Notices of Cover.

In the event that one or more of the above abuses has been identified and negotiations for a reduction in Service Charges are not successful, the next stage would be to consider making an application to the Leasehold Valuation Tribunal for its decision. This is an informal Court and is responsible for deciding leasehold issues in the United Kingdom.

There are several Acts which offer protection to leaseholders. The main ones are the Landlord and Tenant Act 1985, the Landlord and Tenant Act 1987, the Housing Act 1996 and the Commonhold and Leasehold Reform Act 2002.

An application to the Leasehold Valuation Tribunal to determine service charges on the basis of reasonableness currently costs between £50.00 to £350.00, depending on how much money is in dispute.

The Tribunal will decide what is reasonable to pay to the landlord based on the evidence. It has the power to order the landlord to refund the application and hearing fee. It also has the power to request up to £500.00 in costs from the landlord if the Tribunal decides it appropriate.

To conclude, once it becomes clear that negotiations for a reduction in Service Charges have failed, the one course of action which can finally end the dispute either way is an application to the Leasehold Valuation Tribunal. Leaseholders may decide to apply to purchase the freehold at the same time for a full clean break. After all, once the purse strings are pulled shut, why wait for temptation to claw its way back?

17 June 2005

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