

**Y TRIBIWNLYS EIDDO PRESWYL**  
**RESIDENTIAL PROPERTY TRIBUNAL (WALES)**  
**LEASEHOLD VALUATION TRIBUNAL**

**Reference: LVT/0039/02/2024**

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

**APPLICANTS**

Mr Lawrence Busuttil (Represented by Miss J Busuttil)

Mr M Franklin

Mr P Rawlins (deceased)

Mrs S Wilson

**RESPONDENTS**

Afonwy Mary Angharad Howell Pryce Director of David's Wharf Site Management Company Limited, represented by Jonathon Rushton (Counsel)

**TRIBUNAL**

R Price

Chair

K Watkins

Surveyor Member

C. Thomas

Lay Member

**HEARING DATE**

29<sup>th</sup> January 2025

**DECISION NOTICE**

1. The anticipated expenditure under expenditure headings Electricity, Plant Maintenance (Pumps), Water Rates and Legal and Professional Fees are to be removed from the service charge period for the period 1 December 2023 to 30 November 2024, in respect of the residents of Rosella House. The statement for this period is to be recalculated following the removal of the aforementioned expenditure and re-issued to the Applicants.

2. The Tribunal had before it a revised appeal bundle that ran to page 158. The revised bundle included correspondence received from the parties following the adjourned hearing.

### **Issues**

3. This matter was adjourned on 8 August 2024, with directions, including amongst other matters, that the parties meet to attempt to resolve the issues by agreement. This meeting did not take place. As there was no application for costs in respect of these proceedings the Tribunal did not invite or hear submissions as to why the meeting did not take place.
4. It was agreed between the parties at the commencement of the hearing that the issues that were in dispute were the budgeted costs relating to the pumphouse and Legal and Professional Fees. The Tribunal limited itself to resolving only these issues.

### **Site Inspection**

5. The Tribunal attended a site inspection on 28 January 2025, and met with Mr Karl Reid, from Seel and Company who are the agents for David Wharf's site management company. The Tribunal inspected the pumphouse and also the water pipe outside Rosella House. It was clear from the site inspection that the pumphouse does not serve Rosella House. Rosella House is connected to the mains water supply.

### **Agreed Issues**

6. Ms Howell Pryce informed the Tribunal that the expenditure relating to the pumphouse could be removed for the period that is the subject of this dispute, ie 1<sup>st</sup> December 2023 to 30<sup>th</sup> November 2024. This included the Electricity, Plant Maintenance (Pumps), Water Rates.

### **Disputed Issues**

7. The amounts that remained in dispute are the Legal and Professional Fees.
8. Mr Busuttill and his daughter Miss J Busuttill stated that these amounts should not be due, because the Respondent had failed to comply with their obligations provided for in the lease, commencement date 1<sup>st</sup> April 2003, that was made between Frays Property Management (No. 5) Limited ('The Lessor') and Peverel O M Limited ('The Manager'). (Page 11-41). The sixth schedule of the

lease deals with The Maintenance Expenses, separated into Part A which refer to ("Estate Costs") and Part B which are ("Block Costs"). Estate costs refer to all maintenance costs for which every resident on the Cei Dafydd Estate are responsible for, Rosella House (the Applicant's residence) is one block of 11 on the Cei Dafydd Estate.

9. The oral evidence from the parties indicated that there was a significant amount of confusion in respect of the legal fund that was maintained by David Wharf's Site Management. In oral evidence, Ms Howell Pryce stated that the previous wording used in correspondence is misleading. There is only one legal fund for the whole of the Cei Dafydd Estate. The fund would be used to discharge legal matters attended to by company directors, chasing of debtors. Any remedial works required to the blocks would be funded as block costs as set out at Part B of the Sixth Schedule.
10. The Applicants asserted that the annual payments to the legal fund (which were relatively low) should not fall due, because they as lessees had not received information about this maintenance expense as was required by paragraph 5 of the seventh schedule which states:

*"An account of the Maintenance Expenses(distinguishing between actual expenditure and reserve for future expenditure) for the period ending on the last day of November 2004 and for each subsequent year ending on the last day of November throughout the Term (or on any other date as shall be notified to the Lessee in writing by the Manager at any time shall be prepared as soon is practicable and the Manager shall then serve on the Lessee copies of such account and accountant's certificate"*

11. On balance the Tribunal accept that the Respondent has failed to honour its disclosure requirements as set out in this clause of the lease, and therefore due to the lack of transparency surrounding the legal fund the Legal and Professional fees amounting to £2353.00 shall be removed for the service charge period 1 December 2023 – 30 November 2024.
12. It is right that the Tribunal records that Ms Howell Pryce, openly accepted during the Tribunal hearing that the pumphouse does not form part of the Maintained Property, as it falls in the exception contained at paragraph 2.3 of the Second Schedule (Page 23) of the lease. Therefore, it is not caught by clauses 7 and 7.1 (Page 29), and is not part of the Estate Costs for which the Applicants are liable for. The Applicants hope that this will prevent the costs surrounding the pumphouse being an issue in the future. It is noteworthy that the pumphouse had not formed part of the service charges due by the applicants for the previous two service charge years. Ms Howell Pryce submitted that this was not properly authorised at the time.

13. For completeness, whilst the Tribunal decide to remove the Legal Fees from the service charge period that is in dispute, this is not binding on future service charge periods.

R. Price

Tribunal Chair

10<sup>th</sup> February 2025