

Northview residents due to be repaid over £1,000 each

A number of leaseholders in Northview, in Tufnell Park Road, are to be paid back over £1,000 each following a decision on service charges by the Leasehold Valuation Tribunal.

Islington managing agents Drivers & Norris was strongly criticised by the tribunal.

Drivers & Norris managed the estate on Tufnell Park Road so badly that they will have to repay half their management fees since they took over managing the estate in 2003.

Evidence suggested that Drivers & Norris had an "unresponsive, unhelpful and even an aggressive management style", the tribunal said.

The tribunal decision said: "The evidence suggested that there were several breaches of the RICS code."

The whole of the reserve fund will have to be paid back, after the tribunal said: "There were also some quite fundamental errors in managing the reserve fund."

It said: "The Tribunal notes that it saw no previous record of the money paid into the 'Reserve Bank Account', or who had paid this money, or what proportion of it represents interest. The Applicants should obtain legal advice as to how this money can be properly dealt with so as to avoid committing a breach of trust."

So far, the minimum total refund value for the management fees is £29,187.28 and the credit standing to the reserve fund is £27,320.96, making a minimum refund of £56,508.24. There are 42 flats on the estate.

The agent - which refers to its "highest standards of quality and integrity" and its "uncompromising professionalism" on its website - had also apportioned costs relating to the communal hot water system unfairly, which meant that residents were sometimes being charged more than twice the correct amount. This and related additional fuel bills are yet to be calculated.

Long-term neglect of Northview's structure was noted by the Tribunal. which said: "The Tribunal's inspection indicated that the building is being allowed to deteriorate" and "Cyclical maintenance and redecoration appeared overdue... From the water stains, it was clear that water often ran into the stair wells from the exposed areas... If things remain as they are now, then considerable further deterioration is likely to occur quite soon."

The Tribunal also said that D&N's lack of action in removing its own boards that had been dumped in the residents' shared garden was "clearly a source of unnecessary friction with the lessees".

Use of the car park by the freeholders' contractors so they could work on neighbouring buildings was also criticised.

The LVT said: "The history of various matters noted above strongly suggests an almost entirely reactive management approach, and the history of the management of the whole suggested an unresponsive, unhelpful and even aggressive management style, perhaps typified by the non removal of the agents' own sign boards."

The agent hired a legal team, including a specialist barrister. Northview residents were represented by Valerie Richardson, a retired director of a business marketing and research consultancy, whose daughter lives on the estate.

Drivers & Norris withdrew charges specified at over £2,500 at or before the hearing, plus other charges not costed on the LVT decision paper.

Rebecca Richardson said: "These refunds are significant amounts. The tribunal's findings highlight the unacceptable practice and appalling management that residents of Northview have had to put up with for the past eight years.

"We trust that this case will send out a strong message to Drivers & Norris that they cannot treat residents in such a reprehensible manner and, more importantly, that they ensure in future they manage leaseholders' funds for Northview, and any other property they may be managing in a similar way to Northview, in accordance with legislation and the the RICS Residential Management Code of Practice, which is approved by the Secretary of State for England and is mandatory for any members of RICS."

Notes on the tribunal

Applicants

The applicants in case no LON/00AU/LSC/2010/0189 were the freeholders of 14-43 Northview, Thomas Henry Walduck, Stephen Howard Walduck, Richard John Rimmington and Hugh Richard Walduck. The Walduck family own the London Imperial Hotels chain. The Imperial London Hotels Executive Pension Fund, which owns 1-12 Northview, were also applicants in this claim

LVT comments on specific matters

Reserve fund

The tribunal said: "Demands for "the 'general reserve' can only be construed as loans from the lessees for an unspecified period outside the current service charge year, for an unspecified purpose... the Tribunal decided that such demands could not be reasonable and therefore were not payable".

Another reserve fund demand for £13,200 "was also unreasonable, as the money had not been used for its declared purpose".

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Drivers & Norris boards dumped

Tribunal members were surprised to that see a "an old pile" of Drivers & Norris's own estate agent boards dumped in the communal garden. They said: "The managing agents doubted they had been dumped by their staff. Nevertheless they have an office neighbouring Northview. The boards must have originally emanated from the firm... The Tribunal was surprised to hear from Mr Smith [Mark Smith, director of Drivers & Norris] that the contractor instructed had not dealt with the request for several months and he could not say when they would be moved. Such a situation does not enhance the agents' reputation, and is clearly a source of unnecessary friction with the lessees."

Car park

The residents' car park was used by the freeholder's contractors for over a year so they could extend a neighbouring building. The tribunal said: "The history of the issue of permits to contractors, and of the management of the use of the car park for adjoining development, suggested a partial approach for the benefit of the Applicants, rather than the lessees collectively."

Withdrawn charges

D&N made concessions and admission at and before the hearing. These include withdrawal of: a surveyor's fee of £587.50 for an insurance valuation in 2003-04; a repairs invoice for £399.50 for plumbing repairs to a flat belonging to the freeholder; boiler repairs of £1,697.52; repairs to commercial premises, which cannot be paid for through residents' services charges; and repairs to patch the roof.

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