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## My Property Nightmare Extortionate service charges

**L**easeholders still have inadequate protection from unscrupulous landlords, as **Noëlle Rawé**, a Knightsbridge leaseholder, has found to her cost. When her landlord, a secretive British Virgin Islands-registered company, sent her a very large bill for major repairs, she quite legitimately questioned the works proposed. She then received a solicitors' letter threatening her with the forfeiture of her lease if she didn't pay up. She has now spent £30,000 on solicitor's, barrister's and surveyor's fees fighting her case in the Leasehold Valuation Tribunal (LVT) and the County Court.

Noëlle's problems began in early July, 2002, when her landlord put in a service charge demand of £736,000, to be shared between the 35 mainly studio flats in her block. Her share of the bill came to £14,400 for works that included the redecoration and re-roofing of the block, and a new lift and main boiler. An earlier letter from the managing agent had indicated that the final bill might rise to more than £1.5 million, which would have put her share at about £30,000.

In August of last year, the landlord applied to the LVT for a determination that the landlord's demands were reasonable – and Noëlle decided to contest it. "The Government presents the LVTs as a forum where flat-owners can challenge service charges without the need for professional representation and where each party pays their own costs."

In practice, Noëlle says, this is not what happens. "For the four days of hearings between February and April, I employed a barrister and a surveyor. Without them I wouldn't have stood a chance – and still the outcome was unsatisfactory." The final report found evidence of overcharging. It also stated that the landlord should use the sinking fund of nearly £142,000 to fund part of the works, something that it was refusing to do. But the tribunal was unable to pass judgment on all aspects of the service charge because the landlord had not provided sufficient information.

In other words, the tribunal failed to give Noëlle what she needed: a definitive ruling on what was a reasonable level of service charge, plus a summary of its findings. And, in a move that borders on harassment, the landlord didn't wait for the tribunal to rule before issuing proceedings against leaseholders for non-payment of the service charge. "In March this year, I received a charging order from the court. I then discovered that a charging order can only be pursued when judgment has been passed against me, which it hadn't."

Noëlle is still no nearer to agreeing the service charges with her landlord. "It has reduced my bill, but is still refusing to use the sinking fund, and I still don't know if the amount I am being asked to pay is fair, as parts of the works have not been specified. Other leaseholders have just paid up, but I refuse to be intimidated. Fighting it has cost me a large part of my savings, and it has taken up most of my spare time over the past 20 months."

**Nigel Wilkins of CARL – the Campaign for the Abolition of Residential Leasehold (PO Box 26369, London N8 7ZL; [www.carl.org.uk](http://www.carl.org.uk)) – says:**

"The Commonhold and Leasehold Reform Act 2002 was a missed opportunity. Keith Hill, the Minister for Housing and Planning, has recently stated that the Government



PHOTOGRAPH: CORBIS

**Costly maintenance** For works including redecoration: £14,000–£30,000

seriously underestimated the effect that forfeiture, and the threat of it, has on leaseholders. He is waiting for the Law Commission to report before proposing any changes.

"I have also seen other cases where the LVT has failed to give clear guidance. The problem is that it is only able to assess the reasonableness of service charges, not the liability to pay. This changed recently when the LVT's jurisdiction was widened, but we will have to wait and see whether this results in better decisions."

"I am also critical of the new 'right to manage' law which, in theory, gives leaseholders the right to manage their own block without having to prove that their landlord is negligent or overcharging them. In practice, the law is not very leaseholder-friendly. Leaseholders will have to set up a "right to manage company", which is expensive, and the landlord will continue to have power – as a member of the "right to manage" company who can sit on the board,

and with the right to take the service charge to the LVT.

"As an organisation, CARL continues to demand the abolition of the leasehold system. At the moment, leaseholders are getting ripped off by unscrupulous landlords simply because, unlike Noëlle Rawé, most simply pay up when they see that it is cheaper than hiring solicitors, barristers and surveyors to fight their case."

**'Other leaseholders have just paid up, but I refuse to be intimidated'**