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It was interesting to read that the service charge dispute at the Westfield London shopping centre is still rumbling on. In just over a year the Landlord is facing a second revolt from occupiers unhappy that service charge levels are running at just under £13 per square foot. According to reports this is down from a high of nearly £14 per square foot earlier this year. The service charge payable has been reported as being as low as £8.50 per square foot when the scheme first opened.

It is not surprising therefore that some tenants are still unhappy about these sort of costs. In this market every tenant is trying to keep costs to a minimum and for many their very livelihood depends on them succeeding at doing just that. Disputes such as the one at Westfield London are never easily resolved, there is seldom a straightforward black and white solution to the problem and these disputes can only be resolved if both parties give ground. Is it a case of the landlord or the tenant or both digging their heels in? Or is it a case of the service charge consultants representing the tenants not doing their job properly?

Is Westfield London a case of a landlord setting artificially low initial service charge costs to lure tenants into the scheme, followed by a hike to realistic levels once the tenants are on the hook? Or is it that £13 per square foot is what it costs to run Westfield London operating at full tilt? The cost increases may indeed be fully and legitimately recoverable from the tenants. After all a scheme with Millions of shoppers passing through the doors each year is likely to have significant repair costs and it is entirely possible that these along with utilities and other costs have significantly exceeded original projections.

On the flip side is it the tenants that are being unreasonable? Are they happy to have all the trappings of a prestige mall but don't want to pay for it? Have they requested or made demands on the landlord that they are now reluctant to pay for?

Complaining about service charges and formally disputing them with a landlord is something not to be taken lightly. Many occupiers face being stripped of any unique special concessions granted by the landlord if they kick up too much of a fuss. Worse still the landlord tenant relationship could breakdown altogether and the whole thing end up in a costly court case benefitting no-one.

There are landlords and managing agents in the market who are well known for pushing the boundaries of what is legitimately recoverable from tenants under their leases, whether Westfield are one of these I honestly do not know, but I would love to find out.