



**Residential
Property**
TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: CHI/00MS/LDC/2010/0011

**THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER
SECTION 20ZA of the Landlord and Tenant Act 1985**

**Applicants: Mr A.A. Girling
(F & S Property Management Ltd)**

Respondent: The Lessees

**Premises: Block A & B Century Court, Lower Canal Walk, Southampton
SO14 3AX**

Date of Application: 15 April 2010

Date of Hearing 27 April 2010

**Appearances for Applicant: Mr Stallard FRICS
{F & S Property Management}**

Appearances for Respondents None:

**Leasehold Valuation Tribunal: Mrs B. M. Hindley LL.B
Mr P. Turner Powell FRICS**

Date of Tribunal's Determination 5 May 2010

Preliminary

1. This is an application, dated 15 April 2010, seeking dispensation under Section 20ZA of the Landlord and Tenant Act 1985, from compliance with the requirements of Section 20 of the Act, in connection with required major works.
2. In the application the managing agents explained that, because the foul drainage system was backing up to the extent that only liquid was passing through the slight opening, it was not possible to defer the required remedial works until completion of the consultation procedure prescribed by Section 20.
3. A Pre Trial Review took place on 16 April at which Directions were issued to the effect that the applicants should prepare bundles of documents for consideration by the Tribunal and the respondents, and that the respondents could themselves produce any statements and/or attend the hearing. The respondents were also invited to inform the Tribunal whether they wished to consent to the application.
4. On the same date the Tribunal also permitted the hearing to be held with less than 21 days notice being given to the parties, on the basis that the circumstances were 'exceptional' within the meaning of Regulation 14 (4) of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003.

The Inspection

5. The Tribunal, accompanied by Mr Stallard, inspected the subject property at 12 noon on 27 April. The property comprised two, recently built, blocks of flats sharing a communal courtyard parking area accessed through a key fob restricted gate. It was possible to see that the road surface immediately outside the gate had been disturbed and reinstated.

The Hearing

6. The hearing took place at 2.30pm on 27 April and was attended only by Mr Stallard who produced no further documentation. Nothing was received from any of the respondents and neither they nor any representative for them attended.
7. Mr Stallard explained that he had first become aware of the problem of over flowing drains on 29 March 2010 and a contractor – Lockyear Property Maintenance – known to the managing agents, had been contacted and had failed to clear the blockage by rodding. A specialist firm in Cosham – Freeflow – had been contacted and they had used a high pressure jet but this too had not been effective.
8. By 30 March the drains had been full and over flowing into the courtyard area. Jetting again proved unsuccessful even when performed up stream from the road. It was discovered that the blockage was some 600mm long and it was realised that it would only be possible to clear the blockage by working in the road and that it was, therefore, necessary to apply for a road opening licence.
9. On 12 April a site meeting took place with the Council. The earliest date that the contractor – Freeflow – could undertake the work was 19 April. However, because the Council insisted that a contractor working on the road should have

a higher level of indemnity insurance than Freeflow carried, it was necessary to appoint AA Contractors.

10. A letter, dated 13 April, was sent by the managing agents to all lessees advising them of the collapsed drain, identifying it as a service charge item and informing them that because the repair work was scheduled to take place on 19 April they should not use the car park from the evening of 18 April.
11. Another letter, dated 14 April, was sent to all tenanted flats informing them that because of the works the car park would be out of commission from 1 the evening of 18 April.
12. On 21 April a site meeting took place with the contractor and the Council at which the Council agreed to reinstate the road, kerbstone and paving so that it matched that which they had recently renewed.
13. On 23 April full reinstatement of the surfaces had been effected and on 24 April all plant and equipment had been removed leaving the drain in full working order.
14. Mr Stallard said that the cost of the works was some £8,000 plus VAT plus £910 Council license fee
15. Questioned by the Tribunal Mr Stallard said that he had received telephone calls from some three or four lessees. One had enquired about the cost of the required works and two had asked whether the cost would be covered by the NHBC guarantee or the buildings insurance. He had received no representations in connection with the requested dispensation from the requirements of Section 20.

The Determination

16. Under Section 20ZA(1) of the Landlord and Tenant Act 1985 a Tribunal may make a determination to dispense with all or any of the consultation requirements set out in Section 20 of the Act in relation to any qualifying works if satisfied that it is reasonable to do so. 'Qualifying works' are defined as works on a building or other premises.
17. On the basis of their inspection, the evidence supplied by Mr Stallard and the fact that no representations to the contrary have been received from any of the leaseholders, the Tribunal considers that it is reasonable to grant the requested dispensation.
18. However, it should be noted that this determination relates only to the issue of the reasonableness, in the circumstances, of not complying with Section 20 procedures and is not a determination that the costs are reasonable and/or have been reasonably incurred.

(signed)

Chairman B. M. Hindley

Date 5 May 2010