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Residential
Property
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

**DECISION ON AN APPLICATION UNDER SECTION 20ZA LANDLORD
AND TENANT ACT 1985**

Ref : LON/00AW/LDC/2010/0099

Property: 18-20 Redcliffe Square, London SW10 9JZ
Applicant: 18-20 Redcliffe Square Limited
Respondents: The leaseholders of all the flats in the Property
Decision date: 18th August 2010
Tribunal: Mr P Korn (Chairman)
Mrs A Flynn MA MRICS

BACKGROUND

1. On 27th September 2010 the Tribunal received an application from the Applicant seeking dispensation from the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 (as amended) ("**the 1985 Act**") in respect of qualifying works.
2. The works concerned are the repair of a leak in an inaccessible part of the roof, which is causing serious damage to two flats below and slightly less serious damage to another flat.
3. The Applicant is the Respondents' landlord in respect of each of their leases of individual flats within the Property.

4. Directions were issued on 30th September 2010. The Tribunal Chairman considered that the matter could be decided on the basis of written representations alone without an oral hearing unless either the Applicant or any of the Respondents were to request a hearing prior to a determination being made. No request for a hearing has been made and therefore this determination is being made on the basis of written representations alone.

THE APPLICANT'S CASE

5. The Applicant states that there is a serious leak in the roof of the Property, causing serious water damage to two of the flats below (and less serious damage to a third flat) and to the structure of the Property. The Applicant states that it is necessary to erect scaffolding before attempting to prevent the water coming in, that every time it rains the damage gets worse, and that the residents affected are becoming increasingly traumatised. Due to the urgency of the situation, there is therefore no time to go through a consultation process, although the Applicant intends to write to all of the Respondents to explain why it is taking emergency steps.
6. The Applicant has provided a copy Schedule of Condition prepared by Huntsman Eldridge dated 29th September and 5th October 2010, which is based on an inspection of the areas immediately affected by the water damage and contains recommendations as to what action needs to be taken as well as photographs of the damaged areas. The Applicant has also provided a quotation for the work from VisionStream Limited dated 21st September 2010.

THE RESPONDENTS' RESPONSE

7. There has been no response from any of the Respondents.

THE LAW

8. Under Section 20(1) of the 1985 Act, in relation to any qualifying works "*the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... a leasehold valuation tribunal*".
9. Under Section 20ZA(1) of the 1985 Act "*where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works ... the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements*".

APPLICATION OF FACTS TO LAW

10. The Applicant accepts that the works concerned are qualifying works within the meaning of Section 20(1) and Section 20ZA(1) of the 1985 Act and that these provisions therefore apply to the works.
11. Section 20ZA of the 1985 Act does not specify in detail the basis on which the Tribunal is to exercise its discretion to dispense with the consultation requirements. Case law indicates that the need to carry out work urgently is regarded as the classic case justifying dispensation, but dispensation has been given in other situations, for example where a landlord has been able to demonstrate a real attempt to comply and/or substantial compliance, in circumstances where it seems that the element of non-compliance has not prejudiced the leaseholders in practice.
12. In this case, it seems that there has as yet been either no compliance or very little compliance with the consultation requirements. However, the Applicant's main argument is that the works are very urgent and that therefore there is insufficient time to go through a meaningful consultation process
13. There has been no response from the Respondents. This may well be because the Respondents have no objection to the application, although it would have strengthened the Applicant's case if it had been able to produce letters in support from some or all of the Respondents.
14. In relation to the degree of urgency, although the Applicant has not provided a large amount of evidence the Tribunal is satisfied on the balance of probabilities on the basis of the uncontested evidence submitted that the works are urgent. It is arguable that the Applicant could have written to all of the Respondents prior to making its Section 20ZA application, but as the work is urgent and the Respondents have not objected the application (which was copied to all of them by the Leasehold Valuation Tribunal) the Tribunal is satisfied on the facts of the case that it is reasonable to dispense with the consultation requirements in their entirety.

DETERMINATION

15. The Tribunal hereby determines to dispense with the consultation requirements in their entirety in respect of the works that are the subject matter of this application.
16. No cost applications have been made.

Chairman:  R Korn

Dated: 1st November 2010