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**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER
LANDLORD AND TENANT ACT 1985 Section 20ZA**

LON/00AY/LDC/2010/0037

Premises:

Flats 1 – 21, Mountview
128 Leigham Court Road
Streatham
London
SW16 2RN

Applicant:

Mountview Residents Company Limited
(through its agents Broadlands Estate
Management)

Respondents:

Leasehold owners of the 21 Flats named
in the schedule attached to the
application

Date of Determination:

24 May 2010

Date of Inspection:

18 May 2010

Members of Tribunal:

Ms F Dickie, Barrister
Mr R Humphrys, FRICS
Mrs J Clark, JP

PRELIMINARY

1. The Applicant seeks dispensation from some or all of the consultation requirements imposed on the landlord by Section 20 of the Landlord and Tenant Act 1985. The Applicant is the leaseholder owned freehold company. The application was made on 1 April 2010 and directions were issued by the Tribunal on 9 April 2010, pursuant to which the Applicant submitted a bundle of documents. Neither party having requested an oral hearing the Tribunal has determined this matter on papers. On the morning of 18 May 2010 the Tribunal carried out an inspection of the common areas of the premises.
2. The Applicant seeks dispensation from the statutory consultation requirements in respect of the replacement of flooring and stair nosings in the common parts of the subject premises. It was asserted in the application that the directors of Mountview Residents Company Limited believed these works must be completed as a matter of urgency as the flooring and stair nosings in the common parts have not been maintained in line with the terms of the lease, no replacement having taken place for approximately 30 years. They were said to be in a poor state of repair and to present a significant health and safety trip hazard.
3. The premises comprise two blocks of flats erected in the 1960's built of brick under a flat roof. The front block facing the main road is constructed on four storeys and has two entrances, the first to flats 1 – 8 and the second to flats 9 – 15. The rear block is of similar construction and arranged on three floors and comprises flats 16 – 21. The premises were therefore not found by the Tribunal to be as described in the application which referred to a four storey residential block sub-divided into 21 self-contained flats. The Tribunal inspected all three staircases in the presence of Miss Patricia Bell, leaseholder of Flat 9. All the staircases showed considerable signs of deterioration and in particular the nosings were missing, damaged and/or split in many places. There were notices on most of the landings warning residents and visitors to take extra care as the hallway and staircases flooring is in a poor state of repair. They confirmed that there are plans to replace the flooring and stair nosings as soon as possible and thanked people for paying attention to the notices. The Tribunal also noted that the door leading to the entrance to flats 16 – 21 is missing the footplate covering the hinge mechanism of the door, which could cause people to trip and fall.
4. On 30 March 2010 the Applicant sent to all the leaseholders a notice of intention to carry out qualifying works. This notice of intention referred to four estimates having been obtained by the landlord:
 - (1) All Floors £7,100 plus VAT
 - (2) Delta Commercial Flooring £7,230 plus VAT
 - (3) Beaver Flooring £7,244.59 plus VAT
 - (4) Daniel Morrison Carpets £13,246.50

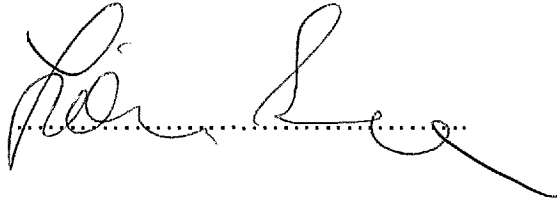
4. The notice also referred to works to refurbish the entrance doors that are not the subject of this application. Written observations on the major works were invited by 30 April 2010. The letter advised the leaseholders that the cost of the works, which based on the cheapest estimate received so far would be in the region of £12,500, would be funded by the service charge contributions received from the leaseholders. They were advised that at the current time there is no money in the reserve fund to cover these works. In these circumstances a service charge contribution would be required from the leaseholders, payment of which would be required within 30 days of an invoice to be issued.
5. No substantive objection was received from leaseholders to this notice and on Wednesday 5 May 2010 the landlord issued to each leaseholder a Notice and Statement of Estimates in relation to the proposed qualifying works. This Notice advised that a contract has now been entered into with All Floors for the flooring/stair nosing works described in the notice of intention dated 30 March 2010. The total cost of the contract would be £9,802.44 including 10% for contingency and 7.5% plus VAT for administration. The Notice advised that £3,000 in the reserve/sinking fund would be set off against the tenants' liability to be invoiced to them. This letter did not invite observations from leaseholders. In the application the landlord stated that works would be instructed once adequate funds are available.

DETERMINATION

6. Section 20ZA of the Landlord and Tenant Act 1985 provides.
 - (1) Where an application is made to the Leasehold Valuation Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long-term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
7. The Tribunal observes that the landlord's intention to contract the works once adequate funds are available is not consistent with a recognition of the urgency of works representing a significant health and safety trip hazard. The landlord will be aware that where such a risk is present the existence of adequate funds should not be a bar to complying with the terms of the lease, particularly where there has been a failure so to comply for a very long period of time.
8. The Tribunal was disappointed to note that the Applicant's bundle contained no evidence to support its contention that these works are of an urgent nature or indeed do represent a hazard. The Tribunal would have expected to see an independent report or at least photographs demonstrating the same. It is for this reason that the Tribunal decided to inspect the premises.

9. Having done so the Tribunal is left in no doubt that the works of repair to the stairs and nosing are indeed urgent and should be carried out as soon as possible. Their current condition does represent a trip hazard. The Tribunal notes that a level of consultation has been carried out with leaseholders, and it does not consider they will be prejudiced by dispensation from further consultation. Accordingly, the Tribunal grants the order requested and dispenses with consultation under Section 20 in respect of these works. In the meantime the Applicant may consider it prudent to affix their warning notices in each of the entrance halls and re-fix those on upper floors where they have become detached.

Signed:

A handwritten signature in black ink, written over a horizontal dotted line. The signature is cursive and appears to be 'P. Lee'.

Dated: 24th May 2010