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**HM Courts  
& Tribunals  
Service**

**Leasehold Valuation Tribunal**

In the matter of S.20ZA Landlord & Tenant Act 1985 and  
Service Charges (Consultation Requirements) (England) Regulations 2003

**CONFIRMATION of DECISION & REASONS**

**Case Number:** CHI/21UG/LDC/2012/0024

**Property:** 30 & 32 Wilton Road  
BEXHILL on SEA  
East Sussex  
TN40 1HX

**Applicant:** Mr C L Manton & Mr A G Saxby - Joint LPA Receivers

**Represented by:** Godfrey John & Partners

**Respondents:** D M Flynn (Flats 1A & 10)  
Messrs Manton & Saxby LPA Receivers  
(Flats 1, 2, 3, 4, 5, 6 & 12)  
Mr P P & Mrs G Collister (Flat 7)  
Mr D Ball (Flat 8)  
Mr M Nulty (Flats 9 & 11)

**Date of Application:** 11 July 2012

**Date of Hearing:** 26 July 2012

**Date of these reasons:** 27 July 2012

**Tribunal Members:** Mr B H R Simms FRICS MCI Arb (Surveyor Chairman)  
Mrs J K Morris (Lay Member)

**DECISION**

1. Confirmation of oral decision announced at the Hearing in accordance with Regulation 18(2) Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003.
2. The Tribunal determines to dispense with the first part of the S.20 consultation requirements and recognises the Initial Notice issued on 25 July 2011 as being sufficient notice for the works proposed.

3. Dispensation is not given for the issue of the Notice of Estimates which must be issued in accordance with the Regulations.

## **INTRODUCTION**

4. This is an Application by Messrs Godfrey John and Partners on behalf of their client, joint LPA Receivers, for dispensation of all or any of the S.20 consultation requirements in respect of qualifying works in accordance with S.20ZA of the Landlord & Tenant Act 1985 (the Act).

## **THE LAW**

5. The statutory provisions primarily relevant to this application are to be found in Sections 20 and 20ZA of the Landlord & Tenant Act 1985. The Tribunal has of course had regard to the whole of the relevant sections of the Act and the appropriate Regulations or Statutory Instruments when making its decision, but here sets out a sufficient extract or summary from each to assist the parties in reading this decision.
6. S.20 of the Act provides that where there are qualifying works, the relevant contributions of tenants are limited unless the consultation requirements have been either complied with or dispensed with by the determination of a Leasehold Valuation Tribunal.
7. In order for the specified consultation requirements to be necessary, the relevant costs of the qualifying work have to exceed an appropriate amount which is set by Regulation and at the date of the application is £250 per lessee.
8. Details of the consultation requirements are contained within a statutory instrument entitled Service Charges (Consultation Requirements) (England) Regulations 2003, SI2003/1987 (the Regulations). These requirements include, amongst other things: an initial Notice of intention to carry out the works; a duty for the landlord to have regard to any comments received and to obtain estimates for the work from at least one unconnected contractor;

and for the landlord to advise the tenants with a statement of the amounts of the estimates received and make them available for inspection.

9. S.20ZA provides for a Leasehold Valuation Tribunal to dispense with all or any of the consultation requirements if it is satisfied that it is reasonable to do so. There is no specific requirement for the work to be identified as urgent or special in any way. It is simply the test of reasonableness for dispensation that has to be applied (subsection (1)).

## **THE LEASE**

10. The Tribunal was provided with a copy of the lease of Flat 7, 30 & 32 Wilton Road, Bexhill on Sea, dated 18 April 2006. It is understood that other leases in the building are in a similar form.
11. Although the Tribunal had regard to the full lease, little turned on its interpretation during the course of the representations made to it. There are covenants for the landlord to keep the Building insured and to maintain and keep the main building in good and substantial repair and in clean and proper order.
12. There were no matters raised by the parties in respect of the interpretation of the lease.

## **BACKGROUND**

13. Following the application dated 14 March 2012 the Tribunal issued Directions on 16 July 2012 for the conduct of the case. The matter was listed to be dealt with on the fast track. The Applicant was to provide any relevant additional documents to the Tribunal. Messrs Godfrey John had already supplied a report from William Blake Associates Ltd, Chartered Surveyors dated February 2012 and this included a Schedule of work for the repair of the bay roof, repair of the parapet and associated redecoration. The Tribunal also had a copy of the Section 20 "Notice of Intention" dated 25 July 2011.

14. The Respondents were Directed to attend the Hearing if they wished to contest the application and bring with them any relevant documents.
15. Mr Ball attended the Hearing but produced no documents.

## **INSPECTION**

16. In company with Mr John and Mr Blake the Tribunal members inspected the exterior of the front of the building from ground level, some commonways and the interior of Flat 4. The Respondents were not in attendance or represented.
17. The property comprises a pair of properties at the end of a terrace building located in Bexhill a short distance from the seafront road. It is built of brick with cement rendered elevations under a pitched roof covered with concrete tiles. There is a mixture of wooden double sash windows and replacement double glazed units. The exterior wood paintwork is peeling and overdue for renewal with areas of wet rot visible.
18. There was some cracking to the rendering. Within flat 4 the roof of the bay window has collapsed and the timbers are rotted through. There have been some temporary repairs to prevent water ingress.
19. Accommodation is arranged on a lower ground floor, ground floor and three upper floors at No. 32 and Ground and three upper floors at No. 30. The combined building is converted into 13 flats.

## **EVIDENCE**

20. A Hearing took place at Bexhill Town Hall commencing at 11:00 a.m.
21. The Tribunal had regard to the written evidence before it and took oral evidence from Mr John and Mr Samuels of Godfrey John & Partners and Mr Ball of Flat 8.

### **The Applicant's Case**

22. Mr John spoke to his application. He explained that the Landlord intended to carry out redecoration of the exterior together with some minor repairs and this resulted in the issue of the Initial S.20 Notice in July 2011. LPA Receivers had been appointed for the Landlord and for the owner of several of the flats. Mr John arranged for Mr Blake to inspect the building as some cracks had been observed. He inspected in February 2012. In his report he describes cracking to the rendering, copings and parapet walling together with water penetration and sloping floors. The report does not mention the collapsed bay roof but, the schedule of work attached sets out remedial work both to the rendering and brickwork, and to the bay roof.
23. The S.20 consultation process had commenced with a Notice of Intention to the Lessees in July 2011.
24. The S.20 Notice of Intention did not envisage the extensive rendering and roof repairs now required although it did include some building repairs. Mr John was seeking dispensation for all the work but during questioning accepted that to proceed with the Notice of Estimates would not delay matters unduly.

### **The Respondents' Case**

25. The Tribunal's Directions provided for the Respondents to make submissions at the Hearing if they wished to.
26. Only Mr Ball attended. He expressed concern that the building had been neglected and wanted the work to proceed as soon as possible. He was not surprised by the extent of the work proposed.

### **CONSIDERATION**

27. The Tribunal is satisfied that the proposed works are qualifying works and are subject to the S.20 consultation.

28. There is no doubt from the Tribunal's inspection and the detailed report received that the front bay roof and adjoining rendering and parapet are in need of repair. It is also clear that some woodwork repairs and redecoration is required. Flat 4 is unoccupied so the lessee of that flat is not inconvenienced by the disrepair. Temporary works have made the building watertight. The work should proceed as quickly as possible but the work is not sufficiently urgent to cause us to grant complete dispensation from the consultation process.
29. The Tribunal considered whether to grant dispensation would cause prejudice to the leaseholders and determined that it would unless the lessees were given an opportunity to see the estimates and comment upon the contractors and costs. The second Notice procedure should proceed as quickly as possible. All lessees have already, in July 2011, been made aware of the general works proposed by way of the S.20 Initial Notice already issued.
30. For these reasons dispensation only in respect of amendment to the Notice of Intention is granted.
31. It must be clear that this Tribunal does not however determine the reasonableness of the cost of any of the work and the Applicant should take steps to keep the cost under control and to supervise the work.
32. For the sake of clarification the Tribunal reminds all the parties that either the landlord or the tenant may make an application to the Tribunal under section 27A, or other sections, of the Act for a determination as to the payability and reasonableness of charges either before or after any works. The decision given in this document does not prevent any future application to the Tribunal.

Dated 27 July 2012

[signed]

Brandon H R Simms FRICS MCI Arb  
Chairman