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**H M COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: LON/00BK/LDC/2012/0132

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATIONS UNDER SECTION 20ZA OF THE LANDLORD & TENANT
ACT 1985**

Applicant: The Church Commissioners of England

Respondents: The Lessees

Property: 1-34 Clifton Place, London, W2 2SW

Date of Application: 8 November 2012

Date of Decision: 17 December 2012

Leasehold Valuation Tribunal

Mr I Mohabir LLB (Hons)

Mr L Jarrero FRICS

Introduction

1. This is an application made by the Applicant under section 20ZA of the Landlord and Tenant Act 1985 (as amended) (“the Act”) to dispense with all/some of the consultation requirements imposed on a landlord by section 20 of the Act and the Service Charge (Consultation Requirements) England Regulations 2003.
2. The Applicant intends to carry out remedial works to the brick faces to the front and rear elevations of the property known as 1-34 Clifton Place, London, W2 2SW (“the property”). . It is described as two adjoined apartment blocks offering 5 floors of residential accommodation containing 34 flats.
3. The Applicant asserts there is a health and safety risk of falling brickwork and debris from the facades. It is believed that the cause of the falling brickwork is due to wear and tear over the winter months and the age of the building. It is proposed to manually remove all affected brick faces using a cherry picker. Given the urgent nature of the works, the Applicant has already instructed a contractor, P J Harte, to carry out the work at an estimated cost of £10,860 plus professional fees (“the proposed works”).
4. By a Notice of Intention dated 11 October 2012 served on the Respondents, the Applicant commenced the statutory consultation process required by section 20 of the Act in relation to the proposed works that are the subject matter of this application.
5. By an application dated 2 November 2012, the Applicant made this application to the Tribunal seeking dispensation for the proposed works. On 9 November 2012, the Tribunal issued Directions allocating this matter to the Fast Track and setting it down for a paper determination.

The Law

6. Section 20ZA of the Act provides the Tribunal with a discretion to dispense with the statutory consultation requirements imposed by section 20 of the Act

and the Regulations where it is reasonable to do so having regard to all the circumstances.

Decision

10. The Tribunal's determination took place on 17 December 2012. There was no oral hearing and the determination was made entirely on the basis of the documentary evidence filed by the Applicant. Although the Respondents had notice of these proceedings, none of them have responded or participated at all. The Tribunal did not inspect the property.

11. The Tribunal granted the application on the terms sought for the following main reasons:
 - (a) although no expert report had been provided to the Tribunal, it was satisfied that the Applicant's managing agent, Knight Frank LLP, possess sufficient expertise to assess the nature, cause and extent of the proposed works and the necessity to carry out remedial works immediately.

 - (b) the Tribunal accepted the Applicant's assertion that the falling brickwork and debris from the facades posed a health and safety risk to third parties and required urgent remedial work. The Tribunal was satisfied that the scope of the proposed works was not greater than is needed to deal with the health and safety risk identified.


 - (c) the Tribunal was satisfied that all of the Respondents had put on notice as to the requirement to carry out the proposed works as long ago as 11 October 2012, by the service of the Notice of Intention. The Tribunal was also satisfied that the Applicant had provided the Respondents with notice of these proceedings pursuant to the Directions. Neither the notice or these proceedings are opposed by any of the Respondents.

 - (d) although not strictly relevant, the Applicant has chosen the cheapest estimate for the proposed works and, therefore, the Respondents do not

appear to have been financially prejudiced. However, it should be noted that the Tribunal does not make any strict finding in these terms.

18. Accordingly, for the reasons stated above, the Tribunal concluded that it would be reasonable to grant this application. It should be noted that this decision does not concern the issue of whether the cost of the proposed works is reasonable, which can be separately challenged under section 27A of the Act.

Dated the 17 day of December 2012

CHAIRMAN.....
Mr I Mohabir LLB (Hons)