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EASTERN RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

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

Case Reference: CAM/42UD/LDC/2012/0020

Premises: 93-163 Oakstead Close, Ipswich, Suffolk IP4
4HW

Management company Sycamore Place (Ipswich) Management Co Ltd

Representative: Stephen Birch, managing agent

Tenant Various

Representative: No appearance

Date of decision: 21st December 2012

**Leasehold Valuation
Tribunal:** Mr Adrian Jack, Mr Gerard F Smith MRICS FAAV

Procedural

1. By an application received 12th December 2012 the management company applied for dispensation from the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 in respect of proposed electrical works to the common parts of the blocks on the estate.
2. By directions given on 17th December 2012 the time for giving notice of the hearing was abridged, so that the case could be heard on 21st December 2012. Tenants who wished to appear at the hearing were invited to contact the Tribunal offices before noon on 20th December 2012, but none did so.
3. The Tribunal inspected the premises on the morning of 21st December 2012 in the presence of the managing agent and the electricians who had reported the defects. The block had been built in about 1986 and the insulating plastic on the wiring of the lights in the common parts had become brittle with heat and age. The lighting and electrics were not in accordance with modern standards.
4. The Tribunal followed the inspection with a hearing which was held in the Ipswich Novotel. Mr Birch appeared on behalf of the management company. Mr Sharman, a tenant director of the management company, also appeared. He explained that the management company was a tenant-owned company and the tenants held regular meetings. The tenants, so far as he was able to ascertain were happy for the dispensation to be granted.

The decision

5. The proposed works in our judgment need doing. The management company has obtained three quotations. Very little purpose would be served by requiring a section 20 consultation to be carried out. Such a consultation would take three months or so. The current quotations might well be revised upwards if there was a delay.
6. In the mean time there is a danger to the inhabitants from the failing electrical insulation. Moreover there is a risk that the local authority would serve a notice prohibiting the use of the electrics pending the work being done.
7. Given that the management company is tenant-owned and no tenant has expressed any opposition to the making of the order, in our judgment it is appropriate to grant the dispensation.
8. For the avoidance of doubt, the Tribunal makes no determination of the reasonableness and payability of the costs or that the specification of works is reasonable.

DETERMINATION

The Tribunal accordingly and pursuant to section 20ZA of the Landlord and Tenant Act 1985 dispenses with the requirements to consult in respect of the proposed works.

Adrian Jack, Chairman

21st December 2012

ANNEX: The law

Landlord and Tenant Act 1985 as amended by the Housing Act 1996 and the Commonhold and Leasehold Reform Act 2002 provides as follows:

Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent-
 - (a) which is payable directly or indirectly for services, repairs, maintenance, improvement or insurance or the landlord's costs of management, and
 - (b) the whole or part of which varies or may vary according to the relevant costs
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord or a superior landlord in connection with the matters of which the service charge is payable.
- (3) for this purpose
 - (a) costs includes overheads and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred or to be incurred in the period for which the service charge is payable or in an earlier period

Section 19

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period-
 - (a) only to the extent that they are reasonably incurred; and
 - (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

- (1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to-
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a leasehold valuation tribunal for a determination whether costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and if it would, as to-
 - (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and
 - (e) the manner in which it would be payable.

The Landlord and Tenant Act 1987 provides in sections 47 and 48 that any demand made by a landlord must contain the landlord's name and address and must provide an address in England and Wales at which notices may be served. Failure to comply with either of these requirements makes the monies demanded irrecoverable until the default is remedied.