

2085



**Residential  
Property**  
TRIBUNAL SERVICE

**LEASEHOLD VALUATION TRIBUNAL  
LONDON RENT ASSESSMENT PANEL**

**LANDLORD AND TENANT ACT 1985 (the Act)  
Section 20ZA**

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**Ref:** LON/00AD/LDC/2005/0044

**Property:** Basement Flat, 41 Ruskin Road, Belvedere, Kent  
DA17 5BD

**Applicant:** G & O Investments Limited

**Represented by:** Mr N Adnan  
(Urbanpoint Property Management Limited, Managing  
Agents)

**Respondent:** Grandfield Investments Limited

**Represented by:** Not Represented

**Tribunal:** Mr John Hewitt                      Chairman

**Date of Determination:**  
Wednesday 29 March 2006

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**Decision of the Tribunal**

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1. **Decision**
- 1.1 That the Applicant be granted retrospective dispensation from compliance with regard to the consultation requirements prescribed pursuant to section 20ZA of the Act with regard to major works carried out during the service charge year 2004/5.
- 1.2 The sum of £4,649.57 is payable by the Respondent to the Applicant in respect of its contribution to the said major works.

- 1.3 The finding of the Tribunal and the reasons for its decision are set out below.

## **2. Background**

- 2.1 The Applicant is the landlord of the Property.
- 2.2 At all material times the Respondent was and is the tenant, by assignment, of the basement flat at 41 Ruskin Road pursuant to the terms of a lease dated 5 June 1987. The lease provided for the payment of service charges.
- 2.3 By an application dated 20 June 2005 Ref: LON/00AD/LSC/2005/0171 made pursuant to section 27A of the Act the Applicant made an application for the determination of services charges payable by the Respondent to the Applicant. A decision on that application was given on 17 November 2005. At that time the Tribunal was unable to make a determination in respect of to make a determination in respect of certain major works carried out in the service charge year 2004/5 because it held that there had not been compliance with the current consultation requirements provided for in section 20 of the Act and regulations made thereunder.
- 2.4 In its decision dated 17 November 2005 the Applicant was given time to consider making an application under section 20ZA of the Act for a determination of the dispensation requirements with regard to the major works and directions were given in respect of any such application made. Included was a notification that the Tribunal is considering determining any such application without a hearing pursuant to regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003. Both parties were notified that they may make a request for a hearing. Any such request was to be made not later than Friday 6 January 2006.
- 2.5 An application under s20ZA of the Act was duly received by the Tribunal on 2 December 2005, it has been copied to the Respondent, but the Respondent has chosen not to make any representations or to serve a statement of case in connection with.
- 2.6 Neither party has requested a hearing.

## **3. The Applicant's Case**

- 3.1 The gist of the Applicant's case is that in 2001 it consulted with lessees at 41 Ruskin Road with regard to major works and informed them that a surveyor had been instructed to inspect the Property and prepare a specification of necessary works. In a letter dated 21 March 2001 lessees were notified of the date for the inspection, requested to provide access as required and invited to nominate contractors to be included on the tender list. In April 2001 the specification for the proposed works was sent to lessees and they were invited to make observations. In July 2002 a priced specification for the proposed works was sent to lessees and they were invited to make comments thereon.

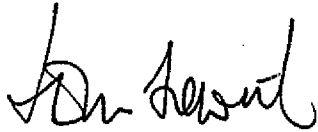
- 3.2 On 18 December 2002 a section 20 notice in the form then appropriate was served on the lessees with reference to the proposed works and a request for payment of the shares due from each was made.
- 3.3 On 20 January 2003 a further request for payment was made. Payments were not forthcoming and this delayed the carrying out of the works.
- 3.4 On 11 June 2004 a further section 20 notice was served in relation to the proposed works, with further estimates of costs provided based upon the same specification for works as previously notified. The Tribunal has previously held that this notice was not in conformity with the revised form of consultation requirements set out in The Service Charges (Consultation Requirements) (England) Regulations 2003 which came into effect on 31 October 2003.
- 3.5 The Applicant's advisers were unaware of the change in the consultation requirements that came about on 31 October 2003 and hence had not followed the new procedure. Accordingly the Applicant seeks a retrospective dispensation with all of the consultation requirements in respect of the works covered in the specification sent out on 11 June 2004.

#### **4. The Law**

- 4.1 Section 20ZA of the Act provides that the Tribunal may dispense with all or any of the consultation requirements in relation to any qualifying works if satisfied that it is reasonable to dispense with the requirements.

#### **5. Findings and Reasons**

- 5.1 The Tribunal accepts the representations made on behalf of the Applicant with regard to the nature and extent of the proposed works over the period 2001 to 2004.
- 5.2 The Tribunal is satisfied that the Applicant has given the Respondent several opportunities to consider the proposed works, the specification and the estimated cost of them and to make comments or observations thereon. The Tribunal finds that the Respondent has declined each invitation.
- 5.3 The Tribunal accepts the explanation given on behalf of the Applicant that its failure to comply with the revised consultation requirements was due to oversight on the part of its managing agents.
- 5.4 In the circumstances the Tribunal is satisfied that it is reasonable to dispense with the consultation requirements in respect of the major works and retrospective dispensation is given, because the Respondent has been given several opportunities to comment on the proposed works, has spurned each one and has not thereby been prejudiced. Furthermore the Tribunal is satisfied that the works were carried out in a professional way under the supervision of a surveyor.
- 5.5 Accordingly the Tribunal finds that the sum of £4,649.57 is payable by the Respondent to the Applicant by way of contribution to the cost of the major works.

A handwritten signature in black ink, appearing to read "John Hewitt". The signature is written in a cursive style with a large initial 'J'.

John Hewitt  
Chairman  
29 March 2006