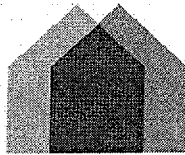


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Residential  
Property  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

LANDLORD AND TENANT ACT 1985 – Section 20ZA

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**Ref: LON/00AF/LDC/2006/0045**

**Property:** 77 Albemarle Road, Beckenham, Kent, BR3 5HW

**Applicant:** Longmint Limited

**Represented by:** Haywards Property Services

**Respondents:** Mr M C Britton (Flat 1)  
Mr C Genter and Miss J Gibson (Flat 2)  
Ms C Duff (Flat 3)  
Mrs A Beard (Flat 4)  
Mr M Castle (Flat 5)  
Mr B C & Mrs S F Chandler (Flat 6)  
Ms J I O'Brien (Flat 7)  
Mr and Mrs Dabrowa (Flat 8)  
Mr G C Warner (Flat 9)  
Mr L M Roach (Flat 10)  
Miss I Tyers (Flat 11)  
Mr D J Lowe (Flat 12)

**Application Dated:** 12 June 2006

**Date of Decision:** 6 November 2006

**Legal Chairman:** S Shaw

## DECISION

### PRELIMINARY

1. This case involves an application dated 12 June 2006 made by Haywards Property Services on behalf of Longmint Limited ("the Applicant"). The application concerns 77 Albemarle Road, Beckenham, Kent, BR3 5XG ("the property") which is a purpose-built block of flats comprising 12 separate flats. The tenants of those flats ("the Respondents") hold the flats pursuant to long leases and a specimen copy of such a lease has been included in the bundle of documents prepared on behalf of the Applicant for the purposes of this application. The application is made pursuant to Section 20ZA of the Landlord and Tenant Act 1985 and is an application for a determination as to the dispensation of all or any of the consultation requirements contained in Section 20 of the Landlord and Tenant Act 1985.
2. As has been indicated, the application is dated 12 June 2006 and on 16 June 2006, the Tribunal issued directions for the further disposal of this case and a paper hearing was fixed to take place on 11 September 2006 and on the basis of the material to be supplied by the parties pursuant to the directions given. In the event, it appears that those directions were not complied with and further directions had accordingly to be given, which directions are dated 13 September 2006. Both sets of directions are contained in the bundle of documents now supplied on behalf of the Applicant and prepared in accordance with the directions given.

### ANALYSIS

3. Consequent upon the directions made by the Tribunal, the Applicant has, as indicated, supplied a full statement of case together with supplementary documentation. So far as can be ascertained, no statement of reply has been served in accordance with the directions given on 13 September 2006 dealing on behalf of the Respondents with the Applicant's statement of case. Indeed the only indication of any significance apparently received from the Tribunal on behalf of the Respondents has been a letter dated 4 July 2006 from Andrew Dabrowa (who, together with his wife is the leaseholder of Flat 8). In that letter, he asserts that the work carried out (and to be referred to below) should have been covered by insurance, and further asserts that if it was not covered by insurance then this has been a failure on behalf of the managing company. He also contends that he understands from a number of "occupants" that the sum claimed is extortionate, although he supplies no alternative quotations or evidence. He also queries what advice the Applicant company took before commencement of the works and asserts that he has made his own enquiries and has discovered that the job could have been done at a "much reduced cost". Once again, no evidence is supplied to support this contention.
4. In the Applicant's statement of case dated 27 September 2006, a full account of the background to this matter together with supporting documentation is supplied. As is made clear in the application itself, this application is for retrospective dispensation of the relevant statutory provisions because the

work had already at the date of the application taken place. It is unnecessary to set out the full history in the context of this Decision. Suffice it to say that a report was received from the leaseholder of Flat 9 on 12 January 2006 to the effect that there was a pool of water in the external communal area of the property and another similar report was received from another leaseholder later that day. The matter was dealt with promptly on behalf of the Applicant and, following an inspection, a Works Order was issued to Coldman and Kerr Ltd, the contractors. In the Works Order reference was made to the fact that a noise approximately a year earlier had been investigated by Thames Water, who had reported that there may be a burst pipe in the area under consideration but that they had not been able to trace the source of any leak. Over the period of time, the noise had become louder and it had become apparent that there may be a connection between the noise and the pool of water which had accumulated. The agents asked for a full report and this arrived by email on 18 January 2006. The report was to the effect that the water mains on the site had apparently developed a leak and apparently the residents' committee at the property had been very keen for the works to be carried out immediately. In the event, however, further investigations were carried out and these are fully documented in the Applicant's statement of case. The upshot of the investigations was that, after the digging of the appropriate excavations, it was confirmed by the contractor that the mains pipe was indeed damaged and part of it was replaced in plastic. In addition, the water leakage had washed away a large amount of the ground under the building. Further works were later carried out and all works are itemised in detail in four invoices supplied by the contractors and dated 8 March 2006. The total cost of the works was £12,536.13 to be shared amongst the twelve flats. This cost was sufficient to render the works qualifying works for the purposes of Section 20 of the Act and would therefore have required the consultation process to have taken place. However, given the circumstances obviously no consultation in the formal sense did take place although various of the tenants were indeed present and aware that some works were being carried out. Indeed the evidence on behalf of the Applicant is that the works were certainly not opposed and indeed were encouraged by those leaseholders who were present during the course of the works.

5. As has been indicated, the progress of the works and the nature of the works has been in detail set out in the statement of case prepared by the Applicant and in the accompanying documentation. Putting the matter shortly, once the excavation had taken place, a burst water main was discovered which, in the judgement of the Tribunal, it would have been imprudent to leave whilst going through the formal statutory process of consultation. Indeed, to have filled in the excavations and taken no action would have exposed the agents to legitimate criticism from the Respondents. It is fair to say that no communication from the Respondents suggests that the work was either unnecessary or not sufficiently urgent to require immediate attention both in terms of the leakage itself and the possible sequential threat to the integrity of the building. Again, as indicated, the single communication received on behalf of the Respondents goes not to the urgency and issue of consultation, but to the question of whether or not the works might have been covered by insurance and/or whether the works were carried out at an excessive cost.

This application is not in respect of such matters and it is of course open to the tenants to challenge the reasonableness of these works either in terms of their scope or cost in the context of a separate application properly supported by alternative evidence.

6. The current application is for a retrospective order dispensing with the consultation procedure which would otherwise have had to take place under Section 20 of the 1985 Act. The Tribunal has no hesitation in concluding on the basis of the material before it that these works were appropriately carried out on the spot, the excavations having been made and the fault having been isolated. In the circumstances, the Tribunal makes the determination applied for on behalf of the Applicant to the effect that it is satisfied that it is reasonable to dispense with the consultation requirements of Section 20 in relation to the works documented in the Applicant's statement of case and the accompanying documents and otherwise referred to in the four invoices of Coldman and Kerr Ltd appended to the Applicant's statement of case and dated 8 March 2006.

Legal Chairman: S Shaw

Date: 6 November 2006



JG