

**LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

DETERMINATION BY LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985 Section 20ZA

LON/00BG/LDC/2006/0049

Address: Flats 1-16, Bluegate Mews
228 Cable St
London E1 0DR

Applicant: Valentine Properties Ltd

Represented by: Chancery St James plc

Respondent: All leaseholders (see list attached to application)

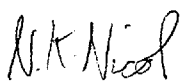
1. The Applicant applied on 5th July 2006 for dispensation from the statutory consultation requirements in accordance with s.20ZA of the Landlord and Tenant Act 1985. On 12th July 2006 the Tribunal made directions to determine the matter by written representations only. The directions were sent to all parties on 14th July 2006. The lessees of one property e-mailed the Tribunal to say that they had no objections to the application. Otherwise, there were no further communications from any of the parties. On 30th August 2006 a clerk from the Tribunal telephoned Mr Malcolm Star of Chancery St James – he said he wanted only to rely on documents already submitted, namely:-
 - (a) The lease of Flat 4;
 - (b) A letter dated 10th July 2006 from Bernard Horrocks, resident and lessee of Flat 14;
 - (c) A report dated 6th July 2006 from James Gregory, a surveyor at PBC Project & Building Consultancy; and
 - (d) His letter of 10th July 2006 enclosing the latter two documents.

2. Two of the flats at Bluegate Mews are subject to water penetration each time it rains. Mr Horrocks's letter of 10th July 2006 gives a full and uncontradicted description which it is not necessary to repeat here. Mr Gregory inspected the relevant properties on a fine day and was not able to see water in the process of penetrating but he did see evidence of historic water penetration. In the circumstances, there can be no doubt that there is a problem which should be dealt with sooner rather than later.

3. Mr Gregory could not identify the precise cause of the problem and therefore recommended the erection of scaffolding so that further investigation could be

carried out. This would seem to the Tribunal to be a very sensible course of action in the circumstances.

4. However, there are a number of problems with this application. Contrary to the directions order, the Applicant has failed to provide:-
 - (a) copies of any quotations, despite the fact that Mr Gregory alluded in his report to a quote for the scaffolding;
 - (b) a statement setting out what, if any, forms of consultation have been undertaken and what responses have been received; or
 - (c) a statement as to why they consider they are unable to comply with the statutory consultation requirements.
5. Further, it is now more than 1½ months since the Applicant submitted their documents. It is difficult to believe that nothing at all has been done in that time if it is all regarded as so urgent.
6. While it is true that the statutory consultation requirements take time, it is not enough simply to point out that something must be done urgently. Further, there are statutory consultation requirements, not because they are the only way consultation can be carried out, but in order to achieve the objectives of being fair to all parties and helping to ensure that any costs are reasonably incurred. If there is not enough time to go through the statutory steps, parties are still expected to try to achieve the same objectives as best they can in the circumstances. The Applicant has failed to set out a timetable for any works or to give any indication as to what has been done in the way of consultation.
7. Dispensation from the consultation requirements is also not just a matter of whether something must be done urgently. The Tribunal needs to know what it is that the Applicant is proposing to do and what the proposed cost is. While it may be too early to rule on the payability or reasonableness of the costs to be incurred, the Tribunal must have some idea as to what is proposed in order to take a view as to whether it is reasonable to dispense with the statutory consultation requirements. Again, the Applicant has failed to provide anything other than an expert's opinion that the matter should be investigated further.
8. The fact is that the Tribunal does not know what works the Applicant does not want to consult for, i.e. is it just the investigative works or are they asking for all consultation to be abandoned for whatever they reckon would be appropriate in the light of any such investigation?
9. In the circumstances, the Tribunal reluctantly has to reject the application. It would appear that there was a sound basis for making the application but the failure to comply with any of the directions has left the Tribunal with insufficient information from which to make a favourable determination. It is, of course, open to the parties to renew the application, supported by fuller details.

Chairman 
Mr N.K. Nicol

Date: 30th August 2006