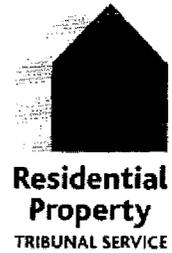


RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL



S.20ZA Landlord & Tenant Act 1985 as amended

DECISION & REASONS

Case Number: CHI/45UG/LDC/2007/0036

Property: Fairlawn
Oathall Road
Haywards Heath
West Sussex
RH16 3DZ

Applicant: Swiftbourne Ltd

Respondent: The Leaseholders of 14 Flats at the property listed in the Application

Appearances: Mr J W A Sharp FRICS of Ayling & Strudwick for the Applicant
Mrs Wendy Colville for Miss K L Colville leaseholder of Flat 7

Date of Application: 6 December 2007

Date of Hearing: 18 December 2007

Tribunal Members: Mr B H R Simms FRICS MCI Arb (Chairman)
Mr R A Wilkey FRICS FICPD (Valuer Member)

Date of Decision: 19 December 2007

Decision

The Tribunal does not dispense with any of the requirements for consultation in S.20 of the Landlord & Tenant Act 1985.

BACKGROUND

1. This is an application made by managing agents, Ayling & Strudwick, on behalf of the landlord for dispensation under S.20ZA of the Landlord & Tenant Act 1985 (the Act) for a determination to dispense with all or any of the consultation requirement of S.20 of the Act in connection with the repair of the main drain at the property.

INSPECTION

2. The Tribunal members inspected the exterior of the property in company with Mr Sharp prior to the hearing.
3. The property comprises a purpose-built block of flats arranged set in its own grounds in Haywards Heath.
4. Mr Sharp pointed out the inspection chambers in front of the entrance door and indicated that the drain ran from these to a further inspection chamber across the entrance driveway located in the refuse bin store.

THE LAW

5. S.20ZA allows that where an application is made to a Leasehold Valuation Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

EVIDENCE AND CONSIDERATION

6. Mr Sharp for the Applicant submitted a short written statement and at the hearing emphasised the urgency of the work.
7. An inspection had been made by Messrs Metro Rod of Reigate. Their brief report dated 26 November 2007 showed that there are multiple fractures to the drain with root intrusions and major displaced joints. There was no mention in the report of the work being urgent or there being any danger of the drain collapsing.
8. Mr Sharp told the Tribunal that when he spoke with Messrs Metro Rod, they had emphasised to him the urgency of the repair work. He confirmed that he was not giving evidence as an expert witness regarding the urgency of the work, but was repeating what he had been told by Messrs Metro Rod.
9. An estimate had also been received for the work from F E Gander (Construction) Ltd and this made no mention of the work being urgent.
10. Mrs Colville, on behalf of her daughter, was concerned that the cost of the work had differed substantially between Messrs Metrorod and Messrs Gander and she wished to emphasise that there was no evidence that the work was urgently required. The difference in the estimates meant that it would be preferable for proper consultation procedures to be undertaken.

11. In her written submission, Kate Downey of Flat 9, was concerned that the level of estimates received indicates that a third quote should be obtained and wished the landlord to pursue an insurance claim to cover the cost of the work.
12. Mr Sharp confirmed that the insurance company loss adjuster had attended the property.
13. The Tribunal was not satisfied that a case had been made that the work was sufficiently urgent to dispense with the consultation required by S.20 of the Act.
14. There was no report from either of the contractors or anyone else indicating that the work was an emergency and that there was a danger of the drain collapsing unless urgent work was undertaken. The Tribunal did not observe any cracking or subsidence in the surface of the ground or roadway which might have been evidence of the drain collapsing.
15. For this reason the Tribunal announced to the parties at the hearing that it would not dispense with the consultation requirements of S.20.

Dated 19 December 2007

(signed)

Brandon H R Simms FRICS MCI Arb
Chairman