

**Residential  
Property**  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
DECISION BY LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL**

LANDLORD AND TENANT ACT 1985 Section 20ZA

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Ref :LON/00BK/LDC/2006/0090

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**Address:** Flat 14, 27 Kensington Gardens Square, London W2N 4HG

**Applicant:** Sellside Limited

**Represented by:** Miss F Docherty, F W Gapp (Management Services) Limited

**Respondent:** Various Leaseholders

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**Background**

1. On 24 November 2006 the Tribunal received an application from the Managing Agents for dispensation of the consultation requirements in connection with urgent works to remedy water ingress into Flat 14, one of 16 flats within the subject building, on the grounds that the water ingress was ongoing and further damage to the decorations and floor was anticipated unless immediate remedial action was taken. Directions were issued by the Tribunal on 6 December 2006 and the case was set down for an oral hearing on Thursday 25 January 2007.

**The Lease**

2. A copy of the relevant Lease, for a term of 125 years from 29 September 1999, is on the file. The building is an 1850s terraced building of 7 storeys including basement, ground floor and 5 storeys over, with a flat roof, and has been converted into 16 flats, including a penthouse.

## **The Case for the Applicant**

3. At the hearing Ms Docherty appeared for the Managing Agents and there was no appearance for any of the Respondent Lessees. Miss Docherty said that the matter had arisen as the Lessee of Flat 14 had first reported water ingress in July 2006 but upon investigation no cause had been found for this. In October 2006 he had again reported such water ingress into his living room during heavy rains. The Managing Agents had contacted the building insurers immediately and had received authority to carry out trace and access work to discover the cause. This had resulted in removal of part of the false ceiling to the flat whereupon a defective gulley immediately above the flat had been discovered. This gulley must be reached by a scaffold as it is on the 6<sup>th</sup> floor of the building.

4. Ms Docherty told the Tribunal that the managing agents had obtained two quotations, one from Pavehall PLC and a second from Darenth Construction Limited, either of which would take them above the limits for works which would not require the s20 consultation procedure. They therefore decided to make application for dispensation and served a s20ZA Notice on all the Lessees in the building, since to delay further would have risked causing more damage to the internal areas and flooring of Flat 14. She said that in fact, due to delay in obtaining a hearing date before the Tribunal, further damage had been caused to the wooden floor of the flat.

5. Ms Docherty continued that Pavehall's quotation at £3,500 was less than Darenth's at £5,760 and, due to the further damage, additional costs would inevitably now be incurred in remedying the leak (although these would in fact be met by the building insurance). The managing agents therefore sought an early dispensation from the s 20 procedure so that they could start the work as soon as possible. They had received only one response to their issue of the s20ZA Notices, which was from Flat 11, where the Lessee had knowledge of property management and had clearly appreciated the urgency, and had stated that that Lessee had no objection to the dispensation being granted.

6. Asked by the Tribunal why the managing agents had not simply used the s20 Procedure, for which they had had ample time between October, when the cause of the leak had been discovered, and the hearing date, Ms Docherty said that she had written an initial letter notifying the Respondents of the intention to carry out the works and had invited observations by 27 December 2006 and the name of an alternative contractor within 30 days but that she had hoped for an earlier hearing date for her dispensation application, since anecdotal evidence in property management circles had indicated that hearings could be obtained in such urgent circumstances within a couple of weeks.

7. Miss Docherty said that the managing agents had consulted informally as well as via issue of the s20ZA Notice, and had had no better response than through their formal s20ZA procedure. The specification for the remedial works had been drawn up by a Mr Chrysanthou in the managing agents' office and she was satisfied that it met the case. She said that scaffolding had had to be included in the 2 estimates for the works rather than being paid for by insurance as the managing agents

had elected to carry out the diagnostic trace and access investigations internally instead of externally (for which a scaffold would have been necessary to access the 6<sup>th</sup> floor). The defective gulley requiring repair was between the penthouse and the 5<sup>th</sup> floor and fell towards the centre under the penthouse and to the rear of the building.

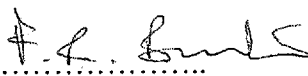
**Decision**

8. The Tribunal notes that the final cost of these works may well now exceed the sums mentioned in the two quotations (although this should be met by building insurance, since it results from damage to the interior from further water ingress) but that the managing agents have obtained 2 estimates at reasonable prices for the work involved. The Tribunal's jurisdiction in this matter derives from the provisions of s20ZA (1) which provides that the Tribunal may determine that dispensation shall be granted by them from the s20 consultation requirements "if satisfied that it is reasonable to dispense with the requirements". In the present circumstances they are satisfied that this is so.

9. However the Tribunal would point out that in future cases where urgency is clear it would be appropriate for experienced managing agents to seek immediate authority from building insurers to start remedial work if it is anticipated that the Tribunal is likely to grant dispensation under the s20ZA provisions, and to make a simultaneous s20ZA application, which would be preferable to protesting about delay in obtaining an LVT hearing (especially at times of the year, as in the present case, when there is likely to be an inevitable cessation of hearings over Christmas and New Year closures).

10. The Tribunal accordingly determines that the dispensation is granted.

**Tribunal: Mrs F R Burton LLB LLM MA**  
**Mr F L Coffey FRICS**  
**Ms T Downie MSc**

Chairman: 

Dated: 25/01/07