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London Leasehold Valuation Tribunal File Ref No.

LON/00BE/LDC/2011/0088

Her Majesty's Courts and Tribunals Service Leasehold Valuation Tribunal: determination

Landlord and Tenant Act 1985 section 20ZA

Address of Premises

Simla House,
Weston Street,
London SE1 3RL

The Committee members were

Mr Adrian Jack
Mr Andrew Lewicki MRICS

The Landlord: London Borough of Southwark

The Tenants: Various

1. By an application dated 12th September 2011 the landlord applied to the Tribunal for dispensation from the consultation requirements in regulations made under section 20 of the Landlord and Tenant Act 1985 in respect of major works to the lifts at the property.
2. The Tribunal gave directions on 15th September 2011. These provided for the matter to be determined on paper without a hearing, however they also allowed any party to request a hearing. If such a request had been made, a hearing would have been held, but in fact no such request has been made and the Tribunal has thus proceeded to determine the matter on paper.
3. The Service Charges (Consultation Requirements) (England) Regulations 2003 provide for the types of consultation before a landlord carries out major works. In the current case, Southwark entered into long-term agreements ("framework agreements") with contractors for the carrying out of major works during the duration of the long-term agreements. There is no issue that the consultation provisions were fully complied with in respect of the initial tendering and letting of the framework agreements to contractors.
4. Southwark considers that there is an urgent need for works to the lifts at Simla House. Pursuant to the 2003 regulations it started a consultation on

the works. Because a framework agreement was in place, Southwark's consultation requirements were very much reduced: see schedule 3 to the regulations. Southwark needed to give 30 days notice of intention to carry out works and invite comments on the proposed works.

5. In the current case Southwark started the consultation procedure in accordance with schedule 3, but it then decided that the need to carry out the work was so urgent that it should start the work anyway and seek a retrospective waiver of the consultation requirements.
6. Only one tenant responded to the consultation, Mr Damian Naylor of 65 Simla House. He suggested in an email of 26th August 2011 that it would be more economical to replace the lifts rather than repair them. Mr Nicholson of Southwark responded to this observation by an email of 31st August in which he explained that funding for capital works was not available.
7. In our judgment it is clear that the tenants have been caused no prejudice by Southwark's commencing the works early. The only tenant to respond to the consultation wanted more extensive works, rather than fewer. The landlord was in our judgment acting in the tenants' best interests. It is noticeable that no tenant has submitted any objections to the landlord's current application.
8. In these circumstances we have no hesitation in granting a dispensation.
9. There was no application for costs.

DECISION

The Tribunal accordingly determines that pursuant to section 20ZA of the Landlord and Tenant Act 1985 in respect of the major works to the lifts at the property lately and currently being carried out the landlord be dispensed from the consultation requirements of section 20 of the said 1985 Act and the regulations made thereunder.


Adrian Jack, chairman

8th November 2011